

Official transcript of the American Military Tribunal in the United States of America against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on July 8, 1947, 0930, Justice Wennerstrum presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal 5. Military Tribunal 5 is now in session.

God save the United States of America and this Honorable Tribunal.

THE PRESIDENT: Military Tribunal 5 will come to order.

The Tribunal will now proceed with the arraignment of the defendants in case number 7 pending before this Tribunal. The Secretary-General will call the roll of the defendants. The defendants will stand and answer their names when they are called.

(The Secretary-General then called the roll of the defendants.

WILHEIM LIST, MAXIMILIAN VON WEICHS, LOTHAR RENDULIC, WALTER KUNTZE, HERMANN FOERTSCH, FRANZ BOEHME, HELMUTH FEIMY, HUBERT LANZ, ERNST DEHNER, ERNST VON LEYSER, WILHEIM SPEIDEL, HURT VON GEITNER.

MR. DENNY: May it please your Honor, the prosecution has been advised by the custodian of the jail that since the serving of the indictment on the defendant Franz Boehme he has now become deceased, and with that in mind we would request that your Honors strike his name from the list of defendants.

THE PRESIDENT: It is the order of the Tribunal that the name of the defendant just mentioned by counsel be stricken from this indictment.

THE SECRETARY-GENERAL: May this Honorable Tribunal please the defendants are all present and in the dock.

THE PRESIDENT: Mr. Secretary-General and counsel, the Tribunal desires to make this comment and enquiry at this time. We are advised that at a previous session and proceedings the indictment has been read to these defendants.

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At this time, however, this Tribunal is desirous that a record be made at this time as to whether or not these defendants desire that the indictment be read again to them and unless each of the defendants waive the reading of the indictment it will be read again to the defendants at this time.

DR. LATERNSEER: I am authorized to declare in the name of the defense, I am Dr. Laternser, defense counsel for the defendants Fieldmarshal von List and von Weichs, that the defendants waive the reading of the indictment.

THE PRESIDENT: May I enquire of counsel as to whether or not he is authorized to represent all the defendants in the waiving of the reading of the indictment at this time.

DR. LATERNSEER: Yes, Mr. President, I am.

THE PRESIDENT: The record may then show that each of the defendants, by their counsel, unless otherwise indicated here at this time waive the reading of the indictment again to them. There being no indication of the desire of counsel or defendants that the indictment again be read, the record may then show that the reading at this time is waived by all defendants. Mr. Secretary-General you will call the defendants one by one for arraignment.

THE SECRETARY GENERAL: Wilhelm List.

BY THE PRESIDENT:

Q. Defendant Wilhelm List, have you counsel?

A. Yes.

Q. Has the indictment in the German language been served upon you at least thirty days ago?

A. Yes.

Q. Have you had an opportunity to read the indictment?

A. Yes.

Q. Have you read the indictment?

A Yes.

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Q. Defendant Wilhelm List, how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

Be seated.

THE SECRETARY GENERAL: Maximilian Von Weichs.

BY THE PRESIDENT:

Q. Defendant Maximilian Von Weichs, have you counsel?

A. Yes.

Q. Has the indictment in the German language been served upon you at least thirty days ago?

A. Yes.

Q. Have you had an opportunity to read the indictment?

A. Yes.

Q. Have you read the indictment?

A. Yes.

Q. Defendant Maximilian Von Weichs, how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

Be seated.

THE SECRETARY GENERAL: Lothar Rendulic.

BY THE PRESIDENT:

Q. Defendant Lothar Rendulic, have you counsel?

A. Yes.

Q. Has the indictment in the German language been served upon you at least thirty days ago?

A. Yes.

Q. Have you had an opportunity to read the indictment?

A. Yes.

Q. Defendant Lothar Rendulic, how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

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Be seated.

THE SECRETARY GENERAL: Walter Kuntze.

BY THE PRESIDENT:

Q. Defendant Walter Kuntze, have you counsel?

A. Yes.

Q. Has the indictment in the German language been served upon you at least thirty days ago?

A. Yes.

Q. Have you had an opportunity to read the indictment?

A. Yes.

Q. And have you read the indictment?

A. Yes.

Q. Defendant Walter Kuntze, how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

Be seated.

THE SECRETARY GENERAL: Hermann Foertsch.

BY THE PRESIDENT:

Q. Defendant Helmuth Felmy, do have counsel?

A. Yes.

Q. Has the indictment in the German language been served upon you at least thirty days ago?

A. Yes.

Q. Have you had an opportunity to read the indictment?

A Yes.

Q. And have you read the indictment?

A Yes.

Q. Defendant Helmuth Felmy, how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

Be seated.

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THE SECRETARY GENERAL: Hubert Lanz.

BY THE PRESIDENT:

Q. Defendant Hubert Lanz, do you have counsel?

A. Yes.

Q. Has the indictment in the German language been served upon you at least thirty days ago?

A. Yes.

Q. And have you had an opportunity to read the indictment?

A. Yes.

Q. And have you read the indictment?

A. Yes.

Q. Defendant Hubert Lanz, how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

Be seated.

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THE SECRETARY GENERAL Ernst Dehner.

BY THE PRESIDENT:

Q. Defendant Ernst Dehner, do you have counsel?

A. Yes.

Q. And has the indictment in the German language been served upon you at least thirty days ago?

A. Yes.

Q. Have you had an opportunity to read the indictment?

A. Yes.

Q. Have you read the indictment?

A. Yes.

Q. Defendant Ernst Dehner how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

Be seated.

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THE SECRETARY GENERAL: Ernst von Leyser.

BY THE PRESIDENT:

Q. Defendant, Ernst von Leyser, do you have counsel?

A. Yes.

Q. Has the indictment in the German language been served upon you at least thirty days ago?

A. Yes.

Q. And have you had an opportunity to read the indictment?

A. Yes.

Q. And have you read the indictment?

A. Yes.

Q. Defendant, Ernst von Leyser, how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

Be seated.

THE SECRETARY GENERAL: Defendant Wilhelm Speidel.

BY THE PRESIDENT:

Q. Defendant Wilhelm Speidel, do you have counsel?

A. Yes.

Q. Has the indictment in the German language been served upon you at least 30 days ago?

A. Yes.

Q. And have you had an opportunity to read the indictment?

A. Yes.

Q. And have you read the indictment?

A. Yes.

Q. Defendant Wilhelm Speidel, how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

Be seated.

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THE SECRETARY GENERAL: Kurt von Geitner.

BY THE PRESIDENT:

Q. Defendant Kurt von Geitner do you have counsel?

A. Yes.

Q. Has the indictment in the German language been served upon you at least thirty days ago?

A. Yes.

Q. And have you had an opportunity to read the indictment?

A. Yes.

Q. Have you read the indictment?

A. Yes.

Q. Defendant Kurt von Geitner, how do you plead to this indictment, guilty or not guilty?

A. Not guilty.

Be seated.

THE PRESIDENT:

The pleas of the defendants, as here made will be entered by the Secretary General in the records of this Tribunal. The Court or Tribunal desires to inquire if there are any other matters which are desired to be presented to this tribunal at this time.

MR. DENNY: The prosecution has nothing to say.

THE PRESIDENT: Do counsel for any of the defendants desire to present any matters to the Court at this time?

DR. LATERNSE: The defense likewise has no request to make at this time.

THE PRESIDENT: This Tribunal is advised that the Tribunal will be in recess now until the 15th of July, one week from today.

We wish to state,--and I am speaking for the Tribunal,--that we are desirous that this Trial be expedited as promptly as possible. In making that statement, however, we do not intend, nor will it be our purpose, to in any way limit either the prosecution or counsel or any of the defendants.

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We ask, and it will be the intention of this Tribunal to carry on the proceedings as expeditiously as possible, keeping in mind at all times, that the rights of the prosecution and the defendants will be respected in every degree.

The Tribunal, therefore, will be in recess until Tuesday morning, July 15, 1947, at 9:30 o'clock in the morning.

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al., Defendants, sitting at Nurnberg, Germany, on 15 July 1947, 0930-1630, Justice Wennerstrum, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal 5.

Military Tribunal 5 is now in session. God save the United States of America and this honorable Tribunal.

THE PRESIDENT: This Tribunal is convened at this time for the purpose of the presentation of the opening statements on behalf of the prosecution. Prior to the presentation of this opening statement, I wish to make a statement relative to certain motions which have been filed by the defense counsel. These motions will receive the consideration of this Tribunal following the presentation of the opening statements by the prosecution. Is the prosecution ready?

GENERAL TAYLOR: Yes, Your Honor.

THE PRESIDENT: You may proceed.

GENERAL TAYLOR: May it please Your Honors.

This is the first time, since the conclusion of the trial before the International Military Tribunal, that high-ranking officers of the Wehrmacht have appeared in this dock, charged with capital crimes committed in a strictly military capacity. The conviction and execution of Keitel and Jodl, pursuant to the judgment and sentence of the International Military Tribunal, gave rise to wide-spread public comment, not only in Germany but also in the United States and England. Since that time, there have been several other note-worthy trials of German military leaders.

In the British zone of occupation, Generals von Falkenhorst and Blumentritt have been tried for the murder of prisoners of war. General Sepp Dietrich and his subordinates have been charged in the American zone with responsibility for the Malmedy massacre. Generals von Mackensen and Maeltzer

faced a British military court in Italy in connection with the Ardeatine caves massacre of Italians. In Yugoslavia and Greece, Generals Alexander Loehr and Friedrich Wilhelm Mueller have been tried and condemned for war crimes committed in southeastern Europe.

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Most recently, Fieldmarshal Albert Kesselring was tried by a British military court in Italy. The court found him guilty of responsibility for the Ardeatine caves atrocity, as well as for other war crimes against Italians committed by troops under his command in northern Italy. It sentenced him to be shot to death. This sentence of capital punishment against one of the outstanding military figures of the recent war again stimulated much discussion, and encountered not inconsiderable criticism, particularly in England. Whether or not as a result of such criticism, about ten days ago the British reviewing authorities commuted the death sentences against Kesselring, von Machensen, and Maeltzer to life imprisonment.

Because of the unusually deep interest which cases of this type have aroused, not only in military and legal circles but throughout the general public, and because the scope and sweep of this case is much greater than any of the previous cases to which I have referred, the prosecution may fairly be required, in opening this case, to do much more than outline the evidence which will be adduced in support of the indictment. Indeed, as this case progresses, I think it will rapidly appear that the evidentiary questions are of secondary importance. That the killings charged in the indictment occurred, that they were carried out by troops under the command of these defendants, and that they were in fact ordered by the defendants will not, I believe, be denied. The naked facts are terribly clear.

Nor, after the evidence is laid before you, can the true meaning of this case be drawn from learned arguments by counsel, analyzing and refining the laws of war as they are written in the Hague Conventions and in textbooks on international law. Of necessity, we will hear much discussion of hostages, and reprisals, and the necessary qualifications of belligerent armed forces. But the exposition of these technical problems of the law of land warfare, important as it may be, does not reach to the heart of this or similar cases in the year 1947.

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The doubts which have been expressed concerning the wisdom and value of trials such as this one arise from a variety of conceptions and misconceptions. To some extent, these doubts are the natural result of the passage of time. Hostilities in Europe ended over two years ago, the devastated and stricken condition of Germany has aroused sympathy, and there is general desire to wipe the unhappy past from memory. So we hear it suggested by some that the present plight of Germany should shield men such as these from the consequences of crime, if criminals they be. But Germany is not the only devastated and stricken land, and for every crime there is not only a criminal but a victim. In the minds of many peoples are memories so mordant that they can not be forgotten. If the course of justice is stayed, these sores will only fester the longer and spread the wider. We can not restore the moral fabric of Europe by laying a shroud over unshriven and unburied corpses.

Other and quite different doubts have been raised by some who, with a blurred vision of military discipline; suppose that military men are a sort of race apart, who are not responsible for their actions because they are expected to obey orders. But the law and code of the German Army itself says that it is the duty of every soldier to refuse to obey orders that he knows to be criminal. This may be hard for the ordinary soldier acting under pistol-point orders from his lieutenant.

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It is far less difficult for high-ranking commanders such as the men in the dock. These men are not named in the indictment because they are generals; they are named because they are charged with the responsibility for crimes. They must be acquitted if, under the law and the evidence, that responsibility can not justly be attributed to them, but they can not be acquitted merely because they are generals, any more than they can be indicted for that reason alone.

More fundamental and more cogent, I believe, are the doubts of those who question the wisdom and justice of attempting, by criminal prosecution, to enforce the laws of war with meticulous precision. Wars, such people say, are not fought on the dueling ground, and a polished observance of ritual can not be expected. Furthermore, there is a general feeling, not without substantial basis, that some of the laws of war as written in the Hague Conventions are obsolete, and on both sides were honored only in the breach. Then, too, it is felt, and rightly, that violations of the laws of war are committed in the best regulated armies, and it is therefore urged that the commanders should not be held to a strict and rigorous account for occasional lapses. I think that unarticulated doubts of this latter description underlie the criticism leveled against the death sentence which was imposed upon Kesselring, particularly criticism emanated from high-ranking Allied commanders who fought against him. The degree of Kesselring's guilt is, of course, not at issue in this proceeding, but in the course of it we will of necessity find occasion to draw certain comparisons and contrasts between the charges which were laid against Kesselring and those which are laid against the defendants here in the dock.

This case will achieve international meaning and significance, I believe, only if we adopt a realistic and practical approach to such questions.

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And I believe that such an approach has been adopted in the framing of this indictment, in the selection of evidence in support thereof, and in the basic theory of the prosecution's case. The prosecution fully recognizes that the laws and usages of warfare must be altered and adapted to reflect the developments in this terrible art which man has learned to practice with such appalling proficiency. We have not sought and will not seek in this case to make murderers out of soldiers for the violation of rules framed in 1907, if those rules today are outmoded and generally disregarded.

So, too, the prosecution takes full account of the true nature of modern warfare as it relates to the responsibilities of commanders. We would not have arrested the defendants, we would not have requested that this court be constituted, and we would not have brought charges against these men, if they were to be accused of mere carelessness or responsibility for occasional or sporadic crimes committed by their troops.

On the contrary, we charge that these men inaugurated and executed a deliberate program of terror and extermination which was boundless in its arrogant contempt for the inhabitants of the lands which the Wehrmacht invaded and overran. It is perhaps the most elementary principle of human intercourse--the bare subsistence level of civilization--that human life should not be destroyed needlessly, or merely because it is regarded as inferior. This is not an elevated or noble principle, although the entire structure of human dignity is built upon it. This principle merely enunciates mankind's instinct of self-preservation, and its observance protects man from selfdestruction. It is so deeply rooted in civilization that the world insists on its observance in war as well as in peace, and the laws of war are, essentially, nothing more than a gloss on this fundamental rubric. It is for denying and undermining the very basis of civilization that these men are indicted.

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Let us turn, then, to the indictment in which the charges against these men are set forth. Counts One and Two of the indictment relate to murders and other crimes committed against the civilian inhabitants of Greece, Yugoslavia, Norway, and Albania during the German occupation of those countries. Count Three charges the killing, in violation of the rules of war, of prisoners of war and other members of the armed forces of countries at war with Germany, and of members of the Italian armed forces after Italy's capitulation to the Allied nations. Count Four accuses the defendants of ordering and committing murders and other crimes in furtherance of the "racial" and economic policies of the Third Reich--the slaughter of Jews, the imprisonment and mistreatment of other segments of the civilian population, and the deportation of thousands to slave labor in Germany.

Count One, more particularly, charges the murder of many thousands of civilians under the color of retaliation or "reprisal" for attacks on German forces or military installations. As will appear from the evidence, these killings were carried out pursuant to a plan and system, embodied in orders issued, distributed, and executed by the defendants and others, which called for the retaliatory killing of civilians at arbitrarily established ratios, such as 100 civilians for every German soldier killed, and 50 for each soldier wounded. Usually the Germans referred to the victims of these mass executions as "hostages".

As I said at the outset, the proof of these acts will present no difficulty. The evidence, is all set forth in orders, reports, and other documents issued and circulated by the defendants themselves. Lest your Honors find it hard to credit what the written word so starkly exhibits, the oral testimony of eye-witnesses will also be spread on the record.

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The laws of war do, of course, recognize that in certain circumstances belligerents may take steps by way of reprisal. The taking of hostages, too, has been practiced between nations since ancient times. The killing of hostages is a much more recent development; it is not the emblem of an enlightened way of life, and most of the precedents are found in the history of the Germany army and its exploits during the First World War. Furthermore, as will clearly appear, most of the victims who met their death before

German firing squads at Belgrade, or Kraljevo, or Athens, or Klissura were not "hostages" in any true sense of the word.

We will, in due course, endeavor to set forth in some detail the rules of war as they relate to "reprisals" and "hostages". At this point I wish to make only two observations. Both the London Charter and Control Council Law No. 10 declare the killing of hostages to be a violation of the laws of war. This declaration is binding on the Tribunal and the prosecution alike, and the prosecution believes that it is an accurate statement of the law. But the theory of the prosecution's case under Count One does not rest on this rule. We may concede for purposes of argument that the execution of hostages may under some circumstances be justified, harshly as those words may ring in our ears. But the law must be spared the shame of condoning the torrent of senseless death which these men, let loose in southeastern Europe.

Count Two of the indictment speaks in terms of destruction and devastation, totally unjustified by military necessity. Here, too, the victims were the peoples of Norway, Yugoslavia, Greece, and Albania, who saw their homes in flames, their towns and villages erased and their possessions looted and scattered.

Count Three of the indictment is quite different from the first two counts. The victims of the crimes charged in Count Three were not civilians and non-combatants; they were, for the most part, members of the Yugoslav and Greek armed forces who continued to resist the German invader after the defeat of the major units of the Greek and Yugoslav armies and the replacement of their national governments by "puppet" governments or German military occupational administration.

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Pursuant to orders issued and executed by the defendants, these troops who continued to resist were not recognized by Germany as belligerents, and when captured were commonly denied the status of prisoners of war and were shot or hanged. We will, subsequently, discuss the rules of war pertaining to the qualifications of belligerent armed forces.

Count Three also charges other crimes against members of the armed forces of various other allied nations, particularly in pursuance of the notorious German order of October, 1942, under which numerous Allied "commandos" were coldly murdered after their capture. It also charges the murder of many officers and men of the Italian armed forces at the time of and shortly after Italy's surrender to the Allies.

Count Four, finally, strikes a still more sombre note. The crimes charged therein were in no way related to military operations. We find the defendants and their troops helping to "purge" southeastern Europe of the so-called "inferior peoples", such as Jews, and "politically unreliable" individuals such as "democrats" and "nationalists". We find them helping to enslave and deport the inhabitants of these lands to join the millions of other unfortunates from all over Europe who were sucked into Germany to work for their conquerors in mines and factories. We see the German army in a shameful role as the servant and tool of Himmler, Sauckel, and other Nazi worthies.

Such in summary, are the changes in this indictment. The Tribunal will observe, from the dates of the particular incidents set forth as illustrations of the charges, that all four counts cover the three and one half years from April 1941 to approximately October 1944.

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All four types of crime were committed throughout this period, and often a single episode involved the commission of crimes under all four counts. Consequently, in outlining the evidence today and in presenting it during the next few weeks, the prosecution proposes to proceed chronologically, rather than count by count. We believe this will be conducive to a more orderly and intelligible presentation. However, in presenting particular documents or witnesses, we will of course, specify which count or portion of a count the particular piece of evidence supports.

Before taking up the evidence in more detail, it will be helpful to spend a few moments in outlining the structure and organization of the German military machine, and the way in which it functioned in occupied countries, particularly in southeastern Europe. The prosecution has already submitted to the Tribunal, and to defense counsel, a brief memorandum on the organization of the German army, together with a series of charts showing the chain of command of the more important military units in southeastern Europe and northern Norway, with several maps of Yugoslavia, Greece, and Norway, and other mechanical aids to the understanding of this case. One of these charts has been enlarged for display on the wall of the courtroom.

A. The Supreme Command of the German Armed Forces.

DR. LATERNER (Counsel for defendants List, and von Weichs): Mr. President, I am sorry I have to interrupt at this moment. I am surprised to hear right now the Tribunal has been presented by the prosecution with an information referring to the defense. We are now in a criminal procedure and as far as I know the person who makes a statement has to prove that it is true. I don't know now how the prosecution wants this information to be understood. If it should be regarded as evidence before this Tribunal in that case I must object to the submitted information already to this Tribunal for a summary of the prosecution is not a means of the evidence.

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We know the criminal procedure and we know that it consists of evidence and documentary evidence. I cannot see from the information that I have received that a document is in question not been signed by anybody. However, if it is merely information that is no evidence then informing the Tribunal by this material, as far as I know foreign law, can only then be right when the defense agrees with it.

For information of the Tribunal can merely be affected when everybody agrees. In any case if this information is supposed evidence it has to be rejected. We are merely dealing with statements of the prosecution which have now to be proved, for which evidence has to be submitted. I just want to put an example now and I shall soon finish. This information also refers to this chart here, Chart D. It is supposed to serve as information for the Tribunal, to brief the Tribunal. The moment when I entered

the court I saw two basic mistakes in this chart. The mistakes are in the chart although in the first trial before the Military Tribunal the position of the O.K.W. was discussed at large.

From this sketch we can see that the O.K.W. and the O.K.M. and O.K.H. -- they were supposed to be one group but that was never the case. The OKW was merely a working staff of Hitlee's and if one regards the results of the first trial, this staff cannot be put right or left in the chart beside that little box, that means "Hitler", this is a basic mistake.

I shall soon finish. The nedt mistake results from the fact that, for instance, army group F is connected with a line supposed to mean technical subordinates. That also is not correct. I therefore ask the Tribunal to ask the prosecution that the information which was submitted by the prosecution may be withdrawn for the assumptions contained in this information the prosecution will have to submit evidence.

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GENERAL TAYLOR: May it please Your Honors, the document in question is, as I stated quite briefly, not evidentiary. It is in the nature of a brief. Dr. Laternser, who has been before the IMT, is fully familiar with the procedure. There has been such a brief submitted before every trial that has taken place in this courtroom. It is not evidentiary. It is to enable the Tribunal and defense counsel to follow the opening statements.

The matters contained therein will, to be sure, be supported by documents which will be submitted during the prosecution's case in chief.

THE PRESIDENT: The Tribunal, speaking through the presiding judge, wishes to state that this document which I now have before me was considered by the Tribunal as merely informative. The members of this Tribunal are members of courts in the States who have had many years of not only trials but Appellate experience, and I am certain that I speak the thoughts of my associates when I say to counsel that we shall only decide this case upon the evidence as presented.

It should be kept in mind that the members of this Tribunal have been in this city here, and its surrounding country, for only about one month. Naturally we are desirous, and it is necessary, that we become informed on the procedure that is to be followed in these cases. It is necessary that we learn about the type of the case and the things that will be presented, but I assure counsel for the defense, the defendants, and all other parties concerned that the decision of this court will be based solely upon the evidence as presented, and after counsel for the defendants and the defendants themselves have had a full and fair opportunity to present any matters in rebuttal which may have been presented on behalf of the prosecution.

You may proceed, General Taylor.

GENERAL TAYLOR: When Hitler came to power in 1933, the German armed forces (which then consisted only of the Army and Navy, since the Air Force did not yet officially exist) were controlled and administered by a cabinet department called the Reich Defense Ministry. Under the Reich Defense Minister, at that time von Blomberg, the highest officers of each branch of the service were called respectively the Chief of the Army Staff, that being General von Fritsch, and the Chief of the Naval

Staff (Admiral Raeder). In May 1935, when Germany started openly to overthrow the armament restrictions of the Versailles Treaty, von Blomberg was given the title of Reichsminister for War and Commander-in-Chief of the Armed Forces, and von Fritsch and Raeder were thereafter called the Commanders-in-Chief of the Army and Navy respectively.

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However, the German Air Force, which was officially born at about the same time, was not subordinated to von Blomberg. It was established as an independent institution under Goering, who took the title of Air Minister and Commander-in-Chief of the Air Force.

In February 1938 there was a general reorganization of the German military set-up. Von Blomberg and Fritsch were both retired, and Hitler himself took the title of Supreme Commander of the Armed Forces (Obersterbefehlshaber der Wehrmacht). At the same time Hitler created the Armed Forces High Command (Oberkommando der Wehrmacht, usually referred to as OKW), with authority over all three branches of the armed forces. Wilhelm Keitel was installed as Chief of the OKW, and remained in this capacity until the end of the war in 1945. The OKW was, in effect, Hitler's personal staff for all matters pertaining to the armed forces, and Keitel's function was that of Hitler's executive officer for the administration of the armed forces and the application of Hitler's policies.

As is shown by the chart on the wall (Chart "D" in the explanatory pamphlet which the prosecution has submitted), the three components of the armed forces were directly subordinated to Hitler and the OKW. Admiral Raeder continued as Commander-in-Chief of the Navy (OKM) until 1943, when he was relieved by Admiral Doenitz. Goering continued to head the Air Force (OKL) until the last month of the war. As Supreme Commander of the Army to replace von Fritsch, Hitler selected General (later Field Marshal) Walter von Brauchitsch.

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B. The German Army The German army, needless to say, was by far the largest and most important of the three branches of the Wehrmacht.

Von Brauchitsch continued as Commander-in-Chief only until December 1941, at which time Hitler relieved him and himself took the title of Commander-in-Chief of the Army in addition to that of Supreme Commander of the Armed Forces. This dual capacity led to a merging and overlapping of the functions of OKW and OKH, and at times we may find it difficult to differentiate between their respective responsibilities.

The field formations of the German army were normally subordinated to OKH although, as we will see shortly, as the war progressed they were on numerous occasions subordinated to OKW. The largest field formation in the German army, as in most others, was known as an "Army Group", which was, ordinarily, a headquarters controlling two or more "armies". Army groups and armies were usually commanded by field marshals and Generalobersts, ranks which are respectively the equivalent of a fivestar and four-star general in our own military hierarchy. A German "army", however, was

sometimes commanded by a mere "General", which is the same as a lieutenant general (three stars) in the American army.

Below the "army" were the lower formations, which followed the same general pattern in the German army as in others -- in order from top to bottom, come the corps and the division, and then the smaller units such as regiments, battalions, and companies. The most important types of divisions were the infantry division, the armored or panzer division, and the motorized or panzer-grenadier division, but the Germans used a number of other special types. In southeastern Europe, where many miscellaneous units were employed, we will frequently encounter the mountain division, the security division (Sicherungsdivision, usually composed of older soldiers), and the reserve division (usually composed of units still undergoing training). There were also infantry divisions formed from the personnel of the German Air Force, and known as German air force field divisions (Luftwaffenfelddivisionen). Side by side with the corps and divisions of the regular German army we find similarly designated formations of Heinrich Himmler's SS.

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Not content with his powerful position as head of the SS and of all German police forces, Himmler inaugurated the recruitment and formation into military units of hundreds of thousands of SS men trained and equipped for front-line combat duty. This strictly military part of the SS was known as the Waffen (armed) SS, and by the end of the war it comprised no less than 30 divisions, as well as several corps headquarters and an army headquarters. Himmler's divisions were consecutively numbered and carried special names. In southeastern Europe, during the period covered by this case, the 7th SS Mountain Division "Prinz Eugen", the 8th SS Cavalry Division "Florian Geyer", and several others were very active. During the early part of the war, these SS soldiers were almost all volunteers, frantically devoted to the ideals, if such they may be called, of the SS. Later in the war a number of SS divisions were formed by forcible conscription from the populations of occupied countries. For some purposes, chiefly administrative in nature, the Waffen-SS units remained under Himmler's control, but for operational purposes they were under the command of the German army, and their employment differed little from that of the regular divisions of the army.

As I stated earlier, the field forces of the German army were normally under the OKH, but not infrequently, particularly during the latter part of the war, they came to be subordinated directly to OKW. This was particularly true in territories which the German army had overrun and where military occupational authorities were established. In such regions, the Germans often appointed a senior over-all commander, to whom the heads of the Army, Navy, and Air Force units in that region were all responsible. Such a commander, with local authority over all three branches of the armed forces, was called an "Armed Forces Commander" (Wehrmachtsbefehlshaber). In southeastern Europe, where the Army was the all-important branch of the service, the armed forces commander was almost invariably an army general.

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While the Armed Forces Commander had authority over all units of the German armed forces in an occupied region, the administration of the area, in conformity with German rules and policies, was commonly entrusted to an army general designated as "Military Commander (Militaerbefehlshaber). He had the primary mission of insuring security and order, and for this purpose had at his disposal the German police forces and, often, security divisions and regiments of the army. On matters of military government policy, the Military Commander usually took his orders direct from OKH, but as commander of the security and police forces allotted to him, he was tactically subordinate to the Armed Forces Commander in his territory.

Himmler's police and intelligence empire also reached into the occupied territories. Reflecting Himmler's leadership of both the SS and the German police, a Himmler emissary in the occupied territories was called a "Higher SS and Police Leader" (Hoehrer SS und Polizei Fuehrer, usually abbreviated HSSPF). His principal functions were to control the local police authorities and carry out other special missions of a security nature. The HSSPF's remained personally responsible to Himmler, but for tactical purposes were subordinated to the senior Military Commander in their territory.

D. German Military Organization in Southeastern Europe and Northern Norway.

The chain of command and order of battle of the German armed forces in southeastern Europe was complicated and changed frequently. The narrative is most logically broken into three principal periods of time.

From April 1941, when the invasions of Greece and Yugoslavia took place, until August 1942 the focal point of German military authority in southeastern Europe was the headquarters of the 12th Army. The defendant List commanded the 12th Army until October 1941, at which time the defendant Kuntze took charge as acting commander until August 1942.

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During this period the defendant Foertsch was Chief of Staff to both List and Kuntze, the defendant Felmy commanded in southern Greece, and the deceased Boehme in Serbia. The defendant Weichs was also active at the beginning of this period. He commanded the Second Army, which invaded Yugoslavia from the north, but he and his army were withdrawn from the Balkans in May 1941 at the conclusion of large-scale operations.

The second period begins in August 1942 when Kuntze left the Balkans and Generaloberst Alexander Loehr, now deceased, became Commanding General of the 12th Army. At about the same time the defendant Speidel followed Felmy as the commander in southern Greece, and the defendant Geitner became Chief of Staff to the Military Commander in Serbia, General Bader, who had replaced Boehme in December 1941. In January 1943 the 12th Army was, as we say, "up-graded" and re-designated as Army Group "E". General Loehr continued in command of Army Group "E" with the defendant Foertsch as his Chief of Staff.

The third and final phase begins in August 1943, and thereafter the organization remained substantially unchanged until the end of the war. The new structure during this final period, shown in the chart on

the wall, was largely the result of the Allied landing in Sicily; the resultant threat to German dominion in the Balkans required a stiffening of command and reinforcements. The defendant Weichs returned to the Balkans in over-all command, with a headquarters designated Army Group "F". Under him were General Loehr, with his jurisdiction now restricted to Greece, the defendant Rendulic, as Commander-in-Chief of the Second Panzer Army in Croatia, shown at the center of the chart, and General Felber, of whom we will hear much in these proceedings, as Military Commander for all of southeastern Europe, and with personal jurisdiction in Serbia, shown in the center of chart.

Under Loehr were the defendants Felmy, who returned to Greece in June 1943, and Lanz, both of whom commanded corps under Army Group "E". The defendants von Leyser and Dehner were corps commanders under Rendulic. Foertsch stayed on as Chief of Staff to Weichs and Geitner remained as Chief of Staff to Felber.

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Speidel remained as Military Commander in Greece, under the command of Felber as Military Commander for all of southeastern Europe.

The situation in northern Norway is of importance in this case only during the fall of 1944, when the German forces in northern Finland retreated into Norway through the Norwegian province of Finnmark. These forces, comprising the 20th Mountain Army, had been commanded by Generaloberst Dietl, who was killed in an airplane crash during the summer of 1944. The defendant Rendulic left his command of the Second Panzer Army in Croatia and replaced Dietl in Finland. The various units subordinated to Rendulic's 20th Mountain Army are shown in Chart "G" of the prosecution's pamphlet.

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GERMAN MILITARY POLICY WITH RESPECT TO "HOSTAGES" Before turning to the particulars of the evidence, and to put this case in its proper setting, we may remind ourselves that the war crimes of the Germany army were not confined to southeastern Europe.

In particular, the practice of taking and executing so-called "hostages" from the civilian population was instituted at the very outset of the war, and was deliberately planned in advance.

In July, 1939, when plans for the invasion of Poland were being laid, the OKH distributed to the army field commanders a series of directives for the maintenance of security in Poland. This initial step was relatively circumspect; the field commanders were told that "hostages" could be taken, but that their execution would have to be approved in each instance by OKH.

The subsequent history of this order might be styled "the rake's progress". About two months later, when Poland had been conquered, the German Military Commander in the Polish city of Poznan ordered that:

.....hostages are to be taken from the Polish civilian population in every village in which troops are billeted.... In the event of attacks on members of the Wehrmacht of persons who are German by race,

hostages are to be shot. Only senior officers holding the rank of a division commander will issue orders to shoot hostages.

The "War Diary" of a German rear area commandant carried the story forward. Two weeks later, on October 15, 1939, two hostages were shot in the village of Buk because a sentry had been shot at. Three days later, according to the diary, the following occurred in the Polish villages of Ottorowo and Samter:

In Ottorowo: A carbine had been stolen, the room in which the burglary was committed had been damaged, a swastika flag had been torn down and the Polish Eagle put up. Sentence was passed by a court-martial of the chief of civil administration and after a specified period of time had expired, 5 hostages each were shot in Ottorowo and Samter. The execution took place in the presence of the entire population. There were no tears, and the fine of 10,000 zlotys imposed on the village of Ottorowo was paid, probably with the help of the church.

In Samter: Catholic services may be conducted only once a week.

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.... The county governor intends to remove gradually from his county the Polish intellectuals, the owners of large estates, and the clergy.

A Lieutenant, who is a district speaker for the Nazi Party in civilian life, attends to the moral welfare of the troops.

Under this beneficent moral tutelage rapidly emerged, in fearful shape, the German inferiority complex. The Poles were inferior peoples, but the Germans could not be quite sure that this was really true until all the educated Poles had been removed.

The following year the same pattern was repeated in France and the Low Countries. It is June, 1940, and the defendant List, with his Twelfth Army, is attacking across the Aisne River in France. The commander of the rear area of his army gives the order that:

As soon as acts of sabotage - fires also belong in this category - are found, hostages are to be taken. The arrest is to be announced publicly. If the acts of sabotage are repeated, the hostages are to be shot, according to the regulations previously issued, after sentence by a Court martial. Executions by shooting are to be reported to the Twelfth Army and announced publicly.

Belgian citizens, however, may be shot only with the consent of OKH.

As the scourge of war spread from country to country, the ways of the army grew even more savage. In 1941, as the Wehrmacht threw itself into the Slavic countries of Eastern Europe, the Germans encountered peoples whom they held in the contempt born of fear. In the Balkans and Russia, they spread such death and terror that the conscience of the world was made to reel and on October 25, 1941, Franklin D. Roosevelt, who is the President of a country still at restless peace, declared prophetically:

The practice of executing scores of innocent hostages in reprisal for isolated attacks on Germans in countries temporarily under the Nazi heel revolts a world already inured to suffering and brutality.

Civilized peoples long ago adopted the basic principle that no man should be punished for the deed of another. Unable to apprehend the persons involved in these attacks, the Nazis characteristically slaughter fifty or a hundred innocent persons. Those who would "collaborate" with Hitler or try to appease him cannot ignore this ghastly warning.

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The Nazis might have learned from the last war the impossibility of breaking men's spirit by terrorism. Instead they develop their "Lebensraum" and "new order" by depths of frightfulness which even they have never approached before. These are the acts of desperate men who know in their hearts that they cannot win. Frightfulness can never bring peace to Europe. It only sows the seeds of hatred which will one day bring fearful retribution.

GENERAL TAYLOR: Your Honor, this brings us to the point of the actual invasion of Greece and Yugoslavia, and Mr. Clark Denny will continue with the reading of the statement.

MR. DENNY: May it please Your Honor.

THE INVASION OF GREECE AND YUGOSLAVIA We may pass over very briefly the historical background of Germany's simultaneous and ruthless onslaughts against Greece and Yugoslavia in April, 1941.

The highlights are set forth in the judgment of the International Military Tribunal,¹ and a fuller account may be found in the official transcript of the international trial.² It appears from these accounts that, as early as August 1939, just before the attack against Poland, Hitler had discussed with Ribbentrop and Ciano how best the Axis partners could gobble up the neutral countries of Europe.

Hitler cynically suggested to Ciano:

Generally speaking, the best thing to happen would be for the neutrals to be liquidated one after the other. This process could be carried out more easily if, on every occasion, one partner of the Axis covered the other while it was dealing with the uncertain neutral. Italy might well regard Yugoslavia as a neutral of this kind.

In making the suggestion, Hitler was no doubt catering to Mussolini's imperial ambitions in the Balkans, which had been reflected earlier that year in the Italian occupation of Albania. For the next year, however, Germany was sufficiently occupied with the 1. Judgment of the International Military Tribunal, Vol.

I, Trial of the Major War Criminals, pp. 210-213.

2. Vol. III, Trial of the Major War Criminals, pp. 307-324.

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campaigns in Poland, Norway, the Low Countries and France, and the next Axis moves in southeastern Europe did not occur until 28 October 1940, when Italy launched its contemptible and ill-fated attack

against Greece. It was, furthermore, Mussolini's inability to beat down the heroic resistance of the Greeks that lead Hitler to march into the Balkans the following year.

We may be sure that it was from no particular sympathy with Mussolini's plight in Albania and Greece that Hitler decided to come to his aid. On the contrary, there is every indication that Hitler and the German military leaders were pleased over the discomfiture of their Italian allies, whom they held in such contempt throughout the war. But Hitler was disturbed in Greece from which the valuable oil fields in Rumania could be bombed. And furthermore, as Rommel's campaign in North Africa began to attract attention, Hitler's thoughts turned increasingly towards the eastern Mediterranean and the possibility of establishing German superiority there. Accordingly, in November 1940, Hitler issued Top Secret instructions to Brauchitsch, as Commander-in-Chief of the Army, directing him to:

Make preparations for occupying the Greek mainland, north of the Aegean Sea, in case of need, entering through Bulgaria and thus making possible use of German Air Forces units against targets in the eastern Mediterranean, in particular against those English air bases which are threatening the Rumanian oil areas.

All this time, however, the German High Command was chiefly preoccupied with preparations for the invasion of the Soviet Union, which they had planned for the following spring. This formidable military task required all the forces the Germans could muster and accordingly Hitler and the generals wished to carry out any enterprise which might have to be undertaken in the Balkans with the utmost economy of means. Therefore, there was at this time no intention whatsoever of invading Yugoslavia in addition to Greece; on the contrary, Hitler began an intensive diplomatic campaign to swing Yugoslavia to the side of the Axis and induce her to join the so-called "Tri-partite Pact", to which the principal adherents were Germany, Italy, and Japan.

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A. The plan of Attack.

By December, the plans for the invasion of Greece, known under the code name "Marita", had begun to take shape:

My plan therefore is (a) to form a slowly increasing task force in Southern Rumania within the next month, (b) after setting in of favorable weather, probably in March, to send a task force for the occupation of the Aegean north coast by way of Bulgaria and if necessary to occupy the entire Greek mainland.

To carry out the essential first step of persuading Bulgaria to permit the passage of German troops from Rumania to Greece, the defendant List was sent to Sofia, where he secured the necessary consent at a conference early in February, 1941. At the same time, Bulgaria agreed to join the Tri-partite Pact, and a time schedule was established, pursuant to which List, with his Twelfth Army, would commence the building of bridges across the Danube from Rumania into Bulgaria on the 28th of February, Bulgaria would adhere to the Pact on the first of March, and Lists's forces would move across the bridges into Bulgaria on the second of March. All of this happened according to schedule, and List's army started

across Bulgaria toward the northern frontier of the Greek mainland. Simultaneously, diplomatic pressure on Yugoslavia was increased, and on the 25th of March the Yugoslav Premier and the Foreign Minister signed the Tripartite Pact at Vienna. Had all gone as planned, Yugoslavia's adherence to the Axis would have enabled List to attack from Bulgaria into Greece without fear that the Yugoslavs might invade Bulgaria and cut him off.

But for once, Hitler's time table was upset. The following day the Yugoslavs repudiated their government's adherence to the pact and the Premier was removed from office.

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Yugoslavia "emerged on the morning of the 27th of March, ready to defend, if need be, her independence".¹ The same day, Hitler and his generals met in council of war.

It was pointed out that the uncertain attitude of the new Yugoslav government not only represented a threat to List's rear in the attack against Greece, but would also constitute a potential menace behind the German forces which were being assembled for the attack against the Soviet Union. Hitler announced his determination "to make all preparations in order to destroy Yugoslavia militarily and as a national unit." No diplomatic inquiries were to be made, no assurances by the Yugoslavian government were to be regarded, and the attack was to start at the first possible moment.

Political considerations played a large part in the plans. The old feuds between the Serbs and the Croates were to be capitalized to the 1. The words are those of Colonel H.J. Phillimore, Junior Counsel for the United Kingdom, before the International Military Tribunal.

Vol. 3, Trial of the Major War Criminals, p. 317.

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utmost. Turkey was to be frightened out of her wits by the ruthlessness of the attack. The cooperation of the neighboring Balkan states was to be secured by territorial promises. Hitler said:

Politically, it is especially important that the blow against Yugoslavia is carried out with unmerciful harshness and that the military destruction is done in a lightening like undertaking. In this way, Turkey would become sufficiently frightened and the campaign against Greece later on would be influenced in a favorable way. It can be assumed that the Croates will come to our side when we attack. A corresponding political treatment (autonomy later on) will be assured to them. The war against Yugoslavia should be very popular in Italy, Hungary, and Bulgaria, as territorial acquisitions are to be promised to these states; the Adriatic coast for Italy, the Banat for Hungary, and Macedonia for Bulgaria.

The military plans for a simultaneous attack against Yugoslavia and Greece, to replace the plans for the Greek campaign alone, were drawn up during the last few days of March, 1941. The plan for Yugoslavia was called "Operation 25", and was dove-tailed neatly into "Marita". List's Twelfth Army, in addition to pushing across the south Bulgarian frontier into Greece, was to send an armoured assault group across Bulgaria's western border into southern Yugoslavia with the objective of capturing the key

city of Skoplje, and then continuing across southern Yugoslavia into Albania and joining forces there with the Italians. Another of List's armoured groups, under the well-known General (later Fieldmarshal) von Kleist, would push from Bulgaria into Yugoslavia in a northwesterly direction toward Belgrade. To complete the concentric operation, strong German forces were to be assembled at the southern Austrian border, and strike southward into Croatia, and a smaller force was to advance southward from Rumania toward Belgrade. The German Air Force, in addition to its normal support functions, was to destroy the city of Belgrade by attacks in waves at the very outset of hostilities.

B. The Invasion.

The plans were well-laid, German strength was overwhelming, and everything went like clock-work. At dawn on Sunday morning, April 6, Belgrade was mercilessly bombed, List attacked south into Greece and west into Yugoslavia, and the next day Scoplje was taken and Kleist started northwest toward Belgrade.

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Soloniki fell on the ninth. On the 10th, the German Second Army, which had been assembled in southern Austria under the command of the defendant von Weichs, started south through Croatia at great speed and captured Zagreb. On the 11th, List effected a junction with the Italians in Albania. On the 12th, Yugoslavia's north front against von Weichs collapsed; the Germans had played cleverly on the ancient Serb-Croat enmity, and the Croates offered little resistance and began to clamor for independence. By Easter Sunday the 13th, Kleist's forces held all of Belgrade, and the Germans began a complacent division of the spoils between themselves and their satellite allies. The Yugoslav government capitulated two days later, and by the 16th of April large scale operations had come to an end. The campaign in Greece took longer, but the Greek forces in the north were forced to surrender by the 22nd of April, and by the 28th Athens had fallen. In anticipation of the campaign against Russia, now only a few weeks in the future, the Germans began pulling out of Yugoslavia and Greece as many troops as could be spared and transport could move, leaving behind only enough for security purposes and for the invasion of Crete which, under the cover name "Merkur", was to start out on the 20th of May.

C. Von Weichs and the 100:1 "Hostage" Ratio As appears from the foregoing account, the three principal military figures of the German campaign in southeastern Europe were von Kleist and the defendants List and von Weichs.

After the capitulation of Yugoslavia, Kleist departed almost immediately to head an armoured group in the attack on Russia. List remained as Supreme Commander of the armed forces in the southeast, and his actions in this capacity will shortly be described.

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The defendant von Weichs and his Second Army were scheduled for ultimate employment on the Russian front, but did not take part in the initial attack. Von Weichs remained in Croatia until the latter part of May, while List completed the conquest of Greece and Crete. In the meantime, the puppet government of Croatia, headed by Pavelic, was being established, and von Weichs participated in the

recruitment and organization of Croatian militia units, known as "ustashi", who were strongly anti-Serbian and whom the Germans were counting on to maintain security in Croatia.

Thereafter, von Weichs and his Second Army headquarters departed, and von Weichs did not return to the Balkans until August 1943. Short as was his stay in the southeast in 1941, he left an indelible imprint as the result of his methods of "pacification".

Just after the German attack on the Soviet Union, the Russian radio broadcast a report that, as a result of the alleged murder of two German soldiers in Belgrade, 100 Serbs had been shot to death. The defendant List, upon making inquiry, learned that no such episode had in fact occurred in Belgrade at that time, but that the Russian report was undoubtedly based on an episode which had occurred in April, 1941, in the course of von Weichs' southward march. As a result of the incident, von Weichs had issued on the 28th of April, 1941, the following order, distributed throughout the Second Army down to battalion level:

The increase in malicious attacks on German soldiers necessitates most stringent counter-measures. Only immediate and ruthless measures guarantee the maintenance of peace and order and prevent the forming of bands.

1) A Division sent out a detachment to carry out the disarmament of a Serbian village. The leader rode on ahead with another officer and a Wachtmeister, whereupon he was overtaken by a Komitadschi band (in Serbian uniform) and was shot to death. His companions were seriously wounded. This occurrence gives us cause to make the following statements:

a) After conclusion of the Armistice there is no Serbian soldier in the whole area who is authorized to carry arms.

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b) Whoever is found in Serbian uniform with weapon in hand transgresses the bounds of International Law and is to be shot to death immediately.

c) If in any area an armed band appears, then even those men capable of bearing arms who are seized because they were in proximity of the band are to be shot to death, if it cannot immediately be ascertained with certainty that they were not connected with the band.

d) The bodies of all persons shot to death are to be hanged and left hanging.

e) Arresting hostages after a surprise attack is wrong and is by no means to be taken into consideration. On the contrary, action is to be taken only according to letters a) to d).

2) As preventative protection of the troop against such malicious surprise attacks, I give the following orders: These orders are given in part.

* * * * *

d) In the endangered villages, placards are to be posted wherein the population is notified of the serious consequences to be expected from surprise attacks (the posters will be sent separately).

e) In all localities of the endangered area which are occupied by troops, hostages are to be taken immediately (from all classes of the population) who are to be shot to death and hanged after a surprise attack. This measure is to be made public in the villages immediately.

3) In cases of surprise attacks on the troops, the Division Commanders should examine in detail whether the troop leader in question is to be blamed. In the reports of the Division, regarding encountered surprise attacks, there should always and immediately be a statement to the effect that the attacks were atoned by ruthless measures and account be given as to the manner employed.

The placards which were posted in Serbian villages as a result of this order read as follows:

By a mean and malicious surprise attack, German soldiers have lost their lives. German patience is at an end. As atonement, 100 Serbs of all classes of the population have been shot to death. In the future, 100 Serbs are to be shot without consideration for every German soldier who comes to harm as a result of a surprise attack conducted by Serbs.

Irrelevant as any such circumstance might be, there is nothing to indicate that von Weichs received any directive or suggestion from above calling for the issuance of any such order. It appears that he conceived the order in his own mind and issued it on his own initiative.

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It epitomizes the German terror which raged in the Balkans for the next three and one half years. It embodies the two fundamental policies which List and his successors applied: That the enemy should be denied even the bare right of continued resistance and his troops no longer be recognized as belligerents entitled to the protection of the laws of war, and that attacks against German soldiers should be suppressed by executing civilian "hostages" at the astonishing ratio of 100:1. The only important respect in which subsequent practice departed from von Weichs' precedent was that his injunction that "hostages" should not be arrested after an attack, but should always be taken in advance and executed after the attack, was found to present serious inconveniences. With a required ratio of 100:1, it was impossible to keep enough hostages on hand to meet all contingencies, and in subsequent months the Germans repeatedly transgressed this rather formal and academic restriction which von Weichs had laid down.

THE OCCUPATION: LIST AND KUNTZE (April 1941 - August 1942) As von Weichs and Kleist withdrew from the Balkans and turned their attention to Russia, the German High Command drew up blueprints of the military occupational administration for southeastern Europe, which List was to head.

To understand the organization which was created, we must first look at map "A" in the prosecution's explanatory pamphlet, which shows the partition of Yugoslavia effected by Germany and her satellites.

A. The Partition of Yugoslavia and Greece.

In northern Croatia, it will be observed medium-sized portions were annexed by Germany, Italy, and Hungary. The remainder of Croatia, except for those parts of the Adriatic coast which Italy annexed

outright, was established as an "autonomous" state, headed by Dr. Anton Pavelic, who called himself the "Poglavnik" of Croatia.

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Most of the eastern part of Croatia was occupied by Italian forces, and the Germans were not particularly active there until the collapse of Italy in 1943.

In the southern part of Yugoslavia, Italy also took Montenegro under her control, and Italy absorbed still more by the device of "annexation" to Albania. Serbian Macedonia was annexed to Bulgaria.

The truncated Serbia which remained was put under German military occupational administration, although the southern part of this rump remainder was occupied by Bulgarian troops. It is this portion of Serbia which passed under German administration with which we will be chiefly concerned during the period up to August, 1942.

The occupational fate of Greece is shown on map "C". It will be observed that the greater part of the Greek mainland and the Peloponnesus came under the sway of the Italians. Bulgaria took the long arm of eastern Greece along the northern shore of the Aegean Sea. The Germans contented themselves with small, strategically situated portions. On the mainland, they occupied the area around Saloniki and a narrow strip along the Turkish border.

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They maintained troops in Athens, although nominally control of Athens was shared with the Italians. They also occupied Crete and various smaller islands in the Aegean Sea.

B. Structure of the German Occupational Administration Four of the defendants in the box, as well as the deceased Boehme, occupied key positions in the German occupation of Yugoslavia and Greece during this period.

By far the most important, of course, was the defendant List, who, on 9 June 1941, was appointed by Hitler as Armed Forces Commander of all German forces in southeastern Europe, with the title Wehrmachtbefehlshaber Suedost (Armed Forces Commander Southeast). In this capacity, List was directly responsible to Hitler and the OKW. List also retained the title of Commander-in-Chief of the 12th Army. The defendant Foertsch was his Chief of Staff. List maintained his headquarters at Saloniki. In October 1941 List fell ill, and thereafter, up to August 1942, the defendant Kuntze was the acting Commander-in-Chief of the 12th Army.

Under List (and subsequently Kuntze) were three Military Commanders -- one in Serbia and two in Greece. The deceased Boehme, who commanded the 18th Mountain Corps of the 12th Army, was Commanding General in Serbia from September to December, 1941. He went to Finland at the end of the year and was replaced by General Paul Bader, who is also believed to be now dead.

In Greece a Military Commander for the Saloniki area and the northern Aegean islands was appointed by OKH, and a Military Commander for southern Greece, with authority at Athens and in Crete and

the southern Aegean islands, was appointed by the German Air Force. The defendant Felmy was Goering's selection for this position.

Accordingly, during the period up to August 1942 we will be primarily concerned with the activities of the defendants List, Kuntze, and Foertsch, as well as such acts of Boehme and Bader as are relevant to this proceeding.

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We will not at this time discuss the acts of the defendant Felmy in southern Greece, inasmuch as the bulk of the evidence pertaining to Greece relates to the period after August 1943, when Italy capitulated and the Germans took over the entire occupation of Greece. It will, therefore, be more convenient to deal with all the evidence pertaining to Greece at a later stage.

THE PRESIDENT: Mr. Denney, please. You are starting into a different portion of your statement. This will be a convenient place to interrupt. The Tribunal will be in recess for ten minutes.

(A recess was taken.)

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THE PRESIDENT: You may proceed.

MR. DENNEY: May it please Your Honors. We now take up the discussion of the activities of the defendants List, Foertsch, and the deceased Boehme during the period April to October, 1941.

The defendant List was an able protagonist in fields ideological as well as military. This is indicated in a letter of 23 April 1941 written by Alfred Rosenberg, who was later appointed Reich Minister for Occupied Eastern Territories, to Martin Bormann. Part of this letter stated:

Art objects generally do not come into the question as far as the Balkans are concerned, only there are Free Masonry archives and Jewish libraries and other relevant research bodies. In my opinion, only the same attitude as that prevailing in occupied French territory can be taken and what I requested was really only an expansion of an already existing regulation. For with General Field Marshal List, and likewise with the General Quartermaster of the Army, the work has already been begun and my men are already at work with these circles in Belgrade. And on command of General Field Marshal List, as well as of his Deputy General, these men will also be employed in closest relationship with the Security Service (SD) in Salonika. As you know, Salonika is one of the largest Jewish centers.

The capitulation was barely finished; yet List, the soldier, was making himself a party to the "cultural" work of the Third Reich.

Early in September 1941, List determined that matters in Serbia required a more forceful executive authority in that territory. With this in mind, List teletyped to OKW and OKH requesting that Boehme, at that time Commanding General of the 18th Mountain Corps, 12th Army, that he be assigned with his staff as Plenipotentiary Commanding General in Serbia with supreme authority in that sector, directly responsible to List. List regarded Boehme as being "especially suited" for the position

because he had "an excellent knowledge of conditions in the Balkans." This request was answered by a Hitler order of 16 September 1941 in which List was charged with the task of suppressing the insurgent movement in the southeast area, and Boehme was designated as Plenipotentiary Commanding General in Serbia with executive power, directly subordinate to List. All military and civilian offices in Serbia were instructed to comply with Boehme's orders.

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Upon receipt of the Hitler order, List, on 19 September 1941, advised the Military Commander in Serbia, the LXV Corps Command, and the German General in Zagrab, who was the liaison between the Croatian government and the Armed Forces Commander Southeast, that Boehme had received entire executive power in Serbia and that "all command authorities and forces of the Army existing there or to be transferred there are subordinated to him." He stated further, "Instructions for the carrying out of operations for the necessary protective measures will be given by me only to General Boehme, who is responsible for their being carried out."

One of the first acts of Boehme in his new post, for which List had stated he was "especially suited", was the publishing of an order, which he directed that the recipients destroy after dissemination, and which read as follows:

In March of this year Serbia shamefully broke her friendship treaty with Germany, in order to strike the German units marching against Greece in the back.

German revenge stormed across the country.

We must turn to new, greater goals with all our forces at hand. For Serbia, this was the sign for a new uprising to which hundreds of German soldiers have already fallen in sacrifice. If we do not proceed here with all means and the greatest ruthlessness, our losses will climb to immeasurable heights.

Your mission lies in carrying out reconnaissance of the country in which German blood flowed in 1914 through the treachery of the Serbs, men and women.

You are the avengers of these dead. An intimidating example must be created for the whole of Serbia which must hit the whole population most savagely.

Everyone who wishes to live charitably sins against the lives of his comrades. He will be called to account without regard for his person and placed before a court martial.

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So it was that List's Corps Commander, now Plenipotentiary Commanding General in Serbia, set the same keynote as had von Weichs for the program of subjugation through terror which was to pervade in the Balkans for the ensuing years of the war.

Now that the chain of command has been clearly established, let us return momentarily to List's request of 14 September directed to OKW. His communication starts with the words "Threatening development of the overall situation in Serbia demands energetic measures." Later on, he states "the

present command regulations are based on peaceful conditions and are unbearable under the present turbulent combat conditions". This request having been received at OKW, another order was issued, in addition to the Hitler order appointing Boehme mentioned above. After reciting that it had been established that the opposition to the occupying power was the result of a centrally directed mass movement and that each incident of insurgence against the German Wehrmacht, regardless of individual circumstances, must be assumed to be of communist origin, the order directed:

In order to stop these intrigues at their inception, severest measures are to be applied immediately at their first appearance, in order to demonstrate the authority of the occupying power and in order to prevent further progress. One must keep in mind that a human life practically counts for naught in the affected countries and a deterring effect can only be achieved by unusual severity. In such a case, the death penalty for 50 to 100 communists must in general be deemed appropriate as retaliation for the life of a German soldier. The manner of execution must increase the deterrent effect. The reverse procedure, to proceed at first with relatively easy punishment and to be satisfied with the threat of measures of increased severity as a deterrent, does not correspond with these principles and is not to be applied.

This was the answer of the Army High Command to List's plea for help in "turbulent combat conditions". The order was passed on by list to his subordinate units.

Not satisfied with the initial directive with reference to the killing of innocent people in the Southeast, an additional OKW order, signed by Keitel, came down on 28 September, 1941.

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In this order it was directed that Military Commanders have hostages available at all times in order that they might be executed when German soldiers were attacked. The complete ruthlessness of the second Keitel order may be seen from the following provisions:

Because of attacks on members of the Wehrmacht which have taken place lately in the occupied territories, it is pointed out that it is opportune for the Military Commanders to have always at their disposal a number of hostages of different political persuasions, i.e.,

- 1) Nationalists,
- 2) Democratic Middle Class,
- 3) Communists It is of importance that among these are leading personalities or members of their families.

Their names are to be published. In case of an attack, hostages of the group corresponding to that to which the culprit belongs are to be shot.

Nowhere in this order did Keitel attempt to enlighten his commanders as to the means to be employed in identifying the "culprit". It was a matter of little concern to him, and the evidence will show that it concerned his field commanders even less. The manner in which this order was complied with will be detailed at greater length in the evidence which is presented to the Tribunal.

The 100:1 ration having been proclaimed, Boehme, on 4 October 1941, ordered the execution of 2100 persons, to be taken from the concentration camps at Sabac and Belgrade. Those to be executed were primarily Jews and communists. These killings were reprisals for the deaths of 21 German soldiers. On 9 October, 1941, the chief of the Security Police in Belgrade reported that 2100 Jews and gypsies were being executed by the Wehrmacht in reprisal for 21 German soldiers shot to death. The Security Police in this operation were to make available to the Wehrmacht the required number of victims. The report continues that 805 Jews and gypsies were taken from the camp in Sabac and the balance, 1295, were taken from the Jewish transit camp in Belgrade.

On 9 October 1941, Boehme informed List of "an execution by shooting of about 2000 communists and Jews in reprisal for 22 murdered men of the 8th Battalion of the 521st Army Signal Communication Regiment".

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A partial report of this action was made to List and Boehme by a Major who commanded the 2nd Battalion of the 521st Army Signal Regiment. The Major's report enclosed a report of the Lieutenant who commanded the company which carried out a portion of this action. The Lieutenant's report is dated 13 October, 1941. The report is sordid in its detail; the shooting of 2200 Jews in the camp at Belgrade had been ordered on 8 October, 1941. The action took place on 9 October in a forest seven miles from Kobin, and on 11 October near the Belgrade shooting range on the road to Nisch. No detail was overlooked, films and pictures were to be taken by an Army Propaganda Company. By issuing spades and other tools to the inmates who were to be executed, the atmosphere of a working party was simulated. Only three guards were placed on each truck to further allay the suspicions of the wretched victims. The prisoners were happy to be leaving the camp, if only for a day of work in the fields. The soldiers were able to execute only 180 on 9 October, and 269 on 11 October. The executions were accomplished by rifle fire at a distance of 12 meters. Five shots were ordered for the shooting of each prisoner. Articles of value were removed under supervision. They were later sent to the Nazi People's Welfare or the Security Police in Belgrade. The Lieutenant reported that the attitude of the prisoners at the shooting was calm and that following the killings the troops "returned to their quarters satisfied."

It was while List was Armed Forces Commander Southeast that concentration camps were introduced in that area. The Military Commander in Serbia, in a letter of 22 June, 1941, spoke of a "concentration camp which I had been ordered to erect." He spoke of the future inmates as "communists and other criminal types".

List himself recommended concentration camps in an order of 5 September, 1941. He stated that the relatives of those people resisting the Army should be transported to concentration camps.

Often has it been urged that the German Army had no knowledge of concentration camps, or at best that they had nothing to do with them.

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It has been the repeated refrain of the German military men that such matters were beyond the scope and beneath the concern of a soldier, and that such affairs handled by Himmler and his subordinates. In the Southeast, the Army not only had knowledge of the camps; they were in charge of some of them. An order of 11 September, 1941 will show that the Concentration Camp Serbia, in Belgrade, was made subordinate to the Military Commander of Serbia on that date.

Again, in an order of 18 September, 1941, issued by Bader of the LXV Corps, it was stated, in connection with mopping-up operations, that "the entire male population above 14 years of age is to be arrested, to be sent to a concentration camp which the Division will install, and to be detained there."

Boehme, in an order of 33 September, 1941 to the 342nd Division, directed that unit to "...evacuate Sabac by surprise attack of the entire male population, ages 14-70, and take it to a concentration camp..."

Boehme further concerned himself with the transfer of the Jarak concentration camp from the 342nd Division to the 64th Police Reserve Battalion in an order of 27 September, 1941, which specified in addition that inmates would receive half rations -- only 200 grams of bread daily and 200 grams of meat weekly.

Early in October, Boehme ordered that a concentration camp be located in the Zasaviza area, capable of holding 30,000 inmates. This camp was to be "guarded by restricted forces and closed from the outer world". In the same order, he directed that inmates from another concentration camp be brought to work on this new construction project.

The evidence will show how the Army used the concentration camps as collection points for innocent people who were to be channeled into German industry or to be used for such other purposes as might be directed.

Two final references to List concern his later acts prior to his post being handed over to the defendant Kuntze. On 4 October, 1941, he issued an order in which it was directed that men in insurgent territory who were not encountered in battle were to be examined and "if they are only suspected of having taken part in combat, of having offered bandits support of any sort, or of having acted against the Wehrmacht in any way, to be held in special collecting camp.

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They are to serve as hostages in the event that bandits appear, or anything against the Wehrmacht is undertaken in the territory mopped up, or in their home localities and in such cases they are to be shot." This was in keeping with the spirit of an earlier order which he had issued on 5 September, 1941, which provided in part for immediate ruthless measures against the insurgents, their assistants, and their relatives (hangings, burning down of localities participating, increased arresting of hostages, deportation of family members into concentration camps). We are now turning to the period from October 1941 until August 1942 where we are primarily concerned with the defendants Kuntze, Foertsch, the deceased Boehme and the believed to be deceased Bader.

The defendant Kuntze succeeded to the command of the 12th Army late in October, 1941. The measures which had been started under his predecessor, List, were continued with increased severity. Kuntze received periodic reports of the activities of the troops under his command. These reports recited the seizing and killing of "hostages" and the wanton destruction of villages.

On 2 November, 1941, a situation report was signed, on behalf of Kuntze, by the defendant Foertsch. This report gives as one of the reasons for the unrest in the southeast, refers to:

The fact that refugees expelled from the separated territories (from Croatia - 110,000; from Hungary - 37,000; from Bulgaria 20,000) who were transported across the frontier without means and without sufficient care.

The report then set forth the methods to be followed by Kuntze's subordinates in combating opposition. It was stated that he had charged Boehme with the suppression of Serbia and Croatia. He ordered that "all prisoners taken during combat or mopping-up operations will be hanged or shot to death" and that "for the time being, arrests are being made only for purposes of interrogation or to supplement reconnaissance."

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In addition, he directed that all male civilians be temporarily collected in camps.

Late in November, or early in December, 1941, Kuntze went to Belgrade. Some notes were made on this trip. One of the items which concerned Kuntze was the question of resettlement. This memorandum provided:

The question of the resettlement of women and children of the insurgents, as well as other unreliable elements, is still being examined. The retention of these people in Serbia, south of the Danube, does not appear to be practical. There are still difficulties with respect to shelter, rations, and guard which oppose the transfer into the Banat.

All Jews and gypsies are to be transferred into a concentration camp at Semlin (at present there are about 16,000 people there). They were proven to be the bearers of the communication service of the insurgents.

On 20 December, 1941, Kuntze's subordinate, the Plenipotentiary Commanding General in Serbia, Bader, who had succeeded Boehme earlier in the month, issued an order to his troops. After reciting that there had been proper compliance with the prior orders concerning reprisals, he stated:

The reprisal measures will be continued further. In order to exclude any existing doubts concerning them, I am referring to the fact that these groups of prisoners are to be differentiated: Reprisal prisoners are persons who, for reason of their attitude, are destined for reprisals for German human lives, for example, communists not encountered with weapons, gypsies, Jews, criminals, and the like.

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Hostages are persons who play a role in public life and on the basis of their personalities exercise a certain influence on the population in their realm of activity. They comprise the most varied strata of the population. They guarantee with their lives the public peace, order and security in their part of the country.

Prisoners of the unit are persons who are taken in the course of an operation, as suspicious. They require a further examination by the administrative sub-area headquarters authorities. They will either be released or transferred to the reprisal prisons.

It is clear that there was to be no change, save for the worse, under Kuntze as Armed Forces Commander Southeast, in the matter of "hostage" takings and retaliatory killings.

The policy as set forth was implemented by further orders of the German division commanders. Hoffman, the Commanding General of the 342nd Division, on 6 January, 1942, issued an order to his troops which provided "Communists, in any event, will be shot immediately after a short interrogation; only in special cases will they be brought back to the Division."

A particularly harsh policy was established by Kuntze made effective on 6 February, 1942. He called for detailed reports on counter measures taken by subordinate units. He further directed that persons who loitered around the battle field should be considered as having taken part in the battle and therefore should be shot.

With the advent of spring, Kuntze anticipated increased activity from the people of the occupied area. With this in mind, he issued an order on 19 March 1942. He emphasized the degree of importance which he attached to the regimental commanders and stated that Himmler's security units and the Serbian police should cooperate closely with the German troops.

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He directed that "captured insurgents are to be hanged or shot as a matter of principle. If they are used for information purposes, this only postpones their execution. In an appendix to the same order, he advised "It is better to liquidate 50 suspects than lose one German soldier." He dictated that in areas which had been mined, the Serbian population, among others, should be used to clear the terrain. And appeared there again the 100:1 ratio in the event death came to any German.

Later in March, on the 23rd, Kuntze sent a teletype to Bader, in which he agreed that insurrectionists not captured in battle should be deported for work in Norway. He failed to explain how the identity of those to be deported could be established.

Kuntze had more to say about forced labor on another occasion. Bader, in an order of 25 March, 1942, mentioned an earlier order of Kuntze, dated 18 March, which directed:

Persons who are arrested because of being suspected of supporting or collaborating with the insurgents are to be handed over to concentration camps; where they are to be interrogated (by the SS) who will make further disposition, for example, handing over as forced laborers in the German interest sphere.

From this same order, it is evident that three concentration camps were presently available in this area at Sabac, Belgrade-Delinjo, and Nisch, with a fourth to be opened shortly at Semlin.

Kuntze advised OKW from time to time of the success of the measures he was directing in the Southeast. On 7 April 1942 he informed them that since 1 September 1941, 11,522 of the enemy had been shot in battle and 21,809 persons had been killed in retaliation measures. On 23 June 1942 Kuntze advised OKW that a total of 37,477 had been shot in battle or in way of reprisals, as of that date, in Serbia and Croatia.

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He mentioned that the mayor of Crete had been slain and, in retaliation persons sharing in the guilt and a number of hostages were shot.

Kuntze left his post as Armed Forces Commander Southeast on 8 August 1942, but before leaving he knew that there had been more than 45,000 people killed by the Germans in Serbia and Croatia during the period September, 1941, through July, 1942. He knew that people were being deported to labor in the German war economy, both in the Reich and in Norway. He knew that he had done his work well and faithfully in the service of Hitler.

Mr. Fenstermacher will take up the opening statement at this time, Your Honors.

MR. FENSTERMACHER: May it please the Tribunal, we take up now the occupational period, August 1942 until August 1943.

By the 8th of August, 1942, when Generaloberst Alexander Loehr replaced Kuntze as Commander-in-Chief of the 12th Army and Armed Forces Commander Southeast, the German reprisal machinery was completely set up and functioning. It remained only to keep the existing machinery running and, if possible, to increase the efficiency with which the retaliation measures were carried out.

The defendant Foertsch, who had served as Chief of Staff under both List and Kuntze, remained in the same capacity throughout the twelve months period of Loehr's supreme command in the southeast. General Bader, the Commanding General in Serbia under Kuntze, also stayed on. A few weeks before Loehr arrived in the southeast, the defendant Geitner arrived in Serbia as Chief of Staff to Bader.

To pacify the civilian inhabitants, Bader and Geitner divided Serbia into various field headquarters areas which corresponded in the main to the larger cities and important strategical points throughout the country. The field headquarters areas were in turn sub-divided into smaller territorial units known as district commands. This was the organizational machinery which General Bader utilized for the security of Serbia.

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When a telephone line was cut or railroad tracks torn up or a mine blown shut or shipping on the Danube mined -- whether by partisan units in the course of legitimately planned actions, or by unknown persons -- the reprisal machinery swung into action. The district command notified field headquarters of the incident and field headquarters in turn notified Geitner, Bader's Chief of Staff in

Belgrade, suggesting that certain stated reprisal measures be taken in retaliation. Geitner and Bader would either approve the proposals of field headquarters or issue new orders to cover the case. In either event, the district command was notified, orders were issued and carried out, and reports were sent back up through the established channels. The reprisal orders were almost invariably the same. To insure the consistent execution of the German program and to prevent delay, as well as to avoid the confusion that might ensue from the exercise of individual decision by the German mind, a retaliation code was established for the guidance of all concerned. An arithmetical table was so easy to follow -- even the slowest and dullest Battalion or Company Commander could comprehend its ready meaning. What did it matter that the ratio of Serbs to Germans seemed high or that innocent people would necessarily suffer for the deeds of persons whom the Germans were unable, or did not even try, to apprehend? Weren't the Germans a superior race, and wasn't it better that 99 innocent men -- either hostages or so-called reprisal prisoners -- should die than that one guilty person go free?

With the precedents that Weichs, List, Boehme, Kuntze and Foertsch had established before them, Bader and Geitner on 28 February, 1943, devised a more detailed table of retaliation quotas to take care of an increased number of factual possibilities which new conditions had brought to the fore:

For one German, or one Bulgarian Occupational Corps member, killed -- 50 hostages are to be executed.

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For one German, or one Bulgarian Occupational Corps member, wounded -- 25 hostages are to be executed.

For the killing of a person in the service of the occupying power, regardless of his nationality, or a member of the Serbian Government, High Serbian Official (district supervisor or mayor), official of the Serbian State Guard, or member of the Serbian Volunteer Corps -- 10 hostages are to be executed.

For the wounding of any person in the previous categories -- 5 hostages are to be executed.

For an attack against important war installations, up to 100 hostages are to be shot to death, according to the seriousness of the case.

That these retaliation quotas were no idle German boast or mere paper threat is made quite clear by the literally dozens and dozens of both orders and reports that poured in to, and went out from, Geitner's own hands:

15 December 1942 -- "5 D.M. followers shot in retaliation for the German sergeant shot to death near Zlotovo."

25 January 1943 -- "Since the Organization Todt driver Braun had not returned as of 1 January 1943, a total of 50 followers of Draja Mihailovic and communists were shot to death," 10 February 1943, near Gr. Milanovac -- "25 Communists arrested, 10 shot to death in reprisal for murder of mayor."

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On 14 May 1943 the War Diary of the 104th Jaeger Division contained this entry:

"The Division applies to the Commanding General and Commander in Serbia for the shooting to death of 125 communist hostages and the evacuation of the villages of Kamendo and Dubona in reprisal for the attack on the railroad patrol Drazanj."

7 August 1943--"As retaliation for the surprise attacks in the Runjkovao-Leskovac District, on 16 and 28 July 1943, in which two members of the German customs border guard were killed and two were wounded, 150 communist reprisal prisoners were shot."

15 August 1943--"15 Communist reprisal prisoners shot in retaliation for murder of a mayor and the burning of threshing machines."

16 August 1943--"In retaliation for the killing of the leader of a mixed harvesting crew on 7 August 1943, 50 communist reprisal prisoners were shot".

On occasion they even returned to the earlier and higher quota of 100:1 for each German soldier killed. A proclamation by Bader of 19 February 1943 stated:

In the forenoon of 15 February 1943 a passenger car of the German Wehrmacht was attacked by partisans on the road Petrovan-Pozarevac near Toponica. The four passengers, two officers, one non-commissioned officer and one enlisted man were murdered and robbed. The vehicle was set on fire.

As a reprisal measure 400 communists have been shot to death today in Belgrade. The village of Toponica was partly burned down. Several hundred persons arrested, who were seized in the district area Pozarevac will not return to their villages but will be given worthwhile employment elsewhere.

The perpetrators of the attacks for which reprisal measures were instituted were frequently unknown to the Germans. Sometimes, however, the attacker was caught in the act or his identify became known. But even knowledge or apprehension of the guilty offender did not rule out or prevent the application of the retaliation table--the hostages had to shot anyway in order to set an example. The following entry for 24 December, 1942, in the War Diary of the 704th Infantry Division , a unit subordinate to Bader, makes this last fact very clear:

Lieutenant Koenig, Executive Officer, II Battalion, 724th Grenadier Regiment and 2nd Lieutenant, Dr. Engelhardt, Battalion physician of the II Battalion, 724th Grenadier Regiment, were fired on in Mladenovac at 1413 hours by a 20 year old woman who was assumed to be a communist.

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They were severely wounded (shot through lung and stomach) and immediately transferred to the military hospital in Belgrade. A former Chetnik leader was also shot to death by the woman while trying to arrest her. Later she shot herself. The 724th Grenadier Regiment ordered the encirclement and search of Mladenovac. 72 men and 52 women were arrested. A part of the population fled immediately after the attack on the officers. Local police and Serbian State guards participated in the military measures without causing trouble. 3 pistols were found.

The Division applies for authorization to shoot in reprisal 50 hostages and/or all people detained as retaliation prisoners.

The reply of Bader and Geitner to the division's incredible application is apparent from the entry in the division's War Diary on the following day:

49 men and one woman shot to death in Mladenovac for the attack on two officers of the II Battalion, 724th Grenadier Regiment. 2nd Lieutenant Dr. Engelhardt died in the military hospital in Belgrade. The Division applies for authorization to shoot an additional 25 hostages and/or all people detained as retaliation prisoners from the district of Mladenovac. The execution will be carried out by the SD in Belgrade.

At least 75 innocent persons, perhaps more if the division's request to shoot all retaliation prisoners held in the Mladenovac district was honored, were killed in spite of the fact that the guilty party was known. This was German justice in Serbia on Christmas Day, 1942. Can any doubt remain that German policy in the Southeast, as in Poland and the East, was designed and calculated to decimate the native populations for generations and generations?

But if the saboteur or attacker was really unknown--that is, if even the easily convinced Germans were too baffled to hazard a guess as to the "culprit's" political affiliation--then an equal number of both Draja Mihailevic followers (D.M.'s as they were called) and Partisans would be shot. The German reports are full of examples of such arbitrary and indiscriminate executions. On 27 June 1943, Bader ordered:

15 communist and 15 D.M. hostages are to be shot to death in reprisal for the attack and destruction of mines near Aleksinac on 8 June 1943.

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Another order of the Commanding General and Commander in Serbia, this time of 13 August 1943, stated:

In retaliation for the murder of two and the wounding of two German soldiers by insurgents on the highway at Pozarevac, 9 August 1943, 150 reprisal prisoners are to be shot.

Since the political origin of the perpetrators cannot be definitely established, 75 D.M. and 75 communist reprisal prisoners are to be executed.

To cope with the gigantic problem of hostage supply posed by this wholesale reprisal program, the district commands turned for assistance to their well-trained and widely-experienced co-workers in mass crime, the SD. With the help of native collaborators the SD had prepared lists of "suspects"-- relatives of men who were absent from a village or immigrants without valid reason from another village, "persons of a hostile attitude", and the like -- the definition was uncertain and ambiguous and no one quite knew how his name got on or remained off the lists. One thing, however, was sure -- there was no investigation and no trial and no appeal from the German judgment of inclusion. From time to time, as the available supply of hostages dwindled in the face of an astounding number of mass

executions, troops of the districts commands and SD detachments would stage "special actions" to round up additional victims. Large hostage camps were constructed at various strategic places -- their locations were changed from time to time to make for more efficient administration and quicker executions -- and when the orders came, the hostages would be shot, Either at the hostage camp itself or on the site of the attack. In general, retaliation victims were supposed to be residents of the village in or near which the attack allegedly occurred. But if a sufficient supply of hostages or retaliation prisoners was not on hand in a particular district camp, then the balance of persons necessary to satisfy the hostage quotas would be shot from the central camp in Belgrade. With a macabre fascination for mathematics and a consuming passion for everything smacking of rote, the Germans enforced the code firmly, precisely, exactly -- no matter where the hostages were from.

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Two examples will suffice. On 28 May 1943, Bader issued the following order to Field Area Headquarters 610:

A total of 100 D.M. hostages is to be shot to death in retaliation for the murder of three members of the Russian Protective Corps near Konarevo, wounding a member of the Russian Protective Corps near Ivanjica on 11 May and for the murder of two members of the Serbian Volunteer Corps near Vezania.

Since D.M. Hostages are not available at the present time in the camp of Field Area Headquarters 610, they are to be made available from other camps by the Commander of the Security Police.

On the same day, 28 May 1943, Bader signed and Geitner distributed a similar order to Field Area Headquarters 809:

150 communist hostages are to be shot to death in retaliation for the murder of three members of the German customs border guard near Vucje on 15 May 1943.

Since there are no communist hostages available at present in the camp of Field Area Headquarters Nisch, they are to be made available from other camps by the Commander of the Security Police.

Nor was there ever any jurisdictional conflict between the district commands and the SD over the sheer physical task of executing these thousands of retaliation victims. Generally losses of the military were avenged by the military themselves. Police units usually furnished the execution squads in reprisal actions for their own losses, as well as for attacks on other soldiers and installations under German protection. Both groups were ready and willing to participate in the mass massacres. If a particular hostage camp was administered by the SD rather than by a temporarily under--manned district command, then its personnel would supply the trigger men. There was no set rule; both organizations cooperated to do the job at hand. Tho orders for the actual executions, however, invariably came down through the military Bader-Geitner chain of command. The SD did not exorcise a concurrent jurisdiction. In those matters it was subordinate to, and took orders, from the Wehrmacht commander in whose fields area headquarters or district area it was stationed and operating. An entry in the War Diary of the 104th Jaeger Division for 4 April 1943 states;

By order of the Commanding General and Commander in Serbia, in reprisal for the murder of the Organization Todt man shot to death by communists 8 km.

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south of Pozarevac, 78 hostages were shot to death in Pozarevac by the SD.

While Geitner was having conferences with SD leaders and the subordinate troop commanders on such diverse subjects as conditions at the Semlin concentration camp where "up to 100 persons were dying daily", on "the execution of invalids, sick or pregnant women, or people over 60, male or female", if they took part in combat, "with or without weapons", against the Germans, on the deportation of the male population of whole areas for labor in Germany, and kindred subjects, Foertsch at Supreme Headquarters also kept occupied with current business. To him and to Loehr came the daily, weekly and monthly reports from their vast Southeastern empire -- from Bader and Geitner in Serbia, from General Lueters, the German Commander in Croatia, from General Brauer on the island of Crete, and from various other commanders on the Peloponnese peninsula.

Croatia by this time was in an uproar. Tito's Partisans were growing stronger by the minute. By the end of 1942 they could boast of having called a Congress, of a government of their own which exercised control in an area 250 km by 100 km., of a regular civil and military administration within that area, and of an armed force numbering almost 100,000 men skillfully organized into brigades, battalions and companies. Lueters was completely unable to cope with the problem. He gave the usual orders for the execution of hostages, the burning of villages, and the arrest of "suspects" and relatives of "bandits", but to no avail. As the practical-minded Lueters himself pointed out, the existing techniques and methods were wrong since "in any case, cleaning-up or retaliatory action against the civilian population the innocent are seized, the guilty having earlier taken to the woods". Nor should captured partisans be shot as a matter of course, pleaded Lueters. Perhaps if they were given fair treatment many of them would desert --at least that now approach ought to be tried."

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But Lueters' complaints fell on deaf ears at headquarters. Orders continued to come through Foertsch from Loehr that they would assume responsibility for what their subordinate commanders did, that no one would be held responsible for having employed harsh methods, that "individual soldiers should not be prosecuted for being too severe with the native inhabitants", and that commanders who failed to take retaliatory measures for reasons of negligence or softness would be held responsible. In spite of the fact that the German intelligence service reported the presence of partisan troop units, with the names of their leaders, the various insignia of rank worn, the size of their battalions and companies, their weapons, and other details, captured partisans continued to be executed after a brief interrogation. The reports are full of references to "temporary prisoners", as the partisans captured-but-not-yet-executed were called:

3 August 1942-- "In mopping-up, 39 temporarily arrested persons shot."

5 August 1942-- "In west Bosnia another temporarily arrested. 8 persons shot."

17 August 1942-- "In Syrmia, 90 persons shot in reprisal, 65 temporarily arrested."

29 August 1942-- "In Samarica, 262 persons temporarily arrested, of this number 20 shot immediately.

There was no trial, hearing or court martial for these men who fought as honorable and patriotic soldiers for their nation. The orders distributed to the lowest of units were unmistakably clear. Lueter's directive to his troops of 7 January 1943 is representative: "Execute and hang partisans, suspects and civilians found with weapons. No formal proceedings are necessary". No wonder that Foertsch could report to OKH in Berlin that up to 24 August 1942, 49,724 and up to 8 September 52,362 "insurrectionists" had been shot in battle or by way of reprisals.

Just as it was in Serbia, the German directives in Croatia were by now the old familiar ones -- comb whole areas, seize the entire male population capable of bearing arms for deportation to Germany for labor, choose "unreliables" as hostages to be executed in case of attacks on convoys or communication lines, enter into negotiations with the enemy for the exchange of wounded, the better treatment of prisoners, or recognition of their belligerent status.

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Instead treat captured partisans as criminals to be hanged after all possible information had been drained from them, with or without torture. In Croatia, just as in Serbia, the revolt continued to gain momentum. By the middle of 1943, with the Allies advancing in the Mediterranean Theater, the German Commanders realized that what was going on in the Balkans was really a war.

During the period of General Loehr's supreme command, on 1 January 1943, the 12th Army went out of existence, or more accurately from a practical standpoint, it changed its name. Loehr's headquarters was redesignated Army Group "E", and until August, 1943 it remained the supreme headquarters for the southeast theater. The change, however, was of little practical significance; Loehr continued to command and Foertsch continued as his Chief of Staff. In Serbia, Bader and Geitner were still subordinated to Loehr.

The structure of Army Group "E" is shown on Chart "C" of the prosecution's pamphlet. To almost every rule there is an exception, and the Court will note that here we have an army group to which no army was subordinated; instead, this army group commanded a heterogeneous collection of corps, Military Commanders, "fortress" commanders, and others.

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The tide of war was soon to bring about still another departure from orthodox German military structure. The German terror had not brought peace and order in southeastern Europe; Serbia was as restless as ever, and the partisan forces in Croatia and Greece were growing stronger all the time. On the 10th of July, 1943 the Allies landed in Sicily, and it became apparent that soon they would be on the Italian mainland, and in a much better position to bring material assistance to the national armies of liberation in Greece and Yugoslavia. Faced with these new and unfavorable developments, in August 1943 the Germans reorganized the entire command structure in southeastern Europe. New faces appeared and a familiar face reappeared. We will now turn to the story of this last and most important occupational period.

THE OCCUPATION: VON WEICHS AND RENDULIC (After August, 1943) The year 1943 was known to the American public as the "end of the beginning". To the German Army, reeling under the heavy blows of Allied military might, it was indeed the "beginning of the end". The invasion of North Africa and Montgomery's advance from Egypt in November, 1942 were followed by the crushing surrender of von Paulus' crack Sixth Army before Stalingrad.

Rommel's retreat and defeat in Libya and Tunisia was followed by the invasion and rapid conquest of Sicily. Finally it was Italy's turn. With the invasion of the Italian mainland, the long-despised and very tired Italian accomplice collapsed in thankful relief.

A. Reorganization of the Southeast Command.

Reorganization of the command structure was the first step taken towards meeting the new challenge in southeastern Europe. From the Russian front where, as commander of an army group he had won promotion to the rank of Fieldmarshal, Hitler called Maximilian von Weichs.

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A new army group headquarters – Army Group "F" -- was established in Belgrade, as the vehicle for von Weichs' supreme command over southeastern Europe. The defendant Foertsch, the veteran of service as Chief of Staff under List, Kuntze and Loehr, now came to Serbia as Chief of Staff to von Weichs.

The new command structure which von Weichs headed is shown in the chart on the wall. Loehr remained in Greece, and his headquarters continued to be called Army Group "E", thus creating the double anomaly of an army group with no "army" beneath it, and which was itself subordinated to another army group. From this time on, Loehr's headquarters concerned itself exclusively with Greece and the Aegean Islands, and Loehr reported to von Weichs. The two corps commanders under Loehr were the defendant Felmy, who had returned to Greece in July, and the defendant Lanz, who had been a divisional commander during the original invasion of southern Yugoslavia, and who arrived in Greece in August.

Although von Weichs maintained his headquarters in Belgrade, so far as military operations against the partisans were concerned, the center of gravity was shifting toward Croatia. To cope with Tito's partisans and to protect the long Dalmatian coastline, exposed as it was to an Allied invasion or raids from nearby Italy, the headquarters of the Second Panzer Army, which had been engaged on the Russian front, was moved to Croatia. To command this army, and to carry out the difficult mission of re-establishing order in Croatia and safeguarding it against enemy attacks, the German High Command selected the defendant Lothar Rendulic. An Austrian, whose mother was Croatian, Rendulic had learned much about the Balkans by the sheer process of growing up under the Hapsburgs and living in the center of their sprawling empire. He had joined the Austrian Nazi Party in the early thirties at a time when it had been declared illegal, and was regarded on all sides as a "Nazi General."

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In 1938, he was the Austrian Military Attache at Paris, in which his rise was phenomenally rapid. At the outbreak of the war in 1939, he held the rank of Colonel. He participated in the Polish campaign as chief of staff of an infantry corps, and thereafter was given command of a division during the campaign against the Low Countries and France. He commanded another infantry division in Russia, and in 1942 he was given command of a corps; in the same year, he reached the rank of General der Infanterie (equivalent to a Lieutenant General in the American Army). His outstanding combat record, which had won him the highest German decorations, brought him to Hitler's attention and undoubtedly led to his appointment as Commander of the Second Panzer Army. In the spring of 1944 he was promoted to Generaloberst. Two more of the defendants, Leyser and Dehner, now appear for the first time in this case as corps commanders under Rendulic.

In Serbia another new face was introduced. General Hans Felber had led troops in battle and seen occupation duty in France. Weichs and Rendulic thought Bader too old and routine--minded for the requirements of the new situation; he was relieved as Military Commander of Serbia and replaced by Felber. The defendant Geitner, however, carried on as Felber's Chief of Staff.

Felber's jurisdiction, however, was broader than that which had been exercised by Bader. Just as von Weichs, as commander of all the armed forces in the southeast was the superior of Loehr in Greece and Rendulic in Croatia, so Felber, with the title of Military Commander Southeast, was now made the superior of the German Military Commanders in Greece and Montenegro and of the "Plenipotentiary Generals" in Croatia and Albania. The Military Commanders in Greece, beginning in August 1943, was the defendant Speidel. Accordingly, in this final phase of the case, all of the defendants except two (List and Kuntze) are involved.

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Von Weichs, of course, had supreme authority over the entire organization - over Rendulic and Loehr as tactical commanders, and over Felber and his subordinate "Military Commanders". Geographically speaking his responsibilities were far greater than those which had been borne by List, Kuntze, and Loehr before him. He had barely arrived in the Balkans when the Italian capitulation occurred, and he was immediately confronted with the task of disarming and rendering harmless the Italian forces in Croatia, Montenegro, Albania and Greece. At the same time, he had to take over occupational responsibility for the areas which the Italians had theretofore controlled.

B. The Italian Surrender.

The new leadership was on the defensive from the start. Sicily had been invaded by the combined British and American forces in July. A fortnight later Mussolini was deposed and the King appointed Marshal Badoglio to conduct the war as new head of the Italian Government. But in six more weeks, on September 8, 1943, the Italian armed forces surrendered unconditionally. Under the terms of the armistice all of the Italian armed forces were to cease hostilities of any kind against the forces of the United Nations and to withdraw to Italy immediately from all areas in which they were currently engaged.

The German High Command was not caught unawares by this development. Italy's defection had been anticipated, and when it actually occurred, the Germans proceeded with synchronized swiftness to attack and disarm their one-time colleague. The orders from Berlin were clear and precise. Italian soldiers who wished to continue fighting on the German side were to retain their arms, to be accorded treatment "completely consistent with their honor", and to receive rations "based on those of the Germans". Indeed, they even were to receive 50% of the German pay corresponding to their ranks.

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German gratitude and generosity to the "faithful" was boundless. Those Italians who did not wish to continue fighting for the Germans were to be disarmed and made prisoners-of-war. They, however, would not have to endure the long, boring days of waiting in the barbed-wire enclosures that is the legal fate of prisoners-of-war. Instead they were to be turned over to the Plenipotentiary for Labor Employment and the Reichsminister for War Production and Armament, so that their strength and skill might be fully utilized in the German war production.

For those Italian soldiers who dared to obey the orders of their own Supreme Commander and resisted German forces either actively or passively, a mere select fate was in store – the officers of all Italian troop units who let their arms fall into the hands of insurgents or in any way made common cause with insurgents were to be shot to death after summary court martial; the non-commissioned officers and men of such units were to be taken away for labor employment.

The Fuehrer's order was put into savage execution. In a matter of hours von Weichs had ordered its distribution to all tactical commanders in the theater. In some cases the order was passed on in expanded form. Rendulic, for example, gave more detailed instructions to his troops: Should an incorrigible Italian division destroy its arms and supplies, besides the individual "culprits", one officer of the Divisional Staff and 50 men of the division should be shot to death; any individual Italian soldier selling or giving away his arms to civilians or destroying them without explicit orders would be shot to death; any Italian soldier arriving at his embarkation station without his weapon was to be shot to death together with his responsible unit leader; for every motorized vehicle made useless, one officer and 10 men would be executed.

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In a matter of days, fiftyone hesitant Italian divisions had been totally disarmed by but seventeen German divisions. However, at least two whole Italian divisions resisted, while thousands of individual Italian soldiers, noting the treatment meted out by the Germans to resisters and surrendered alike, took to the hills to join the partisans.

The reports poured in – from the division to the corps, the corps to the army, the army to the army group, and the army group to OKW in Berlin:

On 27 Sept. 1943, from Split on the Dalmatian coast: "city and port occupied, 3 generals, 300 officers, 9,000 men of the Italian "Bergamo " Division taken prisoners; officers to be shot to death according to the Fuehrer order."

30 Sept. and 1 Oct. 1943: "3 generals shot in Split after summary court martial; 45 more guilty Italian officers shot in Split."

From the 7th SS Division on the 29th Sept. 1943: "The Italian General Fulgowi has been convicted for delivering arms to the partisans and sentenced to death."

From the XXIst Mtn. Corps on the 9th Oct. 1943: "Operations against the Italian 'Taurinense' Division concluded in the main, reprisal measures carried out against 18 officers."

From the XXIIInd Mtn. Corps on the 23rd Sept. 1943: "Gen. Gandini and all his staff captured, special treatment according to Fuehrer order. The following day "Gen. Gandini and all officers have been shot."

From the 100th Inf. Div. on the 1st Nov. 1943: "Reprisal measures are being taken against the 2 Italian colonels (the Ia and IIa of the 9th Italian Army) captured near '505'".

On 13 Oct. 1943, from Von Weichs the Supreme Commander Southeast: "Execution of general Roncaglis, Commander of the Italian XVth Army Corps, ordered in case of further opposition".

This calculated slaughter of captured or surrendered Italian Officers is one of the most lawless and dishonorable actions in the long history of armed combat. For these men were fully uniformed. They bore their arms openly and followed the rules and customs of war.

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They were led by responsible leaders who in repelling attack were obeying the orders of Marshal Badoglio, their Military Commander in Chief and the duly authorized political head of their nation. They were regular soldiers entitled to respect, humane consideration, and chivalrous treatment.

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C. Croatia With the disarming and liquidation of the Italians complete, the Southeast Command returned to the continued prosecution of its principal mission of pacification.

In Croatia the task of defeating the guerrillas was alone a big order. To do that and quiet the civilian population in addition was far more difficult.

To begin with, the puppet Croatian Government of Ante Pavelic was of no help whatever. Its inefficient and poorly organized national militia, led by Kvaternik, was unable to maintain order within the country, let alone protect the vital German supply lines running from the Reich through Croatia to Serbia and Greece. Even for the German troops of the Second Panzer Army, it was a full-time job to keep the supply and communication routes open. In an earlier period, the enemy had waged guerrilla warfare; it was the only way he could fight, and the way which suited him, his resources, and the topography of the country best. He staged surprise raids on lonely German outposts or under-manned garrisons, he mined bridges, derailed trains, cut telegraph wires, fired supply depots, and exploded ammunition dumps. That sufficed in an earlier time. Now after two years in the hills he was experienced and well trained; the Allies were on the offensive and had supplied him with weapons, ammunition, food and clothing; he was expertly led and efficiently organized. Now he was a real

enemy, a belligerent of major proportions, and a foe to be reckoned with in terms of large scale operations and overall strategy.

To meet the challenge of the big and the new, the Germans had only the small and the old. From the day in 1941 when the campaigns against Greece and Yugoslavia had been declared ended and the front line troops redeployed to the East, the Southeastern commanders had begged for replacements and reinforcements. The Southeast theater was continuously under strength throughout the war. Yet always the same answer came -additional troops cannot be spared from the decisive Russian front. But not only were the troops in the Southeast too few; they were also of inferior quality.

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They included many reserve troops who were over-age and jaded. Insufficient and inferior troops had been the German problem from the beginning. In 1941 and 1942 they had met it the only way the heavy-handed Germans knew how to meet any resistance -- by terror. In 1943 and 1944, as unimaginative and blindly cruel as ever, they would meet it in the same way.

The practice of seizing scores of hostages in each village in which German troops were stationed or in the vicinity of which German troops were operating was continued. In 1941 the Germans had taken democrats, nationalists, and Jews as their hostage victims. Now that most of those had been liquidated they were choosing "communists", "bandit suspects", "bandit helpers", or relatives of "bandits" as security pawns against attacks. How did one distinguish a "communist" from the rest of the population? Only the SD, the Croatian police, or the village quislings could answer that. If men thereby were victimized by spiteful and gossiping neighbors, it was just unfortunate.

The pattern of terror and intimidation was simple. After the Germans had entered a village, all of the inhabitants -- old men, women and young children alike -- were summoned to the central square or market place. From a sound truck a German officer would announce to the assemblage that there were partisan bands operating in the vicinity. The Germans wanted information concerning the size, location and leadership of those bands, the number of men missing from the village, and the names of strangers presently living in the village. Unless the inhabitants came forward voluntarily with the desired information, other and more drastic steps would be taken to procure it. When there were no volunteers, priests, school teachers, small shopkeepers or farmers -sometimes just every third, fifth or tenth man -- were called out of ranks and loaded in lorries for shipment to the division's hostage camp at some distant central collecting point. Whether to save one's husband, father or son by revealing that a neighbor's brother had joined the bands or was absent from the village was a difficult choice for those who remained.

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Sometimes men or women weakened. More often they just stood there -- some passive, others weeping, all hating.

The basic pattern of burning homes and villages was also continued. Partisan bands moved from village to village, changing their bases of supply and operations as the Germans advanced or retreated. As the

Germans advanced on a village there might be an exchange of fire, perhaps a few shots by retreating guerrillas. That the villagers had not asked the partisans to come, had given them food and supplies only under protest, or were powerless to resist their intrusion was of no moment to the Germans. The inhabitants would be evaluated, on foot to the rear. Some of the aged would die en route; of the others some would be executed as "bandit suspects" or "bandit helpers" after screening by the SD; the remainder would be sent to the Reich for labor; the village would be reduced to rubble and ashes.

These severe retaliation measures served only to defeat the Germans' own purpose. Glasie-Herstenau in Croatia knew it, the defendants know or should have known it. After a few months in the Balkans anyone with the slightest objectivity would have known it. Those measures were military suicide, not military necessity. In spite of the hangings and burnings -- indeed because of them -- the resistance continued. With his home and village destroyed, his means of livelihood cut off, his family and friends executed, in concentration or hostage camps, or slaving in Germany, there was little else for a man to do but take to the woods. Completely without roots, immunized, against fear and nursing a bitter hate, he was excellent material for the partisan forces.

By mid-1943, after the influx of thousands of lonely, angry, and displaced men, the guerrillas numbered in the tens of thousands. His attention drawn to the tremendous labor needs of the Reich, Hitler, on 27 July 1943, issued a new order finally recognizing the magnitude, importance and regular military nature of the warfare in the Southeast. In order that more human material might be imported into the Reich to insure the necessary supply of coal, all "bandits" captured in combat were no longer to be executed.

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Henceforth they were to be deported to Germany by way of prisoner collecting points. Prisoners were to be executed no longer -- not because it was thought illegal or inhuman to execute prisoners, but simply because their labor was now necessary for the Nazi war machine.

In order to clear up any doubts concerning this unusually humane Hitler order, the OKW issued a clarifying order, dated August 18, 1943. Paragraph 3 of the succeeding order empowered any commander having the rank of at least a Divisional Commander, "in cases of particularly malicious procedure on the part of the bandits or their accomplices", to issue precautionary directives not to take any prisoners, or to shoot prisoners and the population captured in the combat areas. In his order of 15 Sept. 1943, passing on this clarifying order, Rendulic said -- and for this he deserves the dubious honor of having "improved" on a Fuehrer order:

- 1) All operations against collective bands or against individual bandits are to be executed with ruthless severity. The unit employed in band combat is not to be satisfied merely to chase away the bands, but it must attempt again and again to exterminate bands or at least parts of them.....
- 2) The severity of the fights against the cunning enemy often makes it impossible to bring in prisoners without endangering one's own men. The precautionary directives under No. 3 of the OKW's order below, not to take prisoners, will frequently become necessary against the bands in the Serbo-Croatian area. Should the individual bandits nevertheless be captured alive by our own troops, they are to be treated in accordance with the attached order of the OKW/WFST secret, dated 18.8.43.

What a thinly veiled invitation to the wholesale murder of defenseless prisoners of war, of men who satisfied all the criteria prerequisite to full belligerent status. Small wonder, then, that brutalized by such orders, the common German soldier lost all sense of chivalry, all regard for decency. As inexorably as night follows day, the issuance of these criminal orders was followed by the reports of their enforcements:

Captured 31 partisans -- 27 of them were shot;

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2 partisans, captured during an attack on Bijela, refused to tell the name of the Brigade or Division to which they were attached. After their interrogation, they were shot;

18 captured partisans shot;

4 partisans captured -- shot;

Communist courier hanged after interrogation;

100 bandits hanged for railway sabotage and for a surprise attack on police;

20 partisans hanged for an attempt to blow up a railroad.

You will read these and scores of similar reports until numbed by the monotony of their tragic sameness, your emotions may well be incapable of registering further horror and pite.

Although a critical manpower situation in the Reich was responsible for modification of existing orders respecting the treatment of captured partisans, there was no similar practical excuse for a change in the basic orders governing reprisal measures. The consistency of the German retaliation rules runs like a steady red thread throughout this case. These rules, like the physical presence of Foertsch, lend consistent if appalling unity to the periods of List, Kuntze, Loehr and von Weichs.

The already mentioned Rendulic order of 15 Sept. 1943 is as revealing on the subject of reprisal measures as it was on the treatment of captured partisans. It is not an exceptional order. It is, unfortunately, thoroughly representative of every single man in the defendants' dock.

The order states:

Attacks on German members of the Wehrmacht and damages to warimportant installations are to be answered in every case by the shooting or hanging of hostages and the destruction of surrounding villages, which latter is to take place, if possible, after the arrest of the male population which is capable of bearing arms. Only then will the population, in order to avoid reprisal measures, inform the German authorities if bands collect.

Unless in individual cases different orders are issued, the rule for reprisal measures is:

1 German killed 50 hostages 1 German wounded 25 hostages Kidnapping of a German will be considered equal to killing a German unless the kidnapped person does not return within a definite period.

According to the severity of the attack, 100 hostages may be hanged or shot for each attack against war essential installations.

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These reprisal measures are to be executed if the culprit is not caught within 48 hours.

With orders of this nature outstanding, there could have been only satisfaction, not surprise, as the routing, matter-of-fact reports came in:

20 hostages hanged and 26 shot for railway sabotage;

As a retaliatory measure for an attack on an armored column 27 Chetnik hostages hanged;

Arrest of a woman teacher in Kapela as a hostage, whose husband, a Croatian captain, deserted to the bands;

Relatives of track attendant Petric, who left his post at 1800 hours, will be shot if he fails to return;

The mass of the population of the villages of Paklenica and Vocarica arrested as hostages and the villages burned down in reprisal for a band surprise attack on Novska;

One village burned and 100 bandits shot as a measure of retaliation for raid on railway southeast of Gracenica;

In retaliation for a raid on a freight train southeast of Vinkovci 21 bandit suspects taken from near the place of the raid and executed there.

Von Weichs knew of this and other of Rendulic's orders. He knew, too, of their precise execution -- he was Rendulic's commander, it was his business to know. Dehner and Leyser knew of them also -- it was they who saw to it that the orders were carried out. It was their divisions, regiments and battalions who did the shooting.

THE PRESIDENT: The Tribunal will be in recess at this time until 1:30 this afternoon at which time this Tribunal will reconvene in Court Room No. 2.

(A Recess was taken until 1330 hours).

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AFTERNOON SESSION (The Tribunal reconvened at 1330 hours, 15 July 1947)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Counsel may proceed.

MR. FENSTERMACHER: If the Tribunal please, prior to the recess, you will remember, we were discussing the final occupational period, the period August 1943 to October 1944. We were particularly concerned with the basic orders issued by Weichs for the whole theater, and with their execution by Rendulic, Dehner and Leyser in Croatia.

Not until late December 1943, four months after the inauguration of the new Southeast command, did a major reorientation in theater policy take place. Minister Plenipotentiary Neubacher, Ribbentrop's top political advisor for southeaster Europe, had long worried over the boomerang effect of the German occupational terror. After conferences with Weichs and his army commanders, it was agreed that "the reprisal, penal and revenge measures practiced up to now must in the future, take into account the new political objectives." In cases of attacks or acts of sabotage, the new principle was "to seize the perpetrator himself and to take reprisal measures only as a second course, if through reprisal measures the prevention of future attacks is to be expected." Up until now the hangings and burning admittedly had occurred first, and the search for the guilty only later. A reversal in technique was a tribute, not to justice, but to military expediency.

This order of the Supreme Command Southeast, dated 22 December 1943, is a remarkable document in many ways. It rescinded all previous orders concerning hostage quotas. But though reprisal quotas were no longer to be fixed, they were not at all prohibited. Rather the extent of the reprisal measures was to be "established in advance in each individual case." The order is unique also because of this twisted and inconsistent language. It reads in part as follows:

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The procedure of carrying out reprisal measures, after a surprise attack or an act of sabotage, at random on persons and dwellings in the vicinity, close to the scene of the deed, shakes the confidence in the justice of the occupying power and also drives the loyal part of the population into the woods. This form of execution of reprisal measures is accordingly forbidden. If, however, the investigation on the spot reveals open or concealed collaboration or a conscientiously passive attitude of certain persons concerning the perpetrators, then these persons above all are to be shot as bandit helpers and their dwellings destroyed....

If such people as are guilty can not be found, those persons must be resorted to who, without being connected with the actual deed, nevertheless are to be regarded as co-responsible.

Why should persons not connected with the actual deed "nevertheless be regarded as co-responsible"? When superior orders are so incomprehensible and so in need of lower-level clarification, it is not surprising to find one of Rendulic's Division commanders, writing to his troops in the following simple, straightforward, understandable language:

All is right which leads to success. After three full years of war in the Balkans each commander knows what is best.

Not because of the new policy directive, but rather because of tactical considerations arising out of the regular military nature of the current war in the Southeast, there was a noticeable change in the Croatian picture in the early months of 1944. The change was not so much a decline in the quantum of crime committed by the German troops there as it was a shift in emphasis from one type of crime to another. The number of hostage hangings may have decreased, but in their place were the many raids on partisan concentrations, followed, after all military operations were ended, by the deliberate burning of partisan hospitals and medical supplies and, on occasion, by the merciless execution of their sick and

wounded patients. With periodical "purge actions" and "punitive expeditions" throughout 1944, for example, units of the "Prinz Eugen" and "Devil's" Divisions, both subordinate to Rendulic, went on a rampage of blood and cruelty that can only be duplicated in history by the orgies of Genghis Khan. A dozen or more inoffensive Dalmatian villages were burned and plundered. Three villages were destroyed and more than 800 of their inhabitants massacred on a single day. The troops machine-gunned crowds which they, themselves, had assembled, they looted the dead and then half burned the bodies on giant funeral pyres, they poured gasoline on live victims and then set them on fire, they raped and they pillaged and they slaughtered.

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What else could be expected of men brutalized and incited to crime by the ruthless orders of ruthless commanders?

Then there were the deportations to slave labor in the Reich. Worried by the threat of an Allied invasion across the Adriatic Sea, but more anxious about the continuous thrusts of Tito's National Army of Liberation and by the labor needs at home, scores of islands and thousands of square miles of Dalmatia and Croatia were completely evacuated of all their inhabitants by the Second Panzer Army. Mixed Croate-German ---

THE PRESIDENT: May I interrupt just a minute. We need a short recess in order to fix the sound system.

(Short recess taken)

THE PRESIDENT: I am informed that the English was coming over Channel 3 and the other language over another channel. The English is now coming over 2, so you will kindly watch and see that you are getting it on your right dial. And the German is on 3.

MR. FENSTERMACHER: Mixed Croate-German commissions rounded up all able-bodied men between 17 and 40 and gave them their choice of being drafted into the Croatian Army or joining strongly guarded labor battalions building fortifications, and coastal defenses, both alter natives which meant fighting on the side of those who would keep them in bondage. Altogether, between 150,000 and 200,000 Croates were up-rooted from their homes and villages and transported to district and regional collecting camps from which they were later screened -- the weak to remain in local concentration camps and all the strong to labor in Germany. In one single action alone, Operation "Panther", more than 6,000 persons were deported to the Reich for labor. Old men, women, nursing children, all had to go, wearing only the clothes they had on and taking with them only what they could carry.

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And always, as an area was combed, several groups of the SD were asked to accompany the army to "clean up" in its rear. To "clean up" -- a polite expression for political, racial and ideological murder. So widespread were the evacuations, and so wholesale the deportations, that even the supine Croatian Government protested in their quick and arbitrary manner that the Germans were deporting hundreds whose loyalty to the Pavelic Government and the German occupation was above suspicion.

Hangings -- of hostages, "communists", "bandit helpers", "suspects"; executions -- of prisoners, civilians, "anti-Germans", "unreliables"; burnings -- of homes, villages and towns; punitive expeditions and "purge actions"; mass evacuations and deportations to slave labor--that was the answer of Rendulic, Dehner and Leyser to the problem of Croatian pacification.

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If Croatia under the aegis of Rendulic was an operational channel house, then Serbia under Felber and Geitner was an administrative extermination camp. In no other country did the machinery for murder operate with such chain-like precision.

With impartial ruthlessness and severity, Felber and Geitner liquidated both D.M.'s and Partisans, depending upon the political affiliation of the group to which the Germans believed the perpetrators of the hostile acts belonged. They hanged and shot in incredible quantities, reflected in their daily and monthly reports to von Weichs:

2 September 1943: "450 communist suspects ordered to be shot in course of operation in area of Leskovac";

29 September 1943: "10 D.M. hostages and shot to death in Jagodina for the murder of the district supervisor";

4 October 1943: "283 D.M. hostages and 42 communists shot to death in Cacak on 1 October in reprisal for a number of attacks in the area of F.K. 610 during which German and Bulgarian members of the Wehrmacht were killed.";

17 October 1943: "In retaliation for attack on German customs and police patrol, 100 D.M. in the district of F.K. 810 and 150 communist hostages in Belgrade shot to death;"

29 October 1943: "In reprisal for the attack on two German soldiers by D.M. Chetniks near Tejika on 17 October, for a further attack on 21 October near Gr. Milanovac, and for the attack on barges on the Danube near Izlaz on 26 October, 150 D.M. followers were shot;"

29 October 1943: "As revenge for the surprise attack on a cattle purchasing detachment at Sljivar 100 D.M. followers and 200 communists were shot in Belgrade";

29 October 1943: "As revenge for the surprise attack on the collecting detachment of the 8th Auxiliary Police Battalion at Lelasnica 100 D.M. followers were shot";

1 December 1943: "27 communist hostages shot in retaliation for the attack on the train Negotin-Nisch".

Even after the order of December 1943 rescinding all hostage quotas and decreeing a policy change in reprisal measures, Felber and Geitner continued to execute in arithmetical ratio:

22 January 1944: "50 communist hostages shot to death for the murder of a German police captain in Kragujevac";

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24 January 1944: "10 communists shot to death in Pozarevac in reprisal for the murder of the mayor";

On 24 March 1944 in a memorandum addressed to F.A. 610, Felber approved the execution of 10 "communists hostages at the Krusevac airport, and as late as 30 May 1944, he ordered the execution of 50 "communists" in retaliation for the death of two German soldiers.

Such was the record of crime which Felber and Geitner compiled in Serbia.

Von Weichs knew the effect these massacres had on the Serbian state of mind, and he knew that they were directly related to the problem of pacification of the whole Southeast. He knew, too, that in a theater of war without the usual operational zones and rear areas tactical security and administrative security were one and the same thing. Von Weichs was law in Serbia as he was law in all the Southeast. He knew of Felber's and Geitner's bloody work--he knew, he condoned, he consented, and he approved.

For reasons of convenience and clarity in the statement of this case, we have postponed our description of the German occupation of Greece in order to treat it all together. Greece had been stunned almost into quiescence during the first half of the joint German-Italian occupation. Always a heavy food-importing country, Greece, with her outside sources of supply cut off and her food stocks plundered by the Italian and German occupiers, faced national starvation. Hundreds died in the streets of Athens daily, children with the bloated bellies of undernourishment could be seen everywhere, and between August 1943 and October 1944, the drachma declined from one--three hundredth to one trillionth of its pre-war value. With a population of slightly over seven million people, Greece lost an estimated 300,000 of its inhabitants because of the food shortage.

To a people accustomed to horses and carts, German mechanized might was overwhelming. The military end had come with such speed that it took some time before the Greeks could even entertain the thought of rebelling against half-tracks, panzers and airplanes.

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"But", as Lord Dunsany says, "in three thousand years, freedom grows so hard that it is like a piece of rock at the core of a mountain, that cannot be broken or ground away, and cannot disappear ever." In the latter part of 1942, at the time of Stalingrad and the Allied victories in North Africa, the Greek resistance movement began to gather strength. In Crete, an all too familiar note was heard as early as November 1942, when the German commander General Brauer, instructed his commanders to educate the troops "to show no mercy whatsoever to the civilian population."

As had been observed, up to August 1943 the greater part of Greece was occupied by the Italians. But in November and December 1942 and January 1943, Loehr's reports to OKH began to contain an increasing number of references to retaliation measures against sabotage and guerrilla attacks in the German-occupied portions of Greece.

By June and July 1943, the situation in Greece had become increasingly similar to that in Yugoslavia. Loehr's reports to OKH are an accurate barometer of the terroristic pattern:

3 June 1943: "10 communists from a concentration camp shot in Larissa as a retaliation measure."

2 July 1943: "4 villages burned down and 50 communists shot near Litochoron for attack on German sergeant and blasting of railroad tracks."

4 July 1943: "87 suspects shot while trying to escape".

5 July 1943: "50 Greeks shot in Melaxa for sabotage of cable lines."

Just as in Yugoslavia, literally dozens of separate resistance groups at first arose in Greece. But after a period of merger and consolidation, two organizations of major importance were discernible: General Zervas and his approximately 10,000. EDES troops in the Epirus section of western Greece, and the ELAS units, 15,000 strong, in eastern Greece, the Peloponnessus peninsula, Crete and the islands.

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To put down the Greek resistance the Germans tried the same old methods. Terror and intimidation, hostages and reprisal measures, hangings and burnings, had failed to pacify Serbia and Croatia. But the Germans, never humane and seldom smart, knew no other course.

Greece during 1943 and 1944 was, like Yugoslavia, divided theoretically into both operational areas and so-called administrative areas, each with its own separate jurisdiction, organization and personnel. For the efficient execution of their respective missions of pacification and security, it was, of course, quite necessary that the regular tactical troops of Flemy and Lanz should cooperate closely with the district and sub-area police troops under Speidel's jurisdiction. This was achieved both by personal contact of the major personalities involved and by the regular interchange of information, daily and weekly situation reports, and the like. Generally speaking, the tactical troops confined their activities to regular military engagements against the organized partisan bands. Speidel's police troops, on the other hand, were concerned for the most part with the civilian population--seizing workers for forced labor in the Reich, deporting Jews from Crete, Corfu, Rhodes and the other islands putting down strikes, executing hostages in retaliation for acts of sabotage and the clandestine killings of German police and quelling Greek mayors.

The orders of Flemy, Lanz and Speidel in Greece were similar to these issued by Rendulic, Dehner and Leyser in Croatia and by Felber and Geitner in Serbia. When attacks on troops, installations and supply lines continued, notwithstanding a previous 10:1 "hostage" quota, the Germans, with their customarily inflated notions of their own worth, promptly raised the quota to 50:1. But even the execution of 50 civilians in retribution for attacks by unknown persons did not completely satisfy General Lanz.

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On the 25th of October 1943, his 1st Mountain Division ordered that the 50:1 arithmetical key be applied even to German losses suffered in regular military combat with the legitimately organized and uniformed guerrillas. After October 1943 the out-moded 10:1 ratio was to be effective only for the less serious deaths of such racial inferiors as a "pro-German Greek or a Greek working for the Germans."

By mid--1943, the "Andartes", as the Greek partisans were called, were an enemy to be seriously reckoned with. The Germans, however, refused to grant full belligerent status to the Greek resistance forces. Instead they waged war against the Greeks in 1941-42--by pressing the native population into service on the side of the terror that was oppressing them. They intimidated the inhabitants of peaceful villages into giving information concerning the size and location of partisan troops. They executed civilians in reprisal for the bombing of bridges and tunnels, and for sabotage of communication lines. They labeled men "Bandits", "communists", bandit suspects" and "bandat helpers" and killed them without benefit of investigation, trial or even summary court martial. In short, they resorted to every trick and device that a tyrant, blinded by the fury of his own insanity, might resort to. The reports to von Weichs and Foertsch tell the story of the harvest of the German policy in Greece:

29 November 1943: "In reprisal for band attack on the road Tripolis-Sparta, 100 hostages shot at the scene of the attack."

1 December 1943: "In reprisal for the killing of one German soldier in Tripolis, 30 'communists' were shot."

2 December 1943: "For attack on railroad bridge southeast of Tripolis 50 hostages hanged."

3 December 1943: "19 communist reprisal prisoners shot in revenge for the murder and wounding of Greek police."

6 December 1943: "As reprisal for band attack southeast of of Gythion 25 hostages shot."

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621 December 1943: "In the area of Volos 25 bandits shot to death in reprisal for an attack on motor vehicles."

25 February 1944: "50 hostages from the hostage camp at Tripolis shot to death on 23 February in reprisal for the murder of an interpreter."

9 March 1944: "In reprisal for strike agitation by communists 50 communists shot to death."

25 March 1944: "45 hostages shot in Corinth, 52 in Tripolis, 44 in Sparta."

1 April 1944: "Special train Athens-Salonika hit mines. One dead, 14 wounded. Tracks blocked only short while. The execution of 70 Greeks at the site of the incident ordered."

Lidice, the small Czech village which the Germans leveled to the ground in 1942, stands today as a symbol of German savagery. In Greece there are a thousand Lidices--their names unknown and their inhabitants forgotten by a world too busy and too cynical to remember. Greece has many small primitive villages with 500 to 1,000 inhabitants who live in mud houses with thatched roofs that have been lived in for centuries. There are, for example, the villages of the Peloponnes peninsula which were leveled to the ground in December 1943 during the notorious "Operation Kalavrittha." Touched off by a report that "bandits" in the vicinity had killed 78 German prisoners, troops subordinate to General Felmy embarked upon a reprisal expedition that lasted for eight days before their senseless bestiality had

been satiated. Fourteen villages were completely destroyed and their male inhabitants shot. 511 persons from Kalvritha alone were executed. Whether the Partisans had killed captured German soldiers or not, there was no legal excuse, and there can be no moral mitigation, for seeking wholesale and indiscriminate revenge on the innocent.

Then there were the parallel tragedies of Klissura and Distomen. On an April morning in 1944 partisan troops appeared on the outskirts of Klissura and forbade the inhabitants to leave the village. On the afternoon of the same day, about two miles away, one German motorcycle was attacked and two German soldiers killed.

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German reprisal methods being well known by now, all the male population of the village fled in fear to hide in the hills.

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Only old men, women and young children remained behind. About 4 p.m. that afternoon the 7th SS Panzer Grenadier Regiment and Bulgarian Occupational Militia subordinate to its command, both under Felmy's tactical jurisdiction, threw a cordon around the village, searched the houses unsuccessfully for weapons and ammunition, and called all the people together in the public square. Then the killing and burning began. When it stopped, there were 223 victims lying in the square -- fifty of them children under ten years, 128 women and the rest old men -- Klissura was a mass of smouldering rubble.

The "blood bath of Klissura", as the Germans so appropriately entitled their own report on the affair, was too much for Minister Neubacher to stomach. Not because it was inhumane but because it would have serious political repercussions, Neubacher immediately protested to Weishs. He said:

"It is sheer insanity to shoot babies, children, women and old people because heavily armed Reds had been quartered for one night in their houses and had shot two German soldiers in the neighborhood. The political consequences of such deeds may be very serious. It is obviously easier to kill quite harmless women, children and old men than to hunt down an armed band. I demand a thorough investigation of the matter."

The investigation was ordered. The military whitewash of an SS unit by a Wehrmacht Field Marshal came two months later when Weichs wrote to Neubacher:

"The Greek witnesses cannot be believed. The village was taken by storm, the inhabitants killed by artillery fire. There was no retaliation action."

Just two months after Klissura, in June 1944, troops of the same 7th SS Panzer Grenadier Regiment were involved in a similar massacre at Distomon.

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From the Germans' own lengthy report of the incident the following facts appear. As a German company approached the village, 18 Greek civilians were seen. Although they did not fire on the

Germans, six of the 18 "were shot while trying to escape". The remaining 12 civilians were arrested and taken along with the company, which continued on to Distomon, remained there for several hours undisturbed, and then set out on the road from Distomon to Stiri. About two kilometers from Distomon, 30-35 partisans, well-entrenched in ridges overlooking the road and armed with an 8 cm. trench mortar that covered the entire area, lay in ambush. Before the surprised Company could disperse and reorganize to return the sudden Partisan fire, the enemy had gone.

In defiance of orders restricting the initiation of reprisal measures to commanders of at least division commander level, the company commander returned his troops to Distomon to retaliate the villagers because they had not previously disclosed the presence and position of the "bandits". A report of a German Secret Field Police member, who was in Distomon at the time, relates what happened after the troops returned: "After the troops returned to Distomon, the 12 prisoners who were taken back were shot dead in the market place as a reprisal measure.....

Subsequent to that, all people present in Distomon were shot dead wherever they happened to be. At that time, I was at the market place and was looking after our wounded interpreter. As far as I observed events, 60 to 70 persons -- men, women and children -- were killed in the vicinity of the market place. As far as I could see it, all were shot dead. I did not see inhabitants being killed in any other way, i.e. beaten to death by rifle butt, or by pouring gasoline over them and setting them on fire."

Why were the 12 arrested Greek civilians killed? What had they to do with the subsequent action by the "Andartes"? Why were 270 inhabitants of Distomon killed?

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What was their crime? Why did the Secret Field Police member feel obliged to say that he had not seen any inhabitants "killed in any other way, i.e. beaten to death by rifle butt, or by pouring gasoline over them and setting them on fire"? Was that the usual method of executing retaliation victims?

Again Neubacher was dismayed by the political, not the moral, insanity of such actions. And again he protested -- not to Himmler, although SS troops were once more involved, but to Weichs, the omnipotent master of the Southeast, the Commander of Wehrmacht and SS troops alike. This time the investigation was more lively, for it revealed that the regiment to which the company involved was subordinate had knowingly issued a false official combat report of its action against Distomon.

According to the regimental report the 16 Greek civilians opened fire upon the company as it was approaching Distomon and were "shot while trying to escape", while Distomon itself was taken only after a hard battle followed by a mopping-up operation.

From a sheer internal military standpoint, the SS company commander had not only violated orders regarding the initiation of reprisal measures. He had also deliberately issued a false official report. But convinced that the "competent authorities would also subsequently have ordered reprisal measures against Distomon which would have necessitated sending at a later time a strong mission with corresponding high fuel consumption" and believing that the company commander's procedure was "merely a transgression against formality and corresponded to a natural soldierly feeling", the regiment requested permission to handle the matter "by disciplinary proceedings only". General Felmy, the corps

commander involved, consented to the regimental request, and Field Marshal Weichs agreed. Neubacher was informed. The case was closed.

The events of Distomon merit this somewhat detailed account because in this single tragedy there is presented in microcosm the evil of the German Army in Greece and in the whole Southeast during four years of ruthless occupation.

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It gives good insight, for example, into the mental processes of a young German officer of company grade, completely devoid of any notions of decency and honor, thoroughly corrupted by the regulations, directives and orders handed down by his superiors. It reveals precisely how war in the Southeast was fought, how the peaceful population was drawn into the struggle, what a reprisal action specifically entailed. It indicates how little the top military authorities did to humanize the already existing techniques and methods of anti-partisan warfare, how lax they were in disciplining their own troops, how they shielded the guilty. Finally, it gives the lie to one of the most important single myths that the Wehrmacht seeks desperately to perpetuate -- that the terrible crimes of troops in the field were committed by SS units over whom the Wehrmacht had no power or control, and that Wehrmacht commanders constantly and vigorously protested to higher authorities against the undisciplined excesses of the SS troops. Weichs knew the inhabitants of Klissure had been killed in a reprisal, not a combat, action by the same SS unit which later was involved at Distomon. He not only did not remove the commanders responsible for that atrocity before they could repeat the same criminal performance at Distomon, but he lied to Neubacher in order to shield it from criticism.

During the spring and summer of 1944 both the tactical commons of Felmy and Lanz and the administrative organization of General Speidel worked feverishly and desperately to postpone the bitter end. The order of 14 August 1944 of General Friedrich Wilhelm Mueller, Commanding General on the island of Crete, is representative of the attitude that prevailed:

"Numerous attacks on German vehicles require vigorous counter measures to demonstrate to the Greek people that we are masters on the island. Consideration for innocent people cannot be shown any more."

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Although they knew the war was irretrievably lost, the Southeast Command continued to hang and burn and deport, and as always the Germans' own reports tell the story:

6 April 1944: "In reprisal for an attack by bandits during battalion roll call, killing 4 and wounding 11, 150 persons suspected of belonging to bands were shot in Verria."

23 April 1944: "In Tripolis 12 communists shot in reprisal for a murdered Gendarme."

30 April 1944: "60 communists shot in Athens as further reprisal measures for attack on police officer."

30 April 1944: "200 Greeks will be shot to death as a reprisal measure for the killing of Gen. Krech and his escort detachment." 1 May 1944: "In reprisal for attack on the truck convoy of the 41st Fortress Div. in the southeast Peloponnesus area, 335 communists and band suspects shot to death."

10 May 1944: "In the Boestia area, in reprisal for an attack on vehicles on 26 April 1944, an additional 100 hostages are being shot in Athens."

In May and June 1944: "1600 Jews deported from Corfu and 350 Jews from Crete."

From 1 May to 1 June 1944: "1747 laborers sent to the Reich in three transports. Compulsory deportation to the Reich, particularly from the Peloponnesus, will take place soon."

From 16 June to 15 July 1944: "600 men ready for shipment from the Peloponnesus for employment in the Reich. Transport will take place in a few days for 'Reichswerke Hermann Goering' iron ore mines."

13 July 1944: "50 communists hanged in retaliation for attack on two German officers."

31 July 1944: "Line repair detachment attacked by band west of Agrinion, 8 dead, 14 wounded, Reprisal measures -- 71 communists shot."

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10 August 1944: "F.K. 817 reports 50 communists shot at scene of incident at Manara in reprisal for band attack on Athens-Thebes road."

5 August 1944: "Railroad sabotage on train Corinth-Tripolis. Seven cars derailed. No losses of our own. In reprisal 18 hostages who had been taken along were shot."

26 August 1944: "18 communists shot in Athens in reprisal for German soldier shot from ambush."

23 August 1944: "During mopping-up operations near east Messara, Crete, 191 persons suspected of being bandits shot 1 village destroyed, 1500 civilians being resettled."

5 September 1944: "In retaliation for raid on truck convoy, 186 suspects shot to death."

In August and September 1944: "13 villages destroyed in retaliation for the kidnapping of Lt. Gen. Kreipe."

Finally, in October 1944, the end came. Threatened from the West by combined Anglo-American forces and from the East by the Soviet armies, German troops were withdrawn from the southeast to defend a crumbling Reich. British units landed on the mainland; ELAS and EDES troops came down out of the hills. After four long and difficult years under the Nazi yoke, Greece was starving and destitute. But proud and courageous as always, Greece was at last free to resume her own national destiny.

The generals of the Southeast Command went home, were reassigned, surrendered. Twice in 25 years mere readiness for war had been insufficient. As had happened once before, the Balkans had proved to be an Achilles heel to German aggression. The generals were never able to understand why – but strong, independent peoples accustomed to hardship, innured to suffering, and born to freedom can "no more be broken by tyranny than a diamond scratched by a sword."

GENERAL TAYLOR: Your Honor, I desire to turn next to the charges concerning devastation and deportation in Northern Norway. These are the charges embodied in the first specification of Count

Two of the indictment, and to examine them we must turn our attention from the Balkans to the northernmost part of the European mainland – the province of Finnmark in northern Norway.

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These charges concern only the defendant Rendulic.

Even since the initial attack against Russia, the German 20th Mountain Army had been situated in the northern part of Finland, holding Petsamo and threatening Murmansk and the railroad line from Murmansk south to Leningrad, one of the two main avenues for the weapons and supplies which America and Britain were sending to the Soviet Union. This army had been commanded, since January 1942, by Generaloberst Edward Deitl, who met his death in an airplane crash in June, 1944. Rendulic was chosen to succeed him, and arrived in Finland in August. The order of battle of the 20th Mountain Army, predominantly comprised of mountain troops, is shown in chart "G" of the prosecution's pamphlet.

Rendulic's arrival in Croatia in August, 1943, had been followed almost immediately by the collapse of Germany's Italian ally, now he was to encounter a parallel situation in Finland. On the fourth of September, 1944, the Finns capitulated to the Soviet forces, and demanded that the Germans promptly withdraw their troops from Finland. Rendulic decided to fall back across the northwestern Finnish frontier into northern Norway.

The region in which this retreat took place is shown in map "E" of the prosecution's pamphlet. The northernmost province of Norway is known as Finnmark, and the province just to the south as Troms. Including a nomad population of Laplanders, the population of this area numbers approximately 62,000, most of whom live in small ports and villages along the heavily indented coastline, and make their living as fishermen. It is a very wintry and isolated region; there are no railroads, and the only communication with southern Norway is by sea or by the single road along the coast known as Route 50.

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Rendulic began his retreat in September, 1944. The two northernmost corps of his army were the XIX Mountain Corps under General Ferdinand Jodl (brother of the Jodl who was a defendant in the International trial) and this corps was in the extreme north near Petsamo; the other was the XXXVI Mountain Corps, about 100 kilometers to the south of Jodl's unit. It was the troops of these two corps that were chiefly concerned in the activities which form the basis of the charges in the indictment. By the latter part of October, part of these troops had been withdrawn westward from Petsamo through Kirkenes and were resting around the village of Tana, and others to the south were making their way out of Finland by the more southerly route shown on the map which joins Route 50 near Porsanger-Halvoya. The darkness of the northern winter was rapidly settling in, it was very cold, and there was more than enough snow. The advancing Soviet troops had kept contact with the Germans as far as Tana. In order to make the Russian advance as difficult as possible, the German troops had been systematically destroying barracks and buildings and port facilities, and endeavoring to persuade the Norwegian population to evacuate, in the area between Kirkenes and Tana.

Late in October 1944, the German High Command decided that this program of devastation and deportation should be much more extensive and rigorous. As a result, on 28 October 1944, the OKW, over Alfred Jodl's signature, issued the following order to Rendulic as Commander of the 20th Mountain Army:

Because of the unwillingness of the north Norwegian population to voluntarily evacuate, the Fuehrer has agreed to the proposals of the commissioner for the occupied Norwegian territories and has ordered that the entire Norwegian population east of the fjord of Lyngen be evacuated by force in the interest of their own security and that all homes are to be burned down or destroyed.

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The supreme commander, Northern Finland, is responsible that the Fuehrer's order is carried out without consideration. Only by this method can it be prevented that the Russians with strong forces, and aided by these homes and the people familiar with the terrain, follow our withdrawal operations during this winter and shortly appear in front of our position in Lyngen. This is not the place for sympathy for the civilian population.

***** It must be made clear to the troops engaged in this action that the Norwegians will be thankful in a few months that they were saved from Bolshevism, and that the barbarian methods of the air war against our German country and her cultural shrines have brought a thousand times more misery to our people if compared with the humane evacuation and destruction of homes in northern Norway, which is necessary for our war effort, and which, if it is not done, must be paid with the blood of German soldiers.

The population, whose livelihood is fishing, in northern Norway, furthermore has enough shipping space at its disposal to be able to get out of the way en masse across the water. A large part of the small Norwegian ships which are kept hidden at present can be used for this, and can later also be used for our own transportation needs.

The danger of the formation of guerrilla bands on the part of the Norwegians appears to be negligible since they can no longer use the houses during the winter.

It was claimed, in defense of Alfred Jodl, during the international trial that this order was unnecessarily far-reaching, and that Alfred Jodl, by various subtle means endeavored to convey to Rendulic that it should not be complied with to the fullest degree.¹ If this be true, there is little evidence that Rendulic undertook to soften its effect in any material respect. The order which Rendulic issued to his subordinate commands the following day follows very closely the language of the OKW order and includes the following:

1. Because of the lack of willingness of the north Norwegian population to evacuate the country voluntarily, the Fuehrer has ordered the compulsory evacuation of the population east of the Lungenfjords in the interest of the security of the population, which is to be 1. Alfred Jodl's contention in this regard is referred to in the Judgment of the International Military Tribunal, Vol I, Trial of the Major War Criminals, p. 324.

preserved from Bolshevism, and that all houses be burned down or be destroyed. It is the responsibility of the Commander-in-Chief of Northern Finland that this order be carried out ruthlessly so that the Soviets supported by dwelling places and a population which knows the country will be prevented from following our withdrawal with strong forces. Pity for the civilian population is out of place.

* * * * * 5. The following directions were given for the Execution of the Evacuation:

- a) The entire evacuation area is to be emptied of people.
- b) Evacuated settlements are to be destroyed unless they are to be used thereafter by troops marching through (that is, at the latest by the rear guards) .
- c) The operation must be a sudden one and the officers of the Reichs Commissar of Norway must participate, and Norwegian authorities must be harnessed for it; the latter, however, only from the beginning of the operation.
- d) The seized population is to be led to the nearest ports under military guard (also small ports with docks suitable for cutters) .
- e) Local and district commanders are to erect reception camps in or near these ports.
- f) Men capable of working and marching, and in the western districts women capable of marching also, are to be coupled to the marching units furthest in front and to be taken along.
- g) Insofar as the population still has small ships available, they are to be used for the deportation of the evacuees under military cover!
- h) All ships used by the Wehrmacht (freighters and Army transports) are to be loaded additionally with as many evacuees as possible.
- i) Columns on Route 50 to be formed only to an unavoidable degree; invalids, women and children to be assisted by loading them on trucks. Only men really capable of marching to join the march columns!

* * * * * Finally I request all offices concerned to carry out this evacuation in the sense of a relief action for the Norwegian population.

Though it will be necessary here and there to be severe, all of us must attempt to save the Norwegians from Bolshevism and to keep them alive.

On November first, the Germans made known to the population what was in store for them. Rendulic's proclamation stated in part:

TO THE POPULATION:

The evacuation of a part of northern Norway has been rendered a military necessity as a result of the treachery of a Finnish Government clique.

The evacuation necessitates the removal of the civilian population, as the enemy has proved that, in those territories occupied by him, he ruthlessly and brutally forces the civilian population to give him active assistance in achieving his aims.

This means that the shelter or means of existence of any kind can be left to the Bolshevik enemy in the fighting zone. All such installations as housing accommodations transport facilities and food stocks must be destroyed or removed.

THE POPULATION IN THESE DISTRICTS WILL THEREFORE BE DEPRIVED OF THE BASIS FOR THEIR EXISTENCE, SO THAT IN ORDER TO BE ABLE TO SURVIVE, THEY MUST EVACUATE TO THOSE NORWEGIAN TERRITORIES WHICH ARE STILL PROTECTED BY THE GERMAN WEHRMACHT.

* * * * *

HE WHO DOES NOT COMPLY WITH THESE UNEQUIVOCAL INSTRUCTIONS EXPOSES HIMSELF AND HIS FAMILY TO POSSIBLE DEATH IN THE ARCTIC WINTER WITHOUT HOUSE OR FOOD."

(signed) by TERBOVEN, (signed) by RENDULIC, Reichskommissar for the Generaloberst, Occupied Norwegian Territories.

Commander-in-Chief 20th Army.

This ruthless and in large part unnecessary decision was carried out by Rendulic's forces according to plan. Northern Norway, from Kirkenes nearly to Tromsø, was turned into an Arctic desert. Over 43,000 men, women, and children over two thirds of the entire population of an area about the size of Scotland - were herded down Route 50 or crowded into small boats. We may be sure that the official German report to Rendulic of the manner in which the evacuation was carried out is not overstated. I quote :

Some untoward events, such as the separation of men from their families to be deported the burning down of houses in the presence of inhabitants even where an immediate destruction was not necessary, and shelling of the locality Kjallefjord by units of the German Navy, hindered the readiness of the population to follow the officially prescribed way.

The prosecution will submit evidence to show that the devastation and evacuation, at least in large part, were wholly unjustified from a military standpoint, and that, under the spur of Rendulic's admonition that his order was to be "carried out ruthlessly" and that "pity for the civilian population is out of place", the destruction and evacuation were carried out with unnecessary brutality, resulting in the impoverishment of the entire population, in the death of some, and the suffering of many thousands.

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We will turn to the final portions of the indictment - those relating to THE MURDER OF CAPTURED "COMMANDOS" AND "COMMISSARS" Two of the specifications in Count Three

of the Indictment differ from the others in that their scope is not restricted geographically to southeastern Europe.

These are sub--paragraphs "b" and "h" of paragraph 12 of the indictment. Both of these specifications refer to orders of general application, issued by OKW and OKH and distributed generally through the field commands of the Wehrmacht, which denied the protection of the laws of war to two special categories of enemy troops, and directed that they be executed if captured. These two categories were the commando troops, which the British and later the Americans made such effective use of, particularly prior to the invasion of France, and the so-called "political commissars", who were regularly attached to units of the Soviet forces and fought with them in regular Soviet uniforms.

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Firstly as to the commandos.

The order for the murder of captured commandos was issued by Hitler through the OKW in October, 1942.¹ It directed that enemy commandos were to be slaughtered to the last man; that even if they surrendered, nonetheless they were to be shot immediately, unless interrogations were necessary, in which case they were to be shot thereafter. The order was not a purposeless piece of criminality; Allied commando operations were proving alarmingly effective, and Hitler apparently thought that this order would act as a deterrent.

The order was distributed to all three branches of the Wehrmacht, and there is ample evidence that it was widely distributed and wellknown throughout the German army. In all probability, all of the defendants (except List, who had retired just prior to its issuance) distributed or enforced the order at one time or another.

In July, 1944, the commando order was given a new and special application in southeastern Europe. A new order from OKW directed that it should be applied to the members of foreign "military missions" who might be captured with the partisan forces in the Balkans. This new order, dated 30 July 1944, stated:

In the areas of the High Command Southeast and Southwest, members of foreign so-called "Military Missions" (AngloAmerican as well as Soviet-Russian) captured in the course of the struggle against partisans shall not receive the treatment as specified in the special orders regarding the treatment of captured partisans. Therefore, they are not to be treated as prisoners-of-war, but in conformity with the Fuehrer's order for the elimination of terror and sabotage troops of 18 October 1942.

We must not forget that to kill a defenseless prisoner-of-war is not only a violation of the rules of war. It is murder. The commando order required the commission of murder, and every German officer who handled it knew that perfectly well. The signs of a guilty conscience are only too clear in another paragraph of the order which I have just read, which required that the distribution copies of it should be de 1 The circumstances pertaining to the commando order are summarized in the Judgment of the International Military Tribunal.

Vol. I, Trial of the Major War Criminals, p. 328.

stroyed after reading.

There is ample evidence showing general compliance with this order, as was found by the International Military Tribunal which stated in its judgment:

Under the provisions of this order, Allied commando troops, and other military units operating independently, lost their lives in Norway, France, Czechoslovakia, and Italy. Many of them were killed on the spot, and in no case were those who were executed later in camps ever given a trial of any kind. For example, an American Military mission Which landed behind the German front in the Balkans in January 1945, numbering about twelve to fifteen men and wearing uniform, were taken to Mauthausen under the authority of this order, and according to tho affidavit of Adolf Zutte, the adjutant of the Mauthausen concentration camp, all of them were shot.

Secondly, Commissars:

Whereas the commando order Was especially designed for and executed in western, and later in southeastern, Europe, the commissar order was of principal importance on the Russian front. Unlike the commando order, it was not the result of, or issued in reply to, enemy action. On the contrary, it was issued and distributed nearly three weeks prior to the initial attack on the Soviet Union. Its words reflect, not the hurried decisions of men beleaguered, but the considered opinion of men who had pondered the conclusion sot forth.

The order was issued on 8 July 1941 by von Brauchitsch, as Commander-in-chief of the Army. That the authors were aware of the criminal character of its contents, is apparent from the restricted distribution instructions which it bore. It was "For General officers only. To be delivered through officers only.....You are requested to limit the distribution to Commanders-in-Chief of Armies or Air Forces, respectively, and to inform junior commanders by word of mouth". It provided, in part:

When fighting Bolshevism, one cannot count on the enemy acting in accordance with the principles of humanity or international law. In particular, it must be expected that tho treatment of cur prisoners by the political commissars of all types who are the true pillars of resistance, will be cruel, inhuman and dictated by hate.

The German troops must realize:

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1. That in this fight, it is wrong to treat such elements with clemency and consideration in accordance with international law. They are a menace to our own safety and to the rapid pacification of the Conquered territories.
2. That the originators of the Asiatic barbaric methods of fighting are the political commissars. They must be dealt with promptly and with the utmost severity.

Therefore , if taken while fighting, they are offering resistance and they must, on principle, be shot immediately.....

....These commissars will not be recognized as soldiers; protection granted to prisoners--of-war in accordance with international law will not apply to them. After having been segregated, they are to be dealt with.

When the defendant Weichs received this order as Commander-inChief of the Second Army, he was not in combat but in the quiet of a then secure Germany. His army had just been withdrawn from the southeast, and he had returned to Germany; his army was in reserve and was not committed in actual combat until July on the eastern front. Weichs distributed the order to the subordinate commanders in his Army, and they in turn passed it down to the troops. The prosecution will introduce evidence showing that others among the defendants also distributed and executed this order.

The Second Army had been in the front line in Russia but a few days when reports began to come in to Weichs' headquarters, showing that the order had been carried out. Indeed, Weichs' headquarters appeared to have been especially interested in the effect which this order was having in actual combat; on 9 September 1941, his Chief of Staff advised the next higher headquarters (Army Group Center) that the commissars were fighting tenaciously and setting a courageous example for the Soviet troops. He further stated, that there was no evidence that the Soviet forces were taking any measures by way of reprisal.

Typical, reports from the corps commanders in the Second Army to Weichs Headquarters read as follows:

Up to 25 July, 3 commissars eliminated by the 293rd Division.

From 25 to 27 July, 4 commissars eliminated.

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This order, like the commando order, called for the deliberate murder of prisoners-of-war. One's private feelings about political commissars, favorable or unfavorable, have absolutely nothing to do with the case. They were regularly attached to Soviet units, they fought in full Soviet uniform, and, as the documents show, they fought with great courage.

Your Honor, would this be a convenient time for a break? The prosecution has perhaps another hour and ten minutes.

THE PRESIDENT: I guess we'd better proceed for about a half hour.

GENERAL TAYLOR: Before concluding. Your Honor, I made the suggestion to inquire whether the translators still have enough German pages left to continue.

***** Mr. Frank advised me they have only five pages they have translated, and with a break of ten minutes we probably would be able to get the rest of the German up here so that we will be able to go through without a break.

THE PRESIDENT: The court will recess for ten minutes.

(A recess was taken)

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: General Taylor, before you continue with your opening statement, may I inquire -- I started to say before you conclude your opening statement, may I inquire as to whether or not you will be able to conclude this afternoon and give us time for the submission of these motions?

GENERAL TAYLOR: Yes, Your Honor, we will be finished before four o' clock?

THE PRESIDENT: Very well.

GENERAL TAYLOR: I would like to explain, Your Honor -- that the responsibility for the delay in translation is mine and not the interpreters. I did not give them this material until very late yesterday, and they have done very well to get it ready by now.

Before concluding, the prosecution wishes to outline its views on certain legal questions which are sure to be discussed in the course of this trial. No doubt the Tribunal may desire a fuller discussion of these matters at a later date, but we think that a few remarks at this time may be of assistance.

Certain points may be passed over briefly, The defendants may contend, for example, that the crimes charged against them were committed under the compulsion of orders from their military superiors. As has been stated, their own military law is to the contrary. Paragraph 7 of the German Military Penal Code is quite clear and states:

If execution of an order given in line of duty violates a statute of the penal code, the superior giving that order alone is held responsible for it. The subordinate obeying that order, however, is liable to punishment as an accessory in the event...that he was aware that the order involved an act the commission of which constituted a common or a military crime or offense.

In any event, the London Charter and Control Council Law No. 10 are governing. Paragraph 4 (b) of Article II of Law No. 10 states:

The fact that any person acted pursuant to the order of his Government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation.

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So far as the plea of mitigation is concerned, should any of the defendants succeed in bringing themselves within the scope of this provision, the prosecution will suggest that it has little, if any, application to persons holding the high military rank of these defendants. There may be room for application of this provision in the lower ranks of the military, but if it is to be applied to fieldmarshals and generals, the whole doctrine of responsibility for the commission of war crimes would be absurdly limited and rendered totally ineffective. And, as the International Military Tribunal declared in finding Keitel and Jodl guilty.¹ Superior orders, even to a soldier, cannot be considered in mitigation where

crimes as shocking and extensive have been committed consciously, ruthlessly, and without military excuse or justification.

But there are a few legal matters which have a more substantial bearing on this case. These include the principles of international law and the qualifications of belligerents. We do not believe that these principles will have any decisive bearing on the outcome of this proceeding; no doubt there are many delicate and unsettled questions pertaining to hostages and belligerents, but the defendants so frequently, so deliberately, and so far transgressed the outer-most boundaries of what might be justified or defended as not unlawful, that in the final analysis no such difficult problems will confront us.

I shall deal first with Hostages and Reprisals:

The concepts of "hostage" and "reprisal" both derive from relations between nations, or between their opposing armed forces, and not from the relations between a nation or its armed forces on the one hand and the civilian population of an occupied territory on the other. This circumstance is not infrequently overlooked, and perhaps accounts for the lack of precision in much of the writing on these subjects. In war time, reprisals are actions taken by a nation or its agents in order 1. Vol.

1, Trial of the Major War Criminals, pp. 291, 325.

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to prevent an enemy from continuing to violate the laws of war. Thus, if on one side, hospital ships are constantly being attacked, or the protective symbol of the Red Cross ignored, the other side is entitled to take action by way of reprisal in order to dissuade the enemy from continuing his lawful course of conduct. Retaliatory action so taken may include actions which would themselves be violations of the laws of war but for the circumstance that the acts were done as legitimate reprisals. Reprisal actions need not be identical with the unlawful act which gave rise to the reprisals, but they should not in quantity or character, be out of keeping with or disproportionate to the enemy actions which they seek to stop. Reprisals may, in some circumstances, be taken against a civilian population of an enemy country. For instance, if two belligerents are each occupying a portion of the other's territory, and one of them mistreats the inhabitants in a manner not permitted by international law, the other belligerent might take similar action in the territory under its occupational control. But in such a case, the penalties would be inflicted upon the civilians of the enemy country for the purpose of persuading the enemy government to discontinue an unlawful course of action, and not for the purpose of punishing the civilian inhabitants themselves. Indeed it is basic to the law of reprisals that although they are in a sense retaliatory, their purpose is not revenge but correction of the enemy's behavior.¹ The practice of taking or exchanging hostages is very ancient; its original purpose was to insure the performance on both sides of treaties or agreements mutually entered into.

The hostages were in the nature of a pledge offered to guarantee a certain course of behavior. In more recent time, hostages have been taken not only to 1. Oppenheim, International Law, Vol.

2, pp. 51-52 (1920).

Page Unlabeled

secure the performance of treaties, but also to enforce the payment of requisitions, to protect or secure the return of individuals held by the enemy, and for other like purposes. It will be observed that, at bottom, the purpose of taking hostages is to put oneself in a position where reprisals can be taken if the enemy (or, in time of peace, the other party to the agreement) does not follow a lawful or an agreed upon course of action. It is for this reason that a distinguished author in the field of international law has said "the whole question of hostages is bound up with the question of reprisals."¹ 1. J. M. Spaight, *War Rights on Land*, p. 469 (1911). Beginning with the Franco-Prussian war of 1870-71, and probably before that, it has frequently occurred that hostages are taken from the civilian population of an occupied territory, not in order to affect the course of conduct of the government to which these civilians owe allegiance, but in order to control the conduct of the civilian inhabitants themselves.

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This practice has been most frequently adopted by the Germans, for no other reason than that during the last eighty years, they have been most frequently in the situation of occupying the territory of a belligerent adversary. However, other nations have from time to time taken hostages for this purpose, most noticeably the British during the Boer War.

The practice of taking hostages from the civilian population of an occupied territory in order to insure the peaceful behavior of the inhabitants has been much criticized,¹ but is acknowledged as lawful by the great majority of text writers and, in the light of actual practice it certainly can not be considered as a war crime. But the taking of hostages for such a purpose is not, strictly speaking, a reprisal at all, because it is not "a measure which is especially aimed at the enemy's method of waging war and which aims to force the enemy government or armed forces to abandon measures which are contrary to the laws of war."² Although frequently called a reprisal, such a taking of hostages is really a "police" or "security" measure. There is no opposing government or Military Commander with whom the occupying 1. Hyde, *International Law*, Vol.

3, pp. 1902-03 (1945); "While the taking of hostages by the occupant may, under certain circumstances, operate as a reasonable mode of securing compliance by a restive population with a just demand designed to promote the maintenance of order, occurrences in the course of World War 1 encourage the conclusion that it is also a weapon likely to be employed by a despot to check interference of any sort with ruthless and cruel acts inspired by caprice."

2. Ascan Lutteroth, *Der Geisel im Rechtsleben*, p. 243 (1922).

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power can deal on belligerent terms. From both a military and legal standpoint, the taking of hostages or any other kind of oppressive action for the purpose of maintaining order in occupied territories must be considered from the standpoint of the right and responsibilities of the inhabitants under international law, and the probable effect of the measure upon their course of conduct. Steps which might be quite effective in order to persuade an enemy government to alter its course of conduct might be quite ineffective when addressed to the inhabitants of an occupied territory, and vice versa.

As Professor Lauterpacht, Professor of International Law at Cambridge University and a scholar who is both distinguished and modern, has pointed out:¹the impact of the operation of reprisals is not as considerable as would appear at first sight.

In particular, it does not seriously affect that most potent source of war crimes which originates in the lawlessness and the brutality of the occupying State.

This brings us to the question whether, if hostages are taken to insure peaceful and orderly behavior on the part of the civilian population of an occupied territory, the hostages may lawfully be executed if violent conduct by members of the population continues to endanger the security of the occupying forces. The Hague regulations of 1907 do not contain any express provisions concerning either the taking or the execution of hostages in occupied territory. They do provide, however, in Articles 43 and 46, respectively, of the Annex to the Convention, that:

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented the laws in force in the country.

Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

And, if these quoted provisions are not governing, we must take full account of the declaration in the preamble to the Hague Convention, that:

1. H. Lauterpacht, *The Law of Nations and the Punishment of War Crimes*, printed in "the British Year Book of International Law", p. 77 (1944) It has not, however, been found possible at present to concert Regulations covering all the circumstances which arise in practice:

On the other hand, the High Contracting Parties clearly do not intend that unforeseen cases should, in the absence of a written undertaking, be left to the arbitrary judgment of military commanders.

Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.

The majority of the text writers in the field of international law, ancient and modern, have determined, either from the unwritten usages of war, or by clear implication from the language of the Hague Convention, that the killing of hostages, under the circumstances and for the purposes with which we are here concerned, is unlawful, and that the continued confinement of hostages in as far as the occupying power is permitted to go. For example, Oppenheim sanctions the taking of hostages by the occupying power only "provided that he does not kill them."¹ The classical statement by Crotius that

"hostages should not be put to death unless they have themselves done wrong"² is in accordance with the views of other old authorities and has been echoed in more recent times not only by Oppenheim but by Garner³ 1. Oppenheim, op.

cit. supra, Vol, 2, pp. 241-242.

2. Crotius, *De Jure Belli Ac Pacis*, Ch. XI, Art. XVIII, Sec. 1.

3. J.W. Garner, *International Law and the World War*, Vol. 1, pp. 306-311 (1920) and others,⁴ As might be expected, in view of the German propensity for occupying the territory of neighboring countries, and the sustained practice of the German Army in recent decades, German scholars take the contrary view, and defend the execution of hostages as a necessary measure in the event of continued civil disturbances, dangerous to the security of the occupying forces.

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⁵ A few English and American writers have expressed agreement with, this view and argue, theoretically rather than practically, that there is a fundamental absurdity in taking hostages if they can not be executed.¹ The military Field Manuals of the United States and England do not throw much light upon this problem.

The American manual states that "hostages taken and held for the declared purpose of insuring against unlawful acts by the enemy forces or people may be punished or put to death if the unlawful acts are nevertheless committed," but in practically the same breath states that "when a hostage is accepted, he is treated as a prisoner of war," and that "reprisals against prisoners of war are expressly forbidden by the Geneva Convention of 1929".² The British manual is not entirely clear either, but it contains the declaration that hostages are to suffer captivity, not death, if an agreement is violated.³ Despite these conflicting views in years gone by, the results of German practices with respect to hostages during the last two wars has led to more definitive declarations in accordance with the opinion ⁴. See, e.g., Arthur K. Kuhn, *The Execution of Hostages*, in "The American Journal of International Law", pp.

271-274, April 1942.

5. Waltz, *Recht der Landkriegsfuehrung*, Art. 46, Par. III; Lutteroth, op. cit. supra, pp. 264-267, where, however, the author acknowledges that the majority view is to the contrary.

1. Hammer and Salvin, *The Taking of Hostages in Theory and Practice*, in "The American Journal of International Law", pp.20-33, January 1944.

2. *Rules of Land Warfare*, pp. 89-90, (1940).

3. *English Manual of Military Law*, par. 461.

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which most authorities have always upheld. In January 1942, the representatives of nine European governments-in-exile, in the famous St. James Declaration, branded the execution of hostages as "part of a regime of terror" and categorically described such executions as punishable war crimes.⁴ The

London Charter, in Article 6 (b), and Control Council Law No. 10 in paragraph 1 (b) of Article II, both recognize the "killing of hostages" as a war crime. The opinion of the International Military Tribunal makes repeated reference to the killing of hostages as a war crime.⁵ The prosecution suggests to the Tribunal that the execution of hostages, under the circumstances pertinent to this case, is quite definitely and clearly a crime under international law.

The provisions of Law No. 10 are not only binding upon the Tribunal, but are in accordance with the views which most authorities in the field have held for decades past. But in urging the rightness of this conclusion, the prosecution does not rely principally upon the weight of authority, however impressive. On the contrary, our position is based squarely upon practical considerations of military necessity. The fundamental tenet of the laws of war, as we said at the outset, is that human life should not be taken unnecessarily. Over the past decades, only the Germans have adopted a general practice of executing civilian hostages in order to maintain security in occupied territories. Occasional examples in the military history of the other western nations may perhaps be found, but there is absolutely no footing, either in the authorities or in practical experience, for the conclusion that the execution of hostages is ever really necessary. And, if not, such executions are in flat contradiction of Article 46 of the Annex to the Hague Conventions.

4. See Kuhn, *op. cit. supra*, p. 274.

5. Judgment of the International Military Tribunal, Vol. I, Trial of the Major War Criminals, pp. 227-228, 234, and 290.

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The short and conclusive answer to this much-mooted question is that the execution of hostages practically never achieves its intended effect. If the practice is once adopted on a systematic scale, it deteriorates rapidly into a barbaric blood bath. The officers and men of an occupying force will always find it easier to take vengeance on innocent civilians who can be readily rounded up than to track down the actual perpetrators and bring them to justice; it is only human nature, though scarcely a credit to it, that once the taking and killing of hostages is sanctioned, efforts to apprehend the real offenders will be slackened, and repeated breaches of security will be countered only by ever greater slaughter of hostages. Furthermore, the execution of hostages, far from frightening a rebellious people into submission, tends rather to deepen their hatred for the invaders and provoke them to renewed outbursts.

Even the timid and quiescent will be driven to resist, not so much out of patriotism, as because they are no longer sure that good behavior will safeguard their own security. When hostages are going executed at the rate of 100:1, there is no security for anyone. If women and children and old men of the most pacific disposition are liable to be put away in concentration camps and eventually executed because of violence in the surrounding countryside, they will soon feel much safer in the ranks of the insurgents than anywhere else.

And that is just what happened in the countries with which we have been chiefly concerned today. The truth of what I have just said should have become apparent to the Germans within a matter of weeks after large scale military operations in Yugoslavia had been concluded. It did become apparent to some

of them, but they were not listened to. As early as the 31st of July 1941, a German lieutenant colonel in Belgrade wrote a report to the defendant List in which he said:

Though nothing is said publicly about the shooting of Jews and Communists as reprisal for acts of sabotage, these shootings have, however, made a deep impression in Belgrade.

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It is doubtful whether the shooting will prevent a repetition of acts of sabotage. The saboteurs are to be looked for in the camp of the former Serbian officers, of the Cetniks as well as of the Communists, who have the common interest of creating unrest in the country and stirring up the population to boiling point against the occupation authorities. For their purpose the shooting of people who did not directly participate in the acts of sabotage is actually welcome.

One week later, another report from Belgrade stated:

Reprisal measures, as for instance the severity of the shooting of 81 persons collected haphazardly did not bring out pacification nor did it serve as an intimidation. On the contrary, the feeling of being plundered, chased away, or slaughtered with wife and child, either by criminal Ustaschi people in Bosnia or Herzogowina, or by robber elements, or to lose life and property as the casual object of reprisal at the hands of the Germans, has embittered and made desperate the otherwise quiet and politically indifferent and loyal parts of the Serbian population, who are automatically driven into the ranks of some kind of insurgent groups.

The German civil authorities in Belgrade were of the same opinion. A report dated 20 August, 1941, by an official of the Ministry of Interior to the Military Commander in Serbia, disclosed the following:

A German officer - a captain - was killed from ambush on the road Arandjelovac-Topola, 4 kilometers from Arandjelovac near the village of Banja on the morning of 16 August. The officer was going on duty by car to Belgrade. The offense was committed by a Communist who has remained unknown. This Communist had been lying in ambush in the cornfield and had fled through the corn to the woods after committing the deed.

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Eleven young farmers working in the fields were captured and shot for this murder by the Germans at the place of the incident, a state of siege was declared for the entire district.

In order to combat Communist operations which had got out of hand during the last few days, the German headquarters sent a motorized assault troop which is at present going through all the villages, making arrests and - due to ignorance of the situation - is killing innocent men, women and children. All this is done on their own initiative, without inquiries and without any kind of close cooperation with the Administrative authorities at the Gendarmerie, although such cooperation is an absolute necessity for the combating of the Communist action and for exterminating the Communists in the woods. The District Office has available reports from which the movements of the Communists could be established and it also has at its disposal all personal data of the individual Communists. However,

the German headquarters does not request anything nor does it ask the District Administration for any information, and is opposed to taking to any suggestion.

The consequence of the procedure of the German assault troupes will be that a large number of innocent people will be slaughtered and that the Communists in the woods not only will not be exterminated but will increase in numbers. Because many farmers, even entire villages – even though up to now they had no connection with the communists – will flee into the woods only out of fear and will be received there by the Communists. They will be provided with arms and used for combat and for open revolt against the German Wehrmacht.

This insurrection will develop on a large scale and will have incalculable and terrible consequences for the entire population.

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There was no lack of these warnings. With respect to reprisal shootings carried out in the town of Kragujevac, the local German¹ commandant, a captain, reported to the Military Commander in Serbia:

1. It goes without saying that even those commentators who have defended the principle of executing hostages on the ground of military necessity make no defense of the German Army's practice of this principle. See Hammer and Salvin, *op. cit. supra*. pp. 26, 27–28 and 32; see also Stewell, *Military Reprisals and the Sanctions of the Laws of War*, in "The American Journal of International Law" (1942) According to my standpoint, shooting partly or completely innocent persons from this city can have directly harmful effects.

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It is to be expected that embittered relatives of those shot will now practice acts of revenge on members of the German Wehrmacht.

Sabotage acts on drinking water and on the current temporary light supply, as well as a large attack of the bandits against the city, in which the units could suffer more losses than before, are not out of the realm of possibility. Above all, the psychological effect will be catastrophic. The residents of Kragujevac have expected of the German Wehrmacht the elimination of the Communist danger and the aligning into the new construction of Europe. With the methods used here, we shall not attain in any case the winning again of the favorably-inclined elements.

Two years later, the same Cassandra-like prophesies are found in the documents. No one can ever say that these defendants were not warned. In July 1943, Glaise-Horstenau, the German Plenipotentiary-General in Croatia, strongly admonished the German Air Force for reprisal actions by way of bombing villages, because, I quote, 'It only forces additional adversaries 'into the woods', and it does not help to pacify the country, but is detrimental and shake's the confidence in the German soldier of those parts of the population which are of good will'. But not until December 1943 did the German military leaders in the Balkans even pay lip service to these truths. Finally, Loehr's order of that month recognized that, and I quote:

"The procedure of carrying out reprisal measures after a surprise attack or an act of sabotage at random on persons and dwellings, in the vicinity, close to the scene of the deed, shakes the confidence in the justice of the occupying power and also drives the loyal part of the population into the woods."

But even this order was, in other aspects, so ambiguous that it did little to change those stupid and cruel policies. The slaughter of the innocent continued and the Germans reaped only a harvest of dragons' teeth.

The second set of principles of international law which are worthy of preliminary discussion at this time are those pertaining to the qualifications of belligerents. Under what circumstances are combatants entitled to belligerent status? Under what circumstances must they, if captured, be treated as prisoners-of-war, and under what circumstances may they be treated as a mere armed band and disposed of by summary execution?

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These questions are especially relevant to Count Three of the indictment.

The Hague Regulations do deal with this question in Article 1 of the Annex which provides:

The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:

1. To be commanded by a person responsible for his subordinates;
2. To have a fixed distinctive emblem recognizable at a distance;
3. To carry arms openly; and 4. To conduct their operations in accordance with the laws and customs of war.

These requirements are traditional and generally accepted. To the extent that captured partisans in Greece and the Balkans did not observe them, we may concede that the Germans would have been within their rights in denying them the status of prisoners-of-war and executing them.¹ But this does not mean that all of us here in the courtroom could here and now form ourselves into a military company, choose a commander, wear a distinctive emblem, carry arms openly, and obey the laws and customs of war, and on that basis alone claim the right here and now to wage warfare and the status of prisoners-of-war if captured.

Obviously, the members of an armed group can not claim the status and rights of belligerents until a war has started. The determination of the starting point of a war may sometimes present problems, but ordinarily the far more difficult question is to ascertain when a war has stopped. In accordance with "the laws of humanity and the dictates of the public conscience", it is desirable that wars be stopped as soon as possible, and under some circumstances it may be wise to adopt a 1. Except insofar as the provisions of Article 2 of the Annex, relating to the so-called "levy on masse" may have applied, and except insofar as the Germans themselves, by committing the crime of waging aggressive war and, in their own operations, departing from the laws and customs of war, may have deprived themselves of the right to demand compliance with Article 1 on the part of the partisans.

fairly rigorous attitude when major military operations have come to and end, and declare that, after the signing of a treaty or armistice, the inhabitants of the defeated and occupied country, civilians and former soldiers alike, no longer have the right to carry on warfare and can not claim the status of belligerents.

On the other hand it can be, and is, often argued cogently and with the benefit of many examples from history, that nations can rise from apparent total defeat, long after the capitulation of their own former government, expel the invader, and ultimately achieve victory. As long as there is hope and particularly if there are strong allied nations as yet undefeated, true patriots of the conquered country will continue to offer desperate resistance to the invader, no matter what armistice or treaties may have been concluded with him.

The argument between the proponents of those two divergent approaches to the problem has been waged briskly ever since the representatives of the European powers met at Brussels in 1874 to formulate a code of war. In general, the powerful countries with large armies have tended to favor strict qualifications for belligerent status, and the smaller powers a very much more liberal set of rules.¹ It goes without saying that the Germans have been in the vanguard of the former group of powers.

The International Red Cross has consistently sought to extend the protection of the laws of war to the members of all substantial armed groups who meet the requirements of Article 1 of the Annex to the Hague Conventions.² We can not, in this proceeding, settle this thorny and complicated problem. And we do not need to.

1. An excellent discussion of these questions is contained in Nurick and Barrett, *Legality of Guerrilla Forces in the Laws of War*, in "The American Journal of International Law", pp. 563-583 "(July 1946.) See also I.P.Training, *Questions of Guerrilla Warfare in the Law of War*, in the same publication at pp. 534-562.

2. Rapport sur l'activite du Comite international de la CroixRouge en faveur des "partisans" tombes aux mains do l'ennemi, Geneva, October 1946.

To begin with, it will be quite clear that the war did not end in Yugoslavia in April or May, 1941. Article 42 of the Annex to the Hague Conventions states very clearly that:

A territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.

The second sentence quoted above is of special importance. No doubt the Germans, had they so chosen, could have left sufficient troops in Yugoslavia to establish their authority throughout the country. But they chose not to do this. They were pre-occupied with the forth-coming campaign in Russia, and pulled out their troops before hostilities had been fully concluded in practical effect and while large portions of the country, particularly in the mountains, were controlled by substantial enemy forces who

announced openly that they would continue to resist. Whatever might be the rule in other circumstances, it was not open to the Germans to sweep through Yugoslavia, evacuate the bulk of their troops before their authority had been fully established, and then declare that all future resistance would be considered a violation of the laws of war.

Furthermore, the cause of the Yugoslavian and Greek resistance forces was at no time hopeless, as events have abundantly proved. Governments-in-exile were promptly established, under whose authority these forces continued their operations, indeed, long before the end of the war, there was an enemy government within Yugoslavia. Powerful allies of the Yugoslavs and Greeks continued to maintain armies in the field and to assist the resistance groups.

Furthermore, if we look at the question as presented in this case from a practical standpoint, we again discover that the case is not nearly so difficult as it seemed at first blush. If resistance forces consist only of a few small bands, whose activities are limited to sniping and minor sabotage and who enjoy no support from other powers, there may indeed be reason for denying them the status of belligerents.

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1 But there can be no reason for such a policy when the enemy remains in large numbers, and fights in large units and with modern weapons. To deny his troops the status of belligerents under such circumstances will merely invite counter-reprisals against troops of the occupying power, and a senseless war of extermination may ensue. Even more important, such a policy will inevitably rally more and more inhabitants of the occupied country to the standard of the resistance forces. These very arguments were presented to Loehr and Lueters by Colonel Heinz, Commander of the 4th Brandenburg regiment, in July 1943. Discussing the impossibility of capturing Tito and his staff by orthodox military action, Heinz declared:

Such an elimination can only be achieved by former partisans in cooperation with the Brandenburg regiments.

The method followed up to now of shooting to death all partisans without distinction, could never be successful. Many became partisans by the combined influence of several circumstances such as Usaschi-Moslem-or Cetnik-atrocities, want and starvation, terror and duress by other partisans.

They stay partisans because the way back is blocked by the German orders. They have lost their country and their family, and so they fight to their death.

Since the political conditions in Croatia are not improving, now partisans replace those who are killed.

According to observations of my troop, it would have been possible to win over a certain percentage of the captured partisans for fighting on the German side, if their lives were spared and food, as well as their return to their homesteads later on, were guaranteed.

1. But the distinguished jurist, Oppenheim, would not even agree with this statement, Oppenheim, International Law, Sec. 60 (1928).

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But the final and compelling answer to the question as it is presented in this case is that the Yugoslavs and Greeks alike, even assuming that they were completely conquered and their country wholly occupied and under German authority, had every right to rise and defend themselves by armed force because the German themselves so flagrantly violated the laws of war. True it is that the inhabitants of an occupied territory have responsibilities and duties as well as rights under the Hague Conventions. If the occupying forces comport themselves lawfully, the population is under a duty to remain peaceful and to refrain from endangering the security of the occupation troops. If the inhabitants do not fulfill these responsibilities, the occupying forces may take proper security measures, including retaliatory action, to re-establish order. But this works both ways. If the occupying forces inaugurate a systematic program of criminal terror, they can not thereafter call the inhabitants to account for taking measures in self defense. This is no technical doctrine of "unclean hands", this is elementary justice and common sense. What I have said nowhere appears in so many words in the Hague Conventions, but it is in entire harmony with the purpose of the articles, and I think no one will be heard to deny that this is the only conclusion which is possible in accordance with "the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience."

In this case, ten thousand times ten thousand murders are charged, and for murder there is usually a motive. What moved these men to murder? Some of them religious, most of them well-educated. Some of them may now realize what they did was wrong, but, had the war ended otherwise than it did, I doubt that these things would have caused them many restless nights. Their policy of terror was a military failure, and an important cause of the defeat which has brought them to their present plight. Yet these men are certainly not without ability and some measure of understanding. Why did they not see what others saw so clearly?

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I think that we can find the answer in two deep-seated characteristics of the German military mind. Whether the characteristics prove the inheritance of acquired characteristics, whether they spring from undiscernible geophysical factors, or whether they are the result of the curious and narrow training and indoctrination to which German officer candidates are subjected, one may leave to the educators, historians, psychologists and anthropologists. Today is the day of the jurists, and today it is sufficient to observe that the characteristics of which I speak led these men, and others of their caste, into crime.

One of these qualities is that their every thought and impulse is geared to a world in which Germany is at war, in which Germany is attacking and invading, in which Germany is conquering and occupying. Lacking such conditions, their world is in a state of suspended animation. Their martial fantasies have permeated German scholarship and, by the latter part of the nineteenth century, had thoroughly poisoned the most distinguished German minds. It was the great German historian and philosopher Treitschke who declared:¹ It is not for Germans to repeat the commonplaces of the apostles of peace or of the priests of Mammon, nor should they close their eyes before the cruel necessities of the age.

Yes, ours is an epoch of war, our age is an age of iron. If the strong get the better of the weak, it is an inexorable law of life.

For the German militarist, other nations exist only to be conquered by Germany. They persist in the illusion that the other nations will benefit thereby, and are often sincerely puzzled when their occupying armies are treated coldly. This, too, we find Treitschke:^{1a} We Germans, who know Germany and France, know better what is good for Alsace than the unhappy people themselves, who through their French associations have lived in ignorance of the new Germany.

We will give them back their own identity against their will. We have in the enormous 1. J. H. Morgan, *The German War Book*, p.42 (1915) ^{1a}.

Morgan, op. cit. supra. p. 46 changes of these times too often seen in glad astonishment the immortal working of the moral forces of History to be able to believe in the value of a plebiscite on this matter.

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We invoke the men of the past against the present.

With such a point of view towards war and the rights of German conquerors, it is no wonder that German military leaders have little or no respect for the laws of war or the dignity of peoples who may come under their way. This is because they do not value, and in fact are contemptuous of, the reasons which underlie those rules. "If the strong get the better of the weak, it is an inexorable law of life, " This attitude shows only too clearly in the "German War Book" -- the manual of the usages of war on land, issued by the Great General Staff (Gorss General Stab) of the German army. In the introduction to this manual, we read:¹ Nowadays it is not only the army which influences the spirit of the customs of war and assures recognition of its unwritten laws.

Since the almost universal introduction of conscription, the people themselves exercise a profound influence upon this spirit. In the modern usages of war, one can no longer regard merely the traditional inheritance of the ancient etiquette of the profession of arms, and the professional outlook accompanying it, but there is also the deposit of the currents of thought which agitate our time. But since the tendency of thought of the last century (i.e. the 19th century) was dominated essentially by humanitarian considerations which not infrequently degenerated into sentimentality and flabby emotion, there have not been wanting attempts to influence the development of the usages of war in a way which was in fundamental contradiction with the nature of war and its object. Attempts of this kind will also not be wanting in the future, the more so as these agitations have found a kind of moral recognition in provisions of the Geneva Convention and the Brussels and Hague conferences.

In this case, the second marked characteristic of the German officer caste comes into sharp focus - their profound contempt, mingled with fear, of the peoples of Eastern Europe. Again and again this emerges in the orders to their troops and the reports to their superiors. We hear this note in Keitel's order of September, 1941, declaring that "a human like in unsettled countries frequently counts for nothing". Von Weichs, when he inaugurated the 100:1 ratio a few 1. Morgan, op.

cit. supra, p. 54.

months earlier, responded, to the same inner feeling. These orders, too, are echoes of Treitschke, whose voice, spanning over half a century, is heard, to say:¹ Each dragoon who knocks a Croat on the head does far more for the German cause than the finest political brain that ever wielded a trenchant pen.

What these men have never realized is that no caste, and no notion, however mighty, can hold the world in contempt and set its laws at naught. Their military downfall was due, in no small part, to crimes such as those with which they are charged.

What we have said may explain, hut it does not condone. We may try to understand, but it is not ours to forgive. What these men did they meant to do.

There are only 11 men physically present in the dock, but they do not stand there alone. In a sense, they are hostages for the judgment which history will pass on many others like them. But they are more fortunate than the hostages we have heard so much about today. They will not be punished for the crimes of other men. Centuries ago, Grotius wrote that "hostages should not be put to death unless they have themselves done wrong." That is the law of humanity, the law which they themselves are charged with transgressing. And that is the law under which they will be judged.

GENERAL TAYLOR: This concludes the statement, your Honor.

THE PRESIDENT: This, I take it, concludes the Opening Statement on behalf of the Prosecution. The Prosecution having stated that this concludes that portion of these proceedings, the Court will now give consideration to certain motions which have been presented to it concerning procedural matters, and a motion for continuance or adjournment for a certain period of time. The first motion which will receive consideration is that concerning the request for removal of these 1. Garner, op.

cit. supra, p. 43.

proceedings to a later date, which has been presented by counsel for the defendant. We will hear from the defense at this time.

DR. LATERNER: Mr. President, Honorable Judges, the application in question is already in the hands of the Tribunal in writing. That is merely just an additional reason which I would like to add, which in my opinion will be the decisive one, so that the motion will be granted. The defense is engaged in obtaining evidence, and considerable difficulties have occurred in this connection, and because, up to the end of the month of June, two American camps were dissolved. The inmates have partly been released, and some of them were transferred to other camps so that the defense is not now in possession of the addresses of witnesses whom we wish to call. This, of course, is an additional difficulty and an additional reason which I would like to state in order to give additional weight to the application of the defense, and that is all that I wish to say in connection with that question.

THE PRESIDENT: The Tribunal desires to make some inquiries at this time. I understand that there are only three counsels who are affected.

DR. LATERNSEER: Mr. President, might I add that I should like to repeat the application with the agreement of all the defense counsels in this trial.

THE PRESIDENT: Perhaps Mr. Denney could make some reply at this time and expedite the matter.

MR. DENNEY: May it please your Honor, the application of which Dr. Laternser speaks is dated 11 July and was served on us, the Prosecution, last evening, and our memorandum in reply was given to the Secretary General this morning, just before the Court convened. At that time Dr. Laternser was given a copy in English, and I believe that it has not as yet been translated into the German. The motion, or rather the application, as presented by Dr. Laternser is signed by six of the nine counsel. The first point which is urged is the fact that at the present time most of the defense counsel are engaged in other trials, which are now approaching their conclusion.

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To my knowledge the only trial which is presently approaching its conclusion is the Trial No. 1, before Military Tribunal No. 1, the United States against Karl Brandt and others. Three of the nine counsel who represent defendants in this cause have clients in cause No. 1 before Military Tribunal No. 1. They are Dr. Weissberger, Dr. Marx, and Dr. Sauter. The application for adjournment was signed by Dr. Weissberger and Dr. Marx, each of whom has one client in this cause, one of whom has one client before Military Tribunal No. 1, and the other of whom, Dr. Marx, has two clients before Military Tribunal No. 1. The third counsel appearing in this cause, Dr. Sauter, has two clients before this Court and two clients in causes before Military Tribunal No. 1, but it was not until Dr. Laternser's statement of a moment ago that we were advised that he joined in the application.

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He did not sign the original application dated 11 July.

Secondly, the counsel for the defense urge that only one week will have elapsed between the opening session, if no adjournment is granted, and the time when the proceedings were commenced by the arraignment. I might call the court's attention to the rules, the uniform rules of procedure, Military Tribunal of Nurnberg, 1 April 1947, OMGUS. Rule 26 provides, in part, to defense counsel representing multiple defendants, I quote--"No adjournment or delay shall be granted any defendant on the ground that his counsel is engaged in the trial of another cause before a separate tribunal."

Rule 4 of the same rules makes provision with reference to time intervening before service and trial. This rule provides a period of not less than thirty days shall intervene between the service of the indictment upon a defendant and the day of his trial pursuant to the indictment.

There is no provision in the rules which makes it mandatory in a cause that there be any specified time between the arraignment and the commencement of the trial. In the instant case, more than sixty days, or over twice the statutory period, rather the time required by the rules, have elapsed since the indictment was served on the defendants.

As to the fourth ground urged by Dr. Laternser this afternoon, the fact that the Office of Military Government, United States for Germany, had dissolved two American camps and that they have had difficulty in obtaining addresses and hence have not been able to collect their evidence--it is submitted that they can continue to endeavor to collect evidence at the time that the case is going forward, which we anticipate will take several weeks.

Further, with reference to the documents, we plan to present approximately 325 in the Prosecution's Case, in chief, of these 428 have already been made available to the Defense Information Center and approximately 400 of these have been furnished for use of defense counsel prior to the first of July, and it is respectfully submitted by the Prosecution that the application for the postponement which has been made by defense counsel through Dr. Laternser be denied.

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DR. LATERNSE: Mr. President, I should like to draw attention to the fact that it is not true that only three of my colleagues are active in other trials. Yesterday, I ascertained on a conference with my colleagues that there are six of them who are thus engaged, some of them in the medical trial, some of them in the SS trial and they are particularly overburdened with work at the moment since some of them are preparing their pleas and others are at present dealing with their own defense case.

There is one more point dealing with documents. Naturally, we have for some time had the documents of the prosecution for our perusal but those documents are so voluminous that during the short period which we had at our disposal we have had no opportunity for going through them as thoroughly as is essential for speedy and simple development of these proceedings and that is all that I have to add to the application for an adjournment.

HR. DENNEY: Your Honor, please may I say one thing in reply to what Dr. Laternser said about other counsel being engaged? I mentioned only the military--or the medical case, because of the fact that paragraph one of the application reads as follows and I quote: "Host of the defense counsel are at present time still engaged in other trials which are now approaching their conclusion; in the physicians' trial, for example, the final pleadings will be held by the defense next week (which is this week, this memorandum being dated the 11th). For those pleadings, the presence of all the defense counsel is absolutely necessary."

I am not unaware that other counsel are acting in cases No.6, No.4 and.

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No. 3. However, I have talked, with counsel for the prosecution in cases 4, 6, and 3, and have been advised by all of them that those cases are not approaching conclusion. Therefore, I would urge the court that Dr. Laternser's motion be limited to the specifications he makes in the first paragraph of his application to the effect that they are engaged in trials now approaching their conclusion. I was not aware that he was urging on this court the fact that other counsel have clients in other cases. I am, in fact, prepared to furnish the court with a list of co-counsel with Dr. Laternser who are in cases other

than case one, but to my knowledge that was not raised by the application--or, so far as I was concerned, the question was not raised by the application.

THE PRESIDENT: The motion as presented will be considered submitted to this Tribunal and we shall rule shortly upon this motion. We shall not do so at this time.

INTERPRETER FRANCK: We did not hear you.

THE PRESIDENT: I shall repeat the statement that I previously made. The Tribunal will not rule upon this motion which has now been submitted at this time but we shall presently do so before the final adjournment of this Tribunal session. We shall now proceed with the submission of the second motion which concerns the seating of certain counsel for the defendants.

DR. LATERNSE: I believe, Mr. President, there is an erratic transition under way. The further application made by the defense is aiming at the cancellation of a measure which is intended, through which the defendants who, up to now, have remained in solitary confinement in the prison should be accommodated in pairs in solitary cells. As I heard of such an intention, I made an application to the effect that I am asking the Tribunal to decide that such a joint confinement of defendants of two in one cell should be refrained from, because the Defense----

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THE PRESIDENT: May I interrupt, please? This Tribunal has not been furnished any such motion at this time. We have had presented to us an application concerning the seating of counsel, and that is--these two motions are the only ones that have been presented and sent to our respective offices.

DR. LATERNSE: Quite. Mr. President, the application which I have touched upon just now has been submitted to me in writing but I am able to present it to you immediately because the Defense is greatly interested in the decision about the application which we are now dealing with. In the event of the intended measures being carried out, the Defense would feel that their case would thus be limited and we wish to prevent such an occurrence from being realized.

Mr. President, as we have been informed, the defendants who up to now were accommodated in solitary confinement in the prison are now to be accommodated in pairs of two in a solitary confinement cell. We have further been informed that the reason for such procedure is supposed to be that just recently there have been individual cases of attempted suicides. The realization of the measure which appears to be intended is objected to very strongly by the defense. Apart from the fact that it wouldn't be proper that one defendant should be made the watchdog for another defendant, the prison cells are only designed for one inhabitant and consequently their measurement is too small for two defendants. For that reason alone, the joining of two defendants in such a cell would represent a very severe measure which, psychologically speaking, would affect the defendants most unfavorably. In addition to that, on health grounds this measure would have disadvantages since this space is too small for two defendants and circulation too is restricted, particularly with regard to the trial which is now about to start, and which will make considerable demands to the mental powers of the defendants, everything must be avoided which would result in a disturbance of a defendant.

On the trial days, for instance, defendants only have the evening hours to afford them the opportunity to work through the record of the trial and to prepare for the next day. Since the lighting arrangement of the cells is done from the outside, however, defendants have had to make do of it, that they pushed their little table to the door through which the light was coming in. In that manner, at least one defendant can, in a make shift way read. A second table would not find room for such an arrangement in such a cell and certainly not get enough light for the second defendant too to be able to read.

I conclude, if therefore, this pending measure were carried out then this would have to be regarded as a considerable impediment of the possibilities of the defendants. Yet, the defense is of the opinion that something that has been possible up to now must also be possible if it is of even greater importance at this point.

MR. DENNEY: May it please Your Honor this is the first that the prosecution has heard about the intended re-arrangement in the jail and it is submitted that we have nothing to do with it. However, I am advised that the jail facilities are becoming somewhat crowded and that may, at least in part, account for the change of the billeting arrangements there. That is all we have to say about it.

THE PRESIDENT: The Tribunal will now give consideration to the matter of seating, of counsel and will give consideration later to the comments made by counsel for defendants and the prosecution. Do you wish to submit the matter of seating of counsel at this time?

DR. LATENSER: Yes, Mr. President. Mr. President, as my colleagues just tell me, we have no objection to the seating arrangement just as we find it here just now.

THE PRESIDENT: There has been presented to this Tribunal a motion which is signed by Dr. Laternser in which he requests that, "My assistant be permitted to take a seat next to me during the session of the Military Tribunal. Due to the fact that I have two defendants I may need the assistance of Dr. Lucht during the sessions." It was to this request that I made reference.

DR. LATERNSEER: I have already been informed by Mr. Wartens, who is the defense administrator that this application has already been granted so I hadn't thought of it any more because I had already been told that it was all right and I thought the matter had been dealt with.

THE PRESIDENT: That being true the Tribunal does not find it necessary to give consideration to that matter. The court will stand in short recess while we give consideration to the matters as submitted.

We will not adjourn at this time but will return shortly.

DR. LATERNSEER: Mr. President, may I touch upon one point, about two minutes. As, Mr. President, you will no doubt have noticed, at the beginning of this afternoon's session there were very few defense counsel present. This was due to the fact that one hour for lunch interval does not suffice for us to eat.

May I be brief in explaining why this is so. All counsel from all the trials eat in one mess. Since all trials adjourn simultaneously at 1230, at or about this time everybody crowds together so that it is difficult to get food quickly. I am awfully sorry to bring it up but there it is. I, therefore suggest that perhaps we might choose 1215 for the mid-day recess so that we wouldn't have to get mixed up in the crowd and we would then be able to manage with one hour, fifteen minutes luncheon recess. It can't be done any other way. So, my application is for adjournment from 1215 to 1330. I have been told that in other trials such lunch time recess has already been set at one hour and fifteen minutes.

THE PRESIDENT: I might say to counsel for defendants that the members of the Tribunal are also suffering from the same inconvenience at times, in finding our time is limited in connection with our lunch period.

DR. LATERNSEER: But, Mr. President, we, the counsel, don't eat in this building. We have to walk about 500 yards, 4 - 500 yards, in order to get to the point where we eat.

THE PRESIDENT: May I make inquiry? Do you not think it might be well for the several Tribunals to give consideration to this request so that it might be worked out on a schedule basis rather than just this Tribunal alone.

DR. LATERNSEER: Quite, Mr. President. That suits me, Mr. President.

THE PRESIDENT: I shall take it up with the presiding judges of the several tribunals.

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DR. LATERNSEER: Quite. Thank you very much, Mr. President.

THE PRESIDENT: The Tribunal will be in short recess and will return later.

(a recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: In connection with the several motions on applications which have been presented, the Tribunal wishes to make the following announcements. As to the matter of adjournment for lunch so as to permit counsel for defendants to have sufficient time, we have decided that is a matter which should be taken up with the presiding judges of the several tribunals, and I shall do so and will report later, and if I should fail to do so, may I ask that counsel present the matter later.

In connection with the motion for -- or application relative to the placing of -- or rather the objection of placing the defendants two in a cell, the Tribunal wishes to state that there has been no formal motion or application presented, and in order that there may be a record in writing, the Tribunal will defer any ruling upon that matter until it is formally presented in writing.

In connection with the motion for a continuance or adjournment for a two-week period, this Tribunal is of the opinion that it should be denied, and it is denied. There has been some two months, or approximately two months, since the indictment was returned. Members of this Tribunal have been

here for approximately one month. We do not wish to in any way limit or circumscribe the rights of any of these defendants, but we do feel that this case should proceed as promptly and as rapidly as possible. It will take some time for the prosecution to present its case, and after that, it will take some time for the defendants --the respective defendants to present their case; and we are of the opinion that during that period, all parties will have sufficient time to digest the documents which have been presented, will have sufficient time to contact the witnesses that are desired and to obtain these witnesses. If any necessity should arise or if a brief adjournment might be necessary at some later time, the Court will give some consideration to that matter;

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but we feel that this Trial should proceed now, and that we should enter in with the presentation of the evidence on behalf of the prosecution. Therefore, the motion for a continuance for a two-week period as previously stated will be denied. In that connection, I also might state that we gave consideration to the fact that even though some of the counsel may be required to be absent for a day or a portion of a day, there is furnished to them copies of these proceedings and a transcript of all that has transcribed, and we do not feel that the rights of the defendants will in any way be effected. Court will therefore stand in adjournment until tomorrow morning at 9:30 at the place to which has been assigned the trial of Case No. 7 for Tribunal number 5, which is known to counsel for the prosecution, and I believe, to counsel for the defendants. The Tribunal will therefore stand in adjournment until tomorrow morning.

(The Tribunal adjourned until 16 July 1947 at 0930 Hrs.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List, et al, defendants, sitting at Nuernberg, Germany, on 16 July 1947, 0930, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the courtroom will please find-their-seats.

The Honorable, the Judges of Military Tribunal V. Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, have you ascertained if all the defendants are in the courtroom?

THE MARSHAL: May it please Your Honors, all the defendants are present in the courtroom.

THE PRESIDENT: Mr. Prosecutor, are you ready to proceed?

MR. DENNEY: May it please Your Honors, in order that the Court may be familiar with the process of procuring the documents which was indulged in by the prosecution, I would like at this time to have Mr. Fenstermacher, pro-counsel in the case, make a statement for the record with reference to the manner in which these documents were procured.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: May it please Your Honors, when the American army invaded Germany and the German army capitulated, we captured in Berlin most of the files of the German Wehrmacht. Those files were removed to Washington and they now repose in warehouses in or near Washington and the bulk of them, about 250 tons, are now in the Pentagon Building in Washington.

When we began to prepare this case, we hired about ten research analysts, people who understand the German language, to screen those documents and during the past six months those people have been going through these documents picking out those which relate to material in which we are interested in this case and sending them over to us.

We instructed the analysts working on this case to pick out certain excerpts and if they found a file of the army group "F", or a corps or division under it, we asked them to screen it, look for the material that was relevant and send over to us here in Nuernberg only that with which we were concerned.

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We could not ship 250 tons of German documents here to Nuernberg. That was impossible.

Once the documents were received in Nuernberg, we had additional research analysts again screen them and again certain excerpts of these documents would be marked off and those excerpts are the ones which we have now had translated into English and which appear in the English version of our document books, and their German counterparts appear in the German document books. Those documents, once they were screened here in Nuernberg under the supervision of both a lawyer and other experienced research analysts, received a document number here.

Now, we have tried to be very fair in picking out excerpts. I instructed the people that were assisting me on this case; as they came across material in the documents which related to matters in which the defense would no doubt be interested, I instructed them to mark off those sections of the documents and to also translate those portions; and as they will appear in the English version of the document book, as we come to introduce them, it is our desire to read those portions which perhaps injure the prosecution's case; and should we fail to do that and the Court wishes to call our attention to it, I am sure we will read it into the record so that it will appear at that time.

We have then placed ourselves in somewhat of a trustee relationship with this material. We cannot bring it all physically from Washington to Nuernberg but we instructed our people in Washington and we instructed our people here to extract those portions which were relevant and material to the allegations which we have set forth in the indictment.

I think, Your Honors, that will give you somewhat of an understanding of the problem with which we were faced in screening this material and of the problem that was before us as to what documents and what excerpts to use. We tried to be completely objective about it and to protect, in screening this tremendous amount of material, the interests of the defense as well as of ourselves.

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DR. LATERNSEER (Counsel for defendant List): Your Honors, in reply to the statement made by the prosecution, I would like to state my attitude quite briefly because I think this necessary already at this stage of the proceedings. The prosecution has just said that that material which they had sent to Nuernberg from Washington was only material which interested the prosecution. Therefore, I can assume that mainly incriminating material was selected, a fact that I can well understand from the standpoint of the prosecution.

I would like, therefore, to ask that, first of all, the defense be given permission to go through that material which is now in Nuernberg so that we can proceed to the truth. I would, therefore, ask the Tribunal to have the prosecution let us, first of all, go through the material which the prosecution does not want to use here in Nuernberg.

DR. SAUTER (Counsel for defendants Lanz and Geitner): Your Honors, in addition to the statements made by Dr. Laternser just now, I would like to make a concrete request. The prosecution bases its case to a large extent on war diaries, war diaries which the individual units of the German Wehrmacht made on the Balkans. In Germany -- and it is probably the same in America -- each unit, each division, each regiment had to make an official war diary. These war diaries were, as far as I know, saved and are now in the hands of the prosecution. They are, of course, documents which have a special power of evidence and these war diaries are made for the purpose of being able to reconstruct all matters at a later time.

Now, most of the accused generals are, for the most part, dependent on these war diaries for information with regard to events which happened at that time and few of them -- I repeat -- and few of them made these war diaries for their own use, but for the troops, and therefore only few of the generals kept detailed notes about their experiences during the war time.

If we want precise statements about the events in the Balkans, it is urgently necessary that we have insight into these war diaries, i.e. of course as soon as possible, because these war diaries include many volumes and, if the defense is supposed to go through the diaries in time so that the progress of the trial is not delayed, then we must get insight into these war diaries as soon as possible.

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Therefore, Your Honors, this is a concrete request which I am stating on behalf of my clients Lanz and Geitner. I think I am also speaking in the name of all the other defendants. Without these war diaries the defendants cannot make reliable statements about the places, times, and reports, and we want to help the Court to get the most reliable and precise reports and statements which each defendant here can confirm under oath. Therefore, Your Honors, I would like to ask that, as far as possible, you would have the prosecution let us have this material and make use of it.

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MR. DENNEY: May it please your Honors, the material which we have here in Nurnberg has been furnished about 90 per cent to the defendants' counsel. They have much more material than we have here in the document books. We will certainly be glad to let them see the other five or ten per cent that

we have not given them up to now. We can make an arrangement whereby they can go over it in the office, with one of the members of the staff for the prosecution.

Now about the request of Dr. Sauter, concerning the war diaries, these diaries are just running accounts of operational reports, and we have taken the material that has to do with a particular happening—the entries on either side of it in some cases, where they have a bearing on it, have been extracted and sent over, and I am not at all sure that we will be able to get all of the war diaries over from Washington.

THE PRESIDENT: May I inquire, Mr. Denney, has the defense counsel any representative in Washington?

MR. DENNEY: Not so far as I know, they do not.

THE PRESIDENT: Why don't they?

MR. DENNEY: I do not know, sir.

THE PRESIDENT: Is there anything further?

THE PRESIDENT: This Tribunal is of the opinion that these defendants should have access to all materials that they feel are essential for the defense of their respective clients; counsel should have access to the material. The Court is interested, and I am sure that all of the parties are interested in getting down to the real facts in the case, so that the attitude of the prosecution will be that this Tribunal wants to feel, when it has completed its deliberations and that defense counsel and defendants will also feel, that they have been given every opportunity to present their case in the manner in which they see fit.

Now when I make that statement, I trust that it will not be, —our liberality will not be abused. We are anxious to try this case as rapidly as possible, but the trying of the case rapidly must not sacrifice the rights of the defendants, and may I suggest that the spokesman for the defense, and the defendants contact the prosecution and work it out with them, for the obtaining of such additional material as they may feel is necessary, and if you should have any difficulties in connection with that material later, then you can present it to the court.

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MR. DENNEY: If your honor please, at this time I should like to offer as Exhibit 1, an affidavit of 3 December, 1946, which is the Niebergall affidavit with which I believe some of the defense counsel are familiar, and read it into the record. It merely has to do with some procedural matters that are followed with reference to the documents in the document room.

I believe that most of the defense counsel are familiar with the affidavit, but for the purpose of the written record, it has been handed up to your honors. It is not in the document book.

It is dated 3 December 1946.

AFFIDAVIT 3 December 1946 I, FRED NIEBEGALL, A.G.O. D150636, of the Office of Chief of Counsel for War Crimes, do hereby certify as follows:

1. I was appointed Chief of the Document Control Branch, Evidence Division, Office of Chief of Counsel for War Crimes (hereinafter referred to as "OCC") on 2 October 1946.

2. I have served in the U.S. Army for more than 5 years, being discharged as a 1st Lieutenant, Infantry, on 29 October 1946. I am now a reserve officer with the rank of 1st Lieutenant in the Army of the U.S. of America. Based upon my experience as a U.S. Army Officer, I am familiar with the operations of the U.S. Army in connection with seizing and processing captured enemy documents. I served as Chief of Translations for CCC from 29 July 1945 until December 1945, when I was appointed liaison officer between Defense Counsel and Translation Division of OCC and assistant to the executive officer of the Translation Division.

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In my capacity as Chief of the Document Control Branch, Evidence Division, OCC, I am familiar with the processing, filing, translation, and photostating of documentary evidence for the United States Chief of Counsel.

3. As the Army overran German occupied territory and then Germany itself, certain specialized personnel seized enemy documents, records and archives. Such documents were assembled in temporary centers. Later fixed document centers were established in Germany and Austria where these documents were assembled and the slow process of indexing and cataloguing was begun. Certain of these document centers have since been closed and the documents assembled there sent to other document centers.

4. In preparing for the trial before the International Military Tribunal (hereinafter referred to as "IMT") a great number of original documents, photostats, and microfilms were collected at Nurnberg, Germany. Major Coogan's affidavit of 19 November 1945 describes the procedures followed. Upon my appointment as Chief of the Document Control Branch, Evidence Division, OCC, I received custody, in the course of official business, of all these documents except the one's which were introduced into evidence in the IMT trial and are now in the IMT Document Room in Nurnberg. Some have been screened, processed, and registered in accordance with Major Coogan's affidavit. The unregistered documents remaining have been screened, processed, and registered for use in trials before Military Tribunals substantially in the same way as described below.

5. In preparing for trials subsequent to the IMT trial personnel thoroughly conversant with the German language were given the task of searching for and selecting captured enemy documents which disclosed information relating to the prosecution of Axis war criminals.

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Lawyers and Research Analysts were placed on duty at various document centers and also dispatched on individual missions to obtain original documents or certified photostats thereof. The documents were screened by German speaking analysts to determine whether or not they might be valuable as evidence. Photostatic copies were then made of the original documents and the original documents returned to the files in the document centers. These photostatic copies were certified by the analysts to be true and correct copies of the original documents. German speaking analysts, either at the document center or in

Nurnberg, then prepared a summary of the document with appropriate references to personalities involved, index headings, information as to the source of the document, and the importance of the documents to a particular division of OCC.

6. Next, the original document or certified photostatic copy was forwarded to the Document Control Branch, Evidence Division, OCC. Upon receipt of these document, they were duly recorded and indexed and given identification numbers in one of six series designated by the letters: "NO", "NI" , "NM", "NOKW", "NG", and "NP", indicating the particular Division of OCC which might be most interested in the individual documents. Within each series documents were listed numerically.

7. In the case of the receipt of original documents, photostatic copies were made. Upon return from the Photostat Room, the original documents were placed in envelopes in fireproof safes in the Document Room. In the case of the receipt of certified photostatic copies of documents, the certified photostatic copies were treated in the same manner as original documents.

8. All original documents or certified photostatic copies treated as originals are now located in safes in the Document Room, where they will be secured until they are presented by the Prosecution to a court during the progress of a trial.

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9. Therefore, I certify in my official capacity as herein above stated, that all documentary evidence relied upon by OCC is in the same condition as when captured by military forces under the command of the Supreme Commander, Allied Expeditionary Forces; that they have been translated by competent qualified translators; that all photostatic copies are true and correct copies of the originals, and that they have been correctly filed, numbered, and processed as above outlined.

/s/ FRED NIEBELGALL FRED NIEBERGALL Chief of Document Control Branch Evidence Division, O.C.C. I believe this document has been handed to Major Hatfield and I request, if your Honors please, that it be marked as Exhibit 1.

THE PRESIDENT: It is so ordered.

MR. DENNEY: Turning now to the first document in Book 1, I might say by way of preface, if it is agreeable with your Honors and with defense counsel, in view of the fact that these documents are placed chronologically by date, at the time we offer it, we propose to mention generally the defendant's name against whom it is ordered, and a general characterization of the document, and on the following day, after a book has been completed, if it is agreeable with your Honors and defense counsel we will submit a table at the left of which will be the documents which have been offered, then the Count under which it is offered, and then the defendant's name against whom it is offered, so that everyone will not have to keep going back and looking into the record. I believe that will make it more simple.

THE PRESIDENT: That is satisfactory to the Court -- to the Tribunal, if there is no objections on behalf of defense counsel.

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DR. LATERNSEER: Your Honor, I have to say that I haven't correctly understood the proposed procedure. Could it please be repeated so that I could state my attitude towards it?

THE PRESIDENT: Mr. Denney, you will kindly repeat your statement.

MR. DENNEY: Yes, Your Honor. The documents have been arranged in the books by date. If at each time a document is offered we specified all of the defendants against whom it is offered and all of the counts that it is offered on, it will cause a constant searching of the record as to whether or not a defendant is implicated in a count, according to our position, or whether or not a count has been specified. For the convenience of the defense counsel and the Court it is proposed that we will make a general reference at the time we offer specific documents, and at the close of a day we will prepare a table which states all of the exhibits in a book, the counts on which it is offered, and the defendants against whom it is offered. We will furnish tables to each of the defense counsel. They won't have to be translated because it's purely a matter of numbers and names, and we will furnish copies to the Court, and these tables will always be furnished the morning following, following the completion of a document book. Is that agreeable, Dr. Laternser? (Dr. Laternser and other defense counsel agree by nodding in the affirmative.) The other counsel seem to be in accord.

THE PRESIDENT: Counsel for defendants having indicated that such a procedure meets with their approval, you may follow that course of procedure, Mr. Denney.

MR. DENNEY: Thank you, Your Honor. The first document which we offer is [NOKW-860](#), which is an affidavit by the Defendant List, executed on 7 March 1947, which contains various biographical material with reference to promotions and declarations. This is offered as Prosecution's Exhibit 2--- Document [NOKW-860](#). There being no objections by defense counsel, it is requested that the document be received in evidence and marked as requested, Your Honor.

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THE PRESIDENT: it is so ordered.

MR. DENNEY: The first page of the affidavit sets forth some basic information about the Defendant List. I don't think that it's necessary to read it. From information about his promotions on Page 2 it will be seen that he entered the service in 1900, and at the time of the capitulation he had somewhere some few months less than fortyfive months service, and that he became a field marshal in 1940, and that, at the time--in 1939, he was a Generaloberst, equivalent to a four-star general in the United States. The next section, the decorations, will show that he had received his share of them. The Party material indicates that he was not a member of the Party and that he never joined it. On the English copy there is missing a statement to the effect that the affidavit was voluntarily made, but I believe that that appears on the German copy. Perhaps Dr. Laternser can give us some help on that. It is just at the end of the document Doctor. Dr. Sauter advises me that that does appear on the German copy. An error in translation is all, Your Honor. They failed to put it on here, but there is a statement in the German to the effect that the statement was voluntarily made by him. The next document is NOKW-1042, which we offer as Prosecution's Exhibit 3, which is a copy of the personal record taken from the personnel file

concerning the Defendant List. This is similar to that is known in our Army as the 201-file. This document is offered by the Prosecution as Exhibit 3. There are no objections, Your Honor.

THE PRESIDENT: There being no objections, it may be admitted in evidence.

MR. DENNEY: We would like to call the Court's attention to the entry on the first page, at the bottom, where it says "10 September 1942, resigned as Commander in Chief, Army Group, and at the disposal of the Fuhrer."

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We have heard much in Nurnberg about the impossibility of resigning. On Page 2 of the document there is an entry with 24 April 1942 by Field Marshall Wilhelm Keitel of OKW, commenting on the defendant List's performance in which he states "The Commander in Chief of the 12th Army, and Wehrmacht Commander, Southeast, most highly proven, enjoys the unlimited confidence of the Fuhrer." On the next page, which is Page 3, still Exhibit 3, Document [NOKW-1042](#), we believe in the German copy there is one error on the left-hand column of the dates. It should be 19 March. The date that follows 1 October 1913, and then precedes 2 August 1914, it should be 19 March 1914. The third page sets forth in some detail the rather broad experience of the Defendant List. It is to be noted that he went to the Artillery and Engineer schools and in 1908 he went to the War Academy. Thereafter he was with an Infantry Corps. In 1920 he was commander of an Infantry division and an Infantry regimental staff officer, and he served as a battalion commander. He was in the Reichwehr Ministry and became a brigadier general in the early 30's. He was a first ranking major general in October, 1932. He was commander of a Wehrkreis, which is similar to our service command, in 1933, and he became a general of Infantry in 1935, and General Oberst, or a four-star general in 1939. He became a (6) Field Marshal in the Wehrmacht in July 1940. I referred earlier to his being a major general. That should be Generalleutnant, which is a major general in the American army. The next document which the Prosecution offers as Exhibit 4 in evidence is 071-PS. This document was received as United States of America Exhibit No. 371 before the International Military Tribunal.

DR. LATERNSEER: Your Honor, before the submission of this document, may I see this document? (Defense counsel looks at document).

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Your Honor, I object to the submission of this document. At first glance I can see that it is a photostat copy. From this photostat copy it cannot be seen, first of all, whether it is a carbon copy of the letter or whether it is a copy of the letter. Also, it doesn't show a letter-head nor from whom the letter comes. As to the signature this document isn't even signed.

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Thirdly, what the prosecution intends to prove by this I could take from yesterday's opening speech. I would like to suggest the following, the letter proves that it has been written but it doesn't prove that its contents are true. As a rule it shows the opinion of the writer of the letter and need not be in line with

the actual conditions since, for all these reasons it cannot be regarded as a proper document, I would ask the Tribunal to look at the document, it must be rejected as evidence of any kind of value.

MR. DENNEY: If your Honor please, the rules provide that documents received in evidence before the International Military Tribunal shall be received in evidence in these cases. Of course with this document as with any document that is offered by the prosecution or the defense, it is for the court to determine what weight they shall give it, if any, and we have nothing to do with probative value. There is a certificate with this document certifying that it was received as an exhibit. It was United States Exhibit No. 371 in IMT. It was put in as part of the case in chief. I believe against the defendant Rosenberg, and while I do not content that one who writes a letter necessarily speaks the truth, we have a later document which refers to a task force Rosenberg which is operating in the Southeast area, which indicates that what is said in this document is true.

THE PRESIDENT: What do you claim for this exhibit?

DR. DENNEY: We claim that this exhibit, your Honor, involves the defendant List. It shows that he was cooperating with the program in the party whereby they were seizing cultural works of art and enabling them to send people to the Southeast. I believe the particular reference here is to the cremation in the Archives in Jewish libraries.

THE PRESIDENT: Who do you claim wrote this letter?

MR. DENNEY: It was written, if your honor please, by Rosenberg who was later to become the Reich protector for the Eastern occupied territories.

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THE PRESIDENT: Does the letter so show?

MR. DENNEY: The letter does not so show.

DR. LATERNSE: Your Honor, the letter doesn't show at all who wrote it. In addition the prosecution doesn't even say that this letter was sent. If a copy is made, then I don't understand why this copy doesn't contain the signature. I maintain that this letter was never signed. I could even go further with my allegation. I could, for instance, say--I don't know this--that it wasn't signed because the contents weren't correct. Also, your Honor, the fact that the letter was accepted in the first trial was evidence doesn't make this letter a document. For at the time it was submitted, it was submitted for another reason than it is submitted today, at that time, it was submitted against Rosenberg, I don't know why the cleague at that time didn't object to this letter. I would like to say once again that I cannot see from the document itself, and that is necessary, who wrote the letter. The letter from the document itself, and that is necessary, who wrote the letter. The letter isn't signed and I don't know whether it was ever sent off.

MR. DENNEY: If your Honor, please, the rules provide that documents which have been received in evidence before the International Military Tribunal shall be received here. However, for the benefit of the court, I will be glad to check the record there. It is my impression that it was further identified

during the proceedings--and see whether or not we can establish that. In any event, it was received in evidence before the IMT.

DR. LATERNSEER: Your Honor, may I just say something else? I have already emphasized that the fact that the letter was presented and accepted in the first trial should not matter at all. I am of the opinion that the Tribunal now should rule on my objections to this document and should not be bound by the ruling of the first Tribunal whether it is admissible or not, because I am bringing in a new reason why this document should be admitted as a document.

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THE PRESIDENT: The Tribunal will reserve ruling on the admissibility of this particular exhibit.

MR. DENNEY: Would your Honor wish that we point out the parts at this time which we offer, subject of course to a motion to strike in the event that the tribunal rules against it?

THE PRESIDENT: The court will give consideration to the document in itself and if and when it is admitted, if it is admitted, then you can comment upon it.

MR. DENNEY: Very well, your Honor. Then if I may suggest that we mark is Exhibit 4-A for Identification at this time so that it will have a number. That is not in evidence, Dr. Laternser, that is merely for identification.

THE PRESIDENT: Purely for the purpose of marking of the exhibit and not for a consideration that it is being admitted, it may be so numbered "4-A".

MR. DENNEY: Thank you, your Honor.

The next document is [NOKW-1111](#) which we offer as Exhibit 4.

DR. LATERNSEER: I would also ask if I might look at this document before it is submitted to the Tribunal.

(A copy of the Exhibit 4 was handed to Dr. Laternser)

DR. LATERNSEER: Your Honor, I am unfortunately, forced to object to this document too. First of all, it is a photostat copy and is a photostat copy of a copy, which is expressly stated on it. This means that is not a carbon copy of the order which was issued but a copy made afterwards. Your Honor, at the top of this letter is written "Secret". If secret matters were copied in the German Wehrmacht, then the copy had to be certified, and on this photostat copy I see no certification. How can I find out that the typist who copied this order copied the actual order and copied it correctly. In other words, this document is nothing than a sheet of paper typed by someone whom I don't know, without certification.

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The probative value is very small, though I realize that just now I cannot concern myself with the probative value; but the lacks of this document so obvious that it should not be accepted in evidence.

Might I stress again that it is not a carbon copy but a copy and that was prepared later that this copy had not been certified by anybody. I don't know whether the typist has made mistakes.

MR. DENNEY: Your Honor, I certainly don't know whether the German army typist made any mistakes or not either, but as such it is taken from the captured files of the German Army and it is headed "11th Corps Command", and at the bottom it is typed out "Signed von Kotzfleisch, the Commanding General." The probative value is whatever the court wants to give it. We unfortunately did not make the records for the Wehrmacht.

DR. LATERNSE: Your Honor, I am very sorry that I have to add something else. The prosecutor says that this letter is signed. It isn't signed. From the beginning to the end, it is typed. I am extremely sorry to say that the original copy from which the photostat was made is not available. Then one could even see more clearly what sort of a document it is.

MR. DENNEY: If your Honor please, I did not say that it was signed. I said that at the end it was typed "Signed von Kotzfleisch," and I would appreciate it if Dr. Laternser would keep the earphones on so that he would understand what I tell the Tribunal.

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DR SAUTER: (Attorney for the defendant von Geitner) Your Honor, may I draw your attention to something.

It strikes me that in my copy here, the copy of a corps order, the journal number is missing, that is, the number form which it can be seen which index number the order has received. Such important orders, especially when they are secret orders, must necessarily have a journal number. Every soldier knows this, especially every officer, and it strikes me that in this copy the journal number is missing. I would like to point this out to the prosecution.

THE PRESIDENT: This Tribunal is conscious of the fact that this is a copy taken from the files as found by the American or Allied authorities. It will be accepted for such probative value as the court feels that it should receive, and it is better with the understanding.

MR. DENNEY: Major Hatfield, will you mark it No. 4, NOKW-III. This is dated April 27, 1941 and as has been indicated it is a copy. It is offered as against the defendant von Weichs, Paragraph 2, No. 2, of this order provides "I expect every instance of resistance to be broken with ruthless force. Every person encountered resisting or fleeing with weapon in hand, is to be shot dead immediately; persons surrendering are to be handed over to courts martial or summary court martial to be judged immediately."

Then they speak of the decree dated 2 April, sent forth by the Commander in Chief of the Corps Army, and hereafter, "furthermore, hostages are to be taken, who are to be shot in case further enemy resistance should occur. Any consideration shown by the German troops is interpreted as weakness and is a mistake.

"The disarming and pacification of the areas assigned to the divisions, is to be varied out with extremes care and in compliance with Corps order No.8. The divisions will mop out the areas combed through by the troops and note down the respective dates."

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Then the third paragraph speaks of, "The new frontier between the German 2nd Army and the Royal Italian Second Army as ordered by the Commander of the Second Army, von Weichs, as well as the necessary measures for the evacuation of the area occupied by the German troops thus far and its transfer to the Italians, and also for the salvaging of loots from these areas."

And, typed on the copy that we have is the Commanding General, signed von Kotzfleisch. He was at that time the Commanding General of the XIth Corps which was under the 7th Army which was commanded by the defendant then Field Marshall von Weichs.

DR. LATERNSEER: Your Honor, I am extremely sorry that I have to make such frequent interruptions but it is my duty to do this. I have just found a relevant mistake in translation. I point to Paragraph 2, first passage which reads in German which is the basic text: "In areas of unrest further hostages are to be taken whose execution by shooting has to be applied for in case of further resistance. The translation reads: "Who are to be shot in case of further enemy resistance should occur." The translation says they should be shot. In English, it is translated "who should be shot" which in the German text it says expressly the shooting of whom should be applied for. The German version means something else than that which can be seen from the English text. I would ask that this translation is to be corrected.

MR. DENNEY: Your Honor, as we can probably anticipate some of these translation difficulties from time to time occur and perhaps Dr. Laternser and I can get together out side of court and work them out to our mutual satisfaction. If not then we can bring them into court and he can say what he thinks the Germans means and I, through someone who knows German better than I, can say what I think it means and the court can decide what it means.

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I think we can work it out satisfactorily.

THE PRESIDENT: It seems to me the translation which is presented should be accepted at this time and if it is not a correct translation then the defense counsel can so indicate in its presentation of its case in chief. We cannot and should not at this time engage in some arguments as to translation. I believe that is a defensive matter which should receive consideration by the defendant at such time that it cares to present its case.

MR. DENNEY: May I further make the statement that if counsel for the prosecution and the defense can agree on the translation that of course will solve the problem and it will be helpful to the court and may I suggest that before we give any further time to this matter that we try to work this out between the respective counsel and avoid any further time now.

DR. LATERNSE: Yes, Your Honor, may I still say something quite briefly. Of course I agree with the counsel of the prosecution that translation should be gone through by us beforehand and we should agree upon them; but I want to avoid something, and I would like your Honor to take this into consideration. A wrong translation if once submitted to the Tribunal will give the Tribunal a false idea of certain orders. Your Honor, I think it would be more difficult for the defense counsel to eliminate a wrong impression once it is there; than to prevent a wrong impression to a rise at all. I would prefer the latter. Checking the translation of important documents beforehand we could avoid difficulties. Before submitting documents the translation should be agreed upon by the prosecution and the defense and this would allow the trial to go on without disturbances.

MR DENNEY: If Your Honor pleases, with reference to the suggestion that the prosecution and defense agree on translations beforehand, that I believe is a practical impossibility.

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We have people who are translating these documents, some of whom are in our division, some of whom are in the translation division which is a common pool, or rather a joint pool, for everyone in the court house, including various other divisions. In addition the defense, the people for the most part, are German speaking. Now, I would suggest in line with Your Honor's ruling that if they quarrel with a translation that they bring it up as part of their case in chief by way of defense; at anytime we will be available after court to discuss particular translations with them, and see if we can work something out; But it a ruling such as that is made that we must clear everything with the defense at first, it will prolong the trial.

THE PRESIDENT: The court has indicated its attitude in connection with this matter and it is the suggestion of the members of this Tribunal that counsel endeavor to carry out the suggestions as made. Counsel may make the objection and then if they later wish to raise the same question in the case in chief in the presentation of the defendants' case they may do so. But, the court cannot be liable for translations. I wish that I were able to but that would be impossible. The Tribunal will take a recess for 15 minutes at this time.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Mr. Denney, before you proceed with the presentation of any other exhibits, the Tribunal wishes to rule on the exhibit marked Exhibit 4A. This exhibit will not be admitted unless it is connected with some particular individual or is shown to have been signed by someone who is connected with this case or in some other way can be further connected with the issues that are involved in this particular trial; the ruling being, therefore, that the objection is sustained, unless it is show that it was issued by someone in authority who had the right to issue it.

MR. DENNEY: Your Honor, we are having a search made of the I.M.T. records. I should like to call Your Honors' attention to the Ordinance VII, Article 9, which has to do with these tribunals, it being

that "the Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. They shall also take judicial notice of official governmental documents and reports of any of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes, and the records and findings of military or other tribunals of any of the United Nations."

THE PRESIDENT: The ruling as made will stand, subject to such further presentations as the prosecution may wish to make in connection with it.

MR. DENNEY: As Your Honor pleases.

The prosecution offers, as Exhibit 5, NQKW-1198, which is a copy of an order from the Commander-in-Chief of the 2nd Army, Weichs, with an additional order from the Commander of the 11th Corps. This is dated 28 April 41 and the Court's attention is directed to the fact that this was at about the time that Yugoslavia capitulated as well as Greece and these units were in Yugoslavia.

DR. LATERNER: Mr. President, before this document is submitted, I want to have a look at it.

Mr. President, I have to object to this document insofar as it contains a copy of the order of Field Marshal von Weichs.

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This document, as far as it concerns von Weichs' order, is also a mere subsequently prepared copy, i.e. not a carbon copy of the original. This subsequent copy contains the same mistake and the same sources of mistakes as in the case of the other documents for which I have already presented my reasons for objection. You will notice immediately that this order has no number at all.

I maintain that it cannot possibly be a complete copy because a copy that is signed by the Supreme Commander of an army group must have an index number (Briefgruppennummer). Whether this copy has been prepared correctly I cannot tell. I especially don't know whether the photostat was made in such a way that the factual connection is maintained with page 2, that on page 2, that part which has been signed by General Kotzfleisch, that I don't know; whether it is one page or one sheet or whether it is two, this is not clear from looking at the photostat.

As the prosecution apparently sets great store by this order, we must be especially careful in finding out whether such a copy can be accepted as a document.

THE PRESIDENT: The objection as made will be overruled.

MR. DENNEY: It is requested that this be marked Exhibit 5 in evidence, Document NQKW-1198. Your Honors, please, this is a copy in the first instance and I might point out to the Court that on the photostat which has been offered the signature which appears on page 15 of Kotzfleisch is actually on the photostat in evidence and these are two consecutive pages. The certification accompanying the document will show it if Your Honors at a later time care to look at it. The Commander -the order is from the Commander-in-Chief of the 2nd Army, dated Army Headquarters 28 April 1941.

"Order.

"The increase of treacherous surprise attacks on German soldiers necessitates the severest reprisal measures. Only immediate and ruthless action guarantees the maintenance of peace and security and prevents the formation of bands.

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"1) A detachment from a division was sent to carry out the disarming of a Serbian village. The commanding officer with another officer and a sergeant were riding ahead and were attacked by a band of Komitatshi (in Serbian uniform). The commanding officer was shot dead and his companions were severely wounded. This event causes the following statements:

"a) After the conclusion of the armistice there is no Serbian soldier in the entire Serbian area who is authorized to carry weapons.

"b) Who, nevertheless, is encountered in Serbian uniform carrying a weapon puts himself outside of international law and is to be shot to death immediately.

"c) If in an area an armed band appears, the men who are capable of bearing arms who are found in the vicinity of the band are also to be shot to death, if it is not immediately determined without doubt that they had no connection with the band.

"d) All persons shot to death are to be hung up and their corpses are to be left hanging.

"e) The arresting of hostages after a surprise attack is a mistake and may in no case enter into consideration. Rather one must act only according to points 'a' - 'd'."

Those are the four points listed prior to the one statement about these hostages.

"2) As a preventative protection for the troops against such treacherous surprise attacks, I order:

"a) In the area not yet pacified one may not march without security patrols, especially not without flank patrols.

"b) In billets in such areas security measures are to be taken similar to actual conditions in the field.

"c) Within the areas of the division motorized detachments (use of motorized convoys) are to be in readiness; they are to be on call at any time, in order to be able to carry out security and reprisal measures.

"d) In the endangered villages, posters are to be hung up, which draw the attention of the population to the serious consequences of surprise attacks (the posters will be sent separately)."e) In every village occupied by the troops in the endangered area hostages are to be taken immediately (from all classes of the population) who are to be shot to death and hung up after a raid.

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This measure is to be made known in the villages immediately.

"3) If raids on the troops occur, the commanders of divisions must examine closely whether guilt lies with the leader of the units concerned.

"In the divisional reports concerning surprise attacks it must be always reported immediately if and how the surprise attacks were avenged, by ruthless measures."

Typed on the copy which has been submitted is "Signed, Freiherr von Weichs".

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Then just below this, and on the same page, appeared these dotted lines, and then the 11th Corps which was at that time part of the Second Army and serving in Yugoslavia. The Corps Commander, Von Kortzfleisch sent this order forward, - It was a Corps order from Corps Headquarters in the 29th, - one day after the date of the original order, the following order is to be made known immediately to the troops.

2.) My orders given in the order of the Corps No. 3 (Corps Headquarters XIth Infantry Corps, Ia No. 616/41 Secret of 27 April 41) under paragraph 2 are supplemented according to the order given below, as follows:

a) The order for shooting hostages in the area of a surprise attack can only be given by an officer of the rank of Battalion (Detachment) Commander (inclusive) and upward. In case a direct attack is made on the unit in the area of unrest and in the place where hostages are arrested, the shooting to death can be ordered by order of the highest ranking officer present; the officer has to report immediately on the event. On principle a short record concerning the shooting to death of the hostages is to be taken down containing:

aa) the facts of the case bb) the names of the hostages cc) the execution

b) Houses and villages from which shots are fired are to be set on fire.

(Initial) S The Commanding General (Initial Illeg.)

(Signature)

Distribution: Kortzfleisch Down to Company level.

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There appears the initial "S" and the Commanding general with an initial after it, and then the signature which has been photostated Corps Commander, and your Honors will note the distribution and it goes down to company level in the corps, - the lowest troop units.

I should also like to call your Honors' attention that we have not been able to find the earlier Corps' order which is referred to in Kortzfleisch's order here, but it is worthy of note that when he clarifies that early order, it indicates now that here he is advising them that in the areas of the surprise attack the order of shooting hostages can be given only by an officer, and perhaps we can hear some more about this at a later time, but the implication is there that such were not the orders prior to this. Otherwise, why would he make this statement?

THE PRESIDENT: May I interrupt, Mr. Denney, to ask whether the defendants want the shades put down. Does the sun affect the defendants there. (Shades drawn)

MR. DENNEY: If your Honors please, I do not know whether or not on the next page, where there appears an excerpt from Document NOKW1198, in your Honor's book, on page 16; if it does appear we request that it be disregarded at this time. You can tear it out, or just cross it out. It is not being offered now.

The next document we come to is on page 17 which is [NOKW 1145](#), which we offer as Prosecution Exhibit 6 in evidence. I might say for the benefit of the counsel for the defense that the page which is disregarded is not in the German copies. It was just a mistake that the page was inserted in the English, is all.

THE PRESIDENT: The Court wishes to make this statement, to the effect that where there is an exhibit offered, and there is no statement in the record of any objection, it is presumed that it will be received in evidence without objection, so you will keep that in mind in further proceedings before this Tribunal.

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MR. DENNEY: For the sake of the record, that applies to the exhibits which have already been offered, your Honor?

THE PRESIDENT: Yes.

MR. DENNEY: Thank you.

Exhibit [NOKW 1145](#), Exhibit 6, is a copy of an activity report from second army commanded by the defendant Weichs, in Yugoslavia for the period 25 April to 20 June, 1941.

The parts which we offer are considerably shorter than those which appear in the complete document. However, the complete document has been offered and has been made available for this period.

DR. LATERNER: Mr. President, I regret that again I have to intervene. I would like to ask you who has made this copy; whether it was made in Washington from the originals or whether this copy has also been found in the files that have been captured. We must first clear some of these fundamental questions. We, as defense counsel, must have these questions explained. On this document it says, "copy". I don't know who made this copy.

THE PRESIDENT: Counsel for the prosecution, perhaps, can advise defense counsel as to this matter.

MR. DENNEY: If your Honor please, the document is a photostatic copy of a document which is in the files in Washington. The only writing which appears on any of them are the document numbers which we have placed on them. The Abschrift which appears here in German was on the document when it was photostated.

DR. LATERNER: I regret that it is not quite clear to me. My interest is centered on the following questions: I assume, without any further question, that in Washington the original of all war diaries are

deposited. Since the original cannot contain the word "copy", it must have been copied. The question is, is this a copy, which has been captured or has this copy been prepared in Washington? I cannot see it from the document itself, and it would be important in order to judge what value we must later give to this document.

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MR. DENNEY: If your Honor pleases, I believe that if Dr. Laternser had looked, he could see that obviously we did not copy the document in Washington, because the three pages which are here all bear German printing on them, on the top, and the cover page, which has been photostated to show from whence these three pages came, is photostated exactly as it is except for the number which is placed on it, and these are photostats, in every case, of original German documents, not photostats of copies made by the Americans in the German language. These documents have been preserved exactly as they were taken and I believe if Your Honors care to look at this, that it will be plain.

(Document handed to court for examination)

THE PRESIDENT: May I make this statement, Mr. Denney? That up to the present time, all that counsel has, -- the only statement that counsel has made has been an inquiry. There is no objection pending before the Tribunal.

There being no objection pending, and the counsel for the defendant having received this information, unless there is something further to present to the Tribunal we shall proceed.

MR. DENNEY: The cover page states--

DR. LATERNSEER: Mr. President, this extract, as I must again point out to the counsel, because it is the basis of the whole proceeding and the future procedure, -- this extract which is being submitted in this case, is a conglomeration, so to speak, and it is not probable that it should have been prepared previously, because no German agency would never have been interested in it, though on these pages, the heading, appears in German printing, it is very possible that empty diaries have also been captured, forms of which have been used for copies in order to make them look verbatim, and in order to use them here in these proceedings, I would understand this. The question should to be cleared very thoroughly, and until this question is cleared I object to this exhibit. Whether this copy has been made in Washington, then it would have to be certified, in order to have a basis on which to work, whether this copy has been found in its present form, -- that is a very important question.

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THE PRESIDENT: The objection will be overruled.

MR. DENNEY: The first entry which appears on the cover page is "During this period the 2nd Army was immediately subordinate to the OKH." In other words, that means that the chain of command in the 2nd Army, which was commanded by the Defendant Weichs, did not pass through anyone else, but went directly from him to OKH, the so-called Oberkommando, which is synonymous in our Army to

the Army, that is, as opposed to the Navy and the Air Force, and OKH, of course, was subordinate to OKH. And then there are a few notes that the activity report was kept by two lieutenants during the first period and by one during the latter period. The first entry which applies to the 4th of May speaks of "Mopping up operation Propastica took place according to plan and successfully. The enemy encountered (up to now 50 men) has been shot to death. 253 hostages were seized. The villages of Propastica and Disevci have been destroyed by fire. The units of the 294 Infantry Division and/or of the 4th Mountain Division will be transferred to their final quarters by E-Transport and by cross-country means." And then it has something to do with the II Army Corps in the evacuation of the Army troops from Yugoslavia. In the entry under the date of 11 May for Belgrade, it says something about the XI Corps under the 2nd Army: "Units of the 60th Motorized Division on 10.5 near Prijepolje encountered armed band 3 men and 1 woman and on 11.5 in the morning near Pozega (15 Kilometers East of Uzice) they encountered a band of 4 men. "It does not say whether or not the four men were armed; it just says they encountered a band of four men. "All members shot to death and hanged." And then there is an entry about the 704th Infantry Division which we may avoid.

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And then there is a report from the 12th of May for Belgrade it states that "In the area IV Artillery Regiment 132 (15 kilometers Southeast Zabreb) a soldier of the unit was hit by a bullet and wounded. After investigations had been concluded, 8 Serbs were shot to death and hanged." Under the date 14th May for Belgrade it says, "In reprisal for firing on a motorcycle rider - as reported in daily report of 12.5, paragraph 2b - 3 Serbs were shot to death and 10 hostages seized." The next document, which is NOKW-1151, is offered as Exhibit 7 in evidence. This is a communication from the Army Commander in Chief Southeast, who at that time was the Defendant List, and it was received by the Commander in Chief Serbia. He inquires as to whether or not -- this is on 27 June 1942 -- when he asks "Is Russian radio report of alleged murder of two German soldiers in Belgrade and subsequent order of shooting of 100 Serbian hostages correct?" Then the next page, page 2, is the answer from the Commander in Serbia to the Army Commander Southeast, and it states that the "Russian radio report is so far incorrect as at present no such occurrence. The occurrence in question goes back to the end of April - details about it later." Then the Commander in Serbia writes on 2 July to the Commander Southeast, Defendant List, referring to a telephone conversation of 27 June 1942, "Subject: Russian Radio report," and it says, "In supplementation of our teletype message Command Staff Department Ic No. 108-41 Secret we present below the occurrence which may have been the basis of the Russian radio report." This is the document concerned with the former telegram or teletype on Page 2, which is apparent from the document number which it has from the Serbian Commander, No. 108/41, which appears in the second line of the letter and which also appears on the third line from the bottom of the telegram.

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He continues in his reply of 2 July, "From enclosures it is to be seen that, during the month of April, 1941, a detachment of a Division of the 2nd Army Command was sent to carry out the disarmament of a Serbian village. In the course of this operation the leader of the detachment was shot by a Komitadschi

band, another officer and a Wachtmeister were severely wounded (unit and place are not known here). On the basis of this occurrence the Commander in Chief of the 2nd Army, (who was then Defendant Weichs), issued the enclosed order of 28 April 1941 which was followed by the poster (a copy is enclosed) concerning the shooting to death of 100 Serbs and the threat of the same reprisals for similar cases. Whether or not and where the Serbs actually were shot is not known and could only be ascertained by inquiry at the 2nd Army Command." Of course, at this time, 2 July, when this letter was written, the 2nd Army Command had left Yugoslavia late in May, the headquarters returned to Munich, and the Army was being reformed to move to the Eastern front, where early in July it was committed in the line, under the command still of the Defendant Weichs, as part of an Army Group under the then deceased Field Marshal von Bach. This letter of the 2nd of July, from the Serbian Commander to the Defendant List, as Commander of Southeast, was signed for the Commander in Serbia by the Chief of Command Staff Gravenhorst, a Lieutenant Colonel on the General Staff. And it is to be noted that there are two enclosures which have been referred to in the letter to the Defendant List. Now, this first enclosure is the same as Exhibit 5, which was [NOKW-1198](#), the order of the Commander of the 2nd Army, XI Corps, which was presented two exhibits ago.

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And if Your Honors will examine it, you will see that it is dated the same as the Weichs orders which was sent forward by Kotzfleisch of the XI Corps, and the provisions are the same. They cite the Division detachment's going out to disarm the Serbian village, meeting the Komitadschie in Serbia uniform and the divisions "a" to "e", and it continues. However, there is a distribution list on this which was not on the copy in Exhibit 5, which appears on Page 24 in the English, and shows that down to and including battalions, General Commandos, Divisions, and Local offices: in draft, and for information to the Military Commander in Serbia. The next page of the letter of Colonel Gravenhorst, however, introduces the poster, which was not available in the earlier copy, Exhibit 5. This poster is listed as an enclosure. Gravenhorst says a copy is enclosed, and this provides that it can "be posted up in not yet pacified or endangered villages." "Serbs." -- By mean and malicious surprise attacks German soldiers have lost their lives. German patience is at an end. As atonement 100 Serbs of all classes of the population have been shot to death. In the future 100 Serbs are to be shot without consideration for every German soldier who comes to harm as a result of a surprise attack conducted by Serbs." And below that is printed, "THE COMMANDER IN CHIEF OF THE ARMY".

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That is the defendant Weichs. He was the commander in chief of the Second Army at that time and there is a note that on the placard -- that is, on the poster -- the text also appeared in the Serbian language. The next document is [NOKW-1206](#), which we offer as prosecution's Exhibit 8 in evidence, which is a report of 17 May 1941 by the 60th Motorized Division, which was part of XI Corps, with reference to certain reprisal measures. It is a report about the conditions in the billeting area Lesnica -- Valjevo -- Cacak -- Sjenica -- Prijepolje -- Visegrad. I might say that, just to keep it in mind, the XI Corps was part of the Second Army, as Your Honors will recall.

"The area where the division is quartered is old Serbian territory with the exception of the areas around Visegrad, Prijepolje, and Sjenica. Accordingly the population is almost purely Serbian; Visegrad and its surroundings belong to former Bosnia and have a predominantly Bosnian Mohammedan population. The districts Prijepolje and Sjenica are situated in the Sandschak of Nove Pazar occupied by Austria from 1878 until 1908. The area Prijepolje-Priboj-Nova-Varos is predominantly inhabited by Bosnian Mohammedans mixed with Serbs; the area around Sjenica predominantly by Albanians."

Then when we get down to the Serbian areas, they say that:

"Complete peace exists in the towns and larger villages. So far the population has remained very reserved. It was still living under the effects of the shock of the past events, which only now is beginning to wear off gradually. But one cannot yet say that life has already resumed its accustomed course.

"In the country the population is still occasionally disturbed by armed bands, who force the population to give food by force of arms and do not shrink back from murder in case of refusal. In Pozega and north of Sjenica the division was able to capture armed detachments. The prisoners, altogether nine men and a woman, were shot and hanged according to the order of the commander-in-chief of the Second Army. The unit has not suffered any losses through armed bands.

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"Before the arrival of the division there was a resistance on 21 April during a search in the village of Dobric (three km south of Lesnica) and thereby one lieutenant was killed and one lieutenant and one sergeant were wounded. The village of Dobric was burned in retaliation. The order that 100 Serbs are to be shot for one German killed did not exist at that time."

Now, if we might interrupt for a moment here - this is a report which is dated 17 May and it recites an occurrence in a divisional area of the XI Corps of the Second Army in Yugoslavia, this occurrence having taken place on the 21st and he said that all we did was burn the village because the order for shooting a hundred Serbs didn't exist at that time, so this clearly shows that this order got down to the lower combat units, the division. It continues:

"Brigandage is an occurrence not unusual in the Balkans, and also in peacetimes it has not been possible to have it stopped completely. Since the war these bands have received additions through adventurers, stragglers, and other elements, and have nothing to lose, and on account of the dwindling of the previous state authority, especially the gendarmes' limited ability to act and its political unreliability, they have found a rich field for activity.

"Beside this kind of purely robber bands Serbian political fanatics have united in several places under the name of 'Cetnik'. By terrorizing the population they had to cause the latter to rebel against the German occupation forces, to force the mayors in areas not under Serbian administration to tolerate the Serbian elements of the population. The Cetniks assume the appearance of a large and extensively planned organization."

Now here we have less than a month after the capitulation of Yugoslavia and we have a division commander through his appropriate staff officer reporting to corps command that at this time less than a

month after the capitulation of Serbia the Cetniks assume the appearance of a large and extensively planned organization. Then to continue with the letter:

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"But the fact that they dare to appear only in small and far remote communities proves their true power. In the imagination of the population the Cetniks are surrounded with a much exaggerated halo, which all results in fear of them.

"In the treatment of armed bands, it makes no difference whether they are Cetniks or ordinary robber bands. Anyone who is found with unauthorized weapons has forfeited his life.

"Recently bands have still caused alarm in the area north of Sjenica and in the area northeast of Uzice. The difficulty of access to the mountainous country favors the hiding of such bands and makes search operations extraordinarily difficult. Even after a search has been carried out, it can never be said with certainty that the area covered has actually been mopped up.

"According to a recently received report, the Serbian population in and around Ivanjica takes completely unsuitable self-confident attitude. It seems that it regards the present conditions to be only temporary. The authorities and especially the gendarmes in this area comply with German instructions only very hesitatingly and reluctantly. So far Ivanjica has had no German troops stationed there. It seems necessary to do this in the future to have the German will respected in the area. Purging the Serbian administration there of unreliable elements will be necessary for this.

"Reports from the rural communities concerning threats by bands and calls to the troops for help have often proved to be greatly exaggerated. A detonation in the townhall at Prijepolje, reported to be a bomb attack, was found to be only an accident caused by improper handling of ammunition collected there. Components of the division and vehicles moving singly were not attacked in any instance or ambushed. In the area north of Rogatica a burst of machine gun apparently from the west bank of the Drina was directed in the vicinity (about 200 meters) of a car being driven there. Investigations remained unsuccessful.

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"The Gendarmerie has been set up again in Serbian territory. Its members authorized to carry arms on duty. It is their task to ensure peace and security for the population in cases of reported unrest in the country caused by bands. Only when their power is insufficient will the employment of troops be considered. As long as the Gendarmes remain loyal, it is expedient to employ them extensively and to support them. However, at the present time they need the strictest supervision as their political reliability is concerned.

"The administration in the Serbian territories is being gradually built up again. Control over setting this up rests with the headquarters appointed by the Military Commander of Serbia, administrative sub-area headquarters Uzice, town headquarters at Sabac and at Kosmitrovica. All measures which were effected by the units concerning behavior towards the civilian population must be discussed with these headquarters beforehand, in order to avoid contradicting instructions."

And they continue with areas of mixed population, speaking of Serbian troops being stationed there and employed on guard duty. I don't think we need to read that section. However, it is the last page where they speak of:

"In Sjenica predominantly Albanian Mussulmen live. The Croatian influence is not liked by the population there. For this reason a Croatian detachment of gendarmes, stationed there in the beginning, was withdrawn at the request of the local German commander. The area is also claimed by the Croats, also if possible the entire former Sandschak of Novi Pazar. The main reason for this seems to be to establish a separation, a corridor, so to speak, between old Serbia and Montenegro." And he speaks of "a map showing the areas claimed by the Croats was presented to corps headquarters, XIth Infantry Corps.

"Otherwise opinions are continually arising variously populated territories, mainly among the Mohammedans, who want to have these placed directly under German rule."

And then in summing up:

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"The area where the division is stationed can be regarded as pacified. Occasional disturbances which still occur are not of far-reaching importance. By means of immediate ruthless handling this disorder will be kept within the limits which are usual in this country."

A copy went to the corps, to the administrative sub-area headquarters, and also to the division. I don't know whether or not Your Honors' books contain a document listed [NOKW-1061](#). If they do, that is an error.

The next document is [NOKW-1522](#), which is page 33. This is offered as Exhibit 9, [NOKW-1522](#). It is the directive of Hitler, initialed by Keitel and Jodl, for the attack on Crete, "Action Merkur", and also contains some provisions with reference to the various authority in the Southeast as set forth by the Supreme Commander of the Wehrmacht, Hitler, at this time. It is to be remembered that the campaign, so far as Greece and Yugoslavia, is over, that the attack on Crete which is referred to here, "Operation Merkur", is about to come, that List is in the Southeast with his Twelfth Army, and that this is around the time when Weichs is getting ready to withdraw to Germany to go to the Western Front. The copy which we have here is the eighth copy, the first copy received by OKW as the distribution shows, and it is dated the Fuehrer's Headquarters, 17 May 1941, and is Directive No. 29.

The first paragraph speaks of the aim of the Germans in the Southeast to drive the English from the Balkans and to extend the basis for the commitment of the German planes in the eastern Mediterranean and that it will be improved by the execution of the attack on Crete.

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He then provides, "In the future, the security of the Greek area will be the task of the Italians apart from the exceptions enumerated below. Consequently, German authorities are not to participate in general questions concerning the security and the administration of the country. In particular any activity as mediator desired by the Greeks is to be rejected."

Then he speaks of arrangements made for bringing up supplies and then he gives directions to the Army:

"Only forces urgently required for the security of the supply base for operation 'Merkur', which are to be closely consolidated locally, will remain in Greece; and, a division near Saloniki," where he refers to a map which is Figure 3, that went forward which we have not been able to find, "which is also charged with the security of Lemnos and other islands which might possibly remain occupied.

"Until the conclusion of operation 'Merkur' however, all areas used for jumping, including the islands intended for this purpose, will have to remain in German hands. All forces superfluous in accordance with this regulation are to be withdrawn as speedily as possible.

"The Italian High Command will be instructed to make all arrangements required for the rapid taking over of Greece with the Commander-in-Chief of the 12th Army. He will transfer his headquarters to Saloniki as "Commander-in-Chief of German Troops on the Balkans", that is, referring to Commander List, who at that time was Commander of the 11th Army, this transfer to be made "as soon as the situation (Operation 'Merkur') permits it."

Then he has some directions with reference to the Luftwaffe. The only part we have to be concerned with is the sentence under the fourth line wherein he says: "It has been ordered to cooperate with the 12th Army (Commander of German Troops on the Balkans) for the defense of the Balkan area." Then some additional order with reference to cooperation of the Africa Corps and then "Territorial directives which require coordinated ruling on the Balkans will be issued by the 12th Army for the X Flieger Corps also."

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Then he speaks of the ground personnel, and then turning to the Navy, there are some directives for them which are concluded. I don't think we have to read those. At the end it says:

"The German Wehrmacht alone is the authority concerning all military measures around Saloniki. The exact delimitation of this area will be suggested by OKH (Commander-in-Chief of the German Troops on the Balkans.)

"4.) OKH will regulate the Administration of Greek areas to be occupied by German troops by agreement with the Plenipotentiary of the German Reich in Greece. As far as possible, the Greek Administration is to be used and German offices should not be installed.

"5.) 'Military Commander Serbia' is to receive from OKH all the authority and the security troops required for the fulfillment of his urgent economic tasks in order to enable him to complete his mission independently.

"6.) I am expecting reports of the Commanders-in-Chief concerning the measures taken, pursuant to this directive and arrangements made with the Italians."

Now, from this letter it is apparent that at this time the Military Commanders Serbia were acting independently. However, we shall see shortly where the Military Commander Serbia was brought under

the command of the defendant List when he becomes the Armed Forces Commander Southeast. And, this distribution list shows how the orders went out from the Wehrmacht, that is OKW, and a little later we have the same order going from the Wehrmacht to OKW, that is, from OKW to OKH, and then on down, so your Honors can see how that is handled.

The next order is Document [NOKW-1382](#) which we offer as Exhibit 10. This, if your Honors please, is the one which has reference to the collection of free Mason lodges and materials from Jewish organizations which was referred to earlier in the unsigned letter which was offered and rejected. This is a report from the Commander of the Rear Army Area 560 and it is dated 21 May 1941, Athens.

"Subject: Commitment of the offices of Reich leader Rosenberg in the army area.

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In compliance with the orders of the 12th Army," at that time it was commanded by the defendant List, "of 19 April 1941, Department 1c/AO No. 1031/41 Secret, there is in operation, in the area of the 12th Army a special detachment of Reichs leader Rosenberg which has the task of examining state libraries, archives and offices of the high church authorities, Free Mason lodges and Jewish organizations for political incidents directed against the Reich and of having the material in question confiscated.

"The special Detachment Rosenberg - Lieutenant von Ingram - is subordinated to the Commandant of the Rear Army Area, until further notice; the Headquarters of the office is Athens. The address reads as follows:

"Special Detachment Rosenberg, Field Post No. 14894. In Saloniki, in consideration of the exceptional propagation and the influence of the Jewry there, a permanent work group will be established there soon.

"By an order of the 5th of May, the Special Detachment in Athens has already been assigned for administrative purposes to the administrative sub-area headquarters 811. In the same way, the assignment for administrative purposes of the work group Saloniki will be made to the administrative sub-area headquarters there.

"The administrative sub-area and local headquarters will be informed concerning the activities of the Special Detachment Rosenberg and will be instructed to give every possible support to the Representative of Reich Leader Rosenberg in the execution of his tasks. To carry out confiscations, officials of the Secret Field Police, Geheime Feldpolizei, may be assigned on request to the Special Detachment.

"At the same time, the administrative sub-area and local headquarters are instructed to report from time to time concerning Free Mason lodges, synagogues and Jewish organizations of all kinds as they become known."

"For the Commandant Rear Army Area.

The Quartermaster, (Signature illegible) Lt. Colonel (initial illegible)."Now this task force Rosenberg which we will be able to better identify the works of Mr. Rosenberg at a later time, is here shown to be subordinate to the Commandant of the Army Rear Area.

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The local Headquarters and sub-area headquarters to which they are attached is only for administrative purposes and it is to be noted that this unit is commanded by a Lieutenant, and Army officer; that they have one now working in Athens; that they will set one up in Saloniki and that in cases they need them they can call upon the Secret Field Police to help them out whenever special confiscations are made.

The next document is [NOKW-929](#) which is offered as Exhibit 11 and is an affidavit.

THE PRESIDENT: Mr. Denney, before you start in with this exhibit it is now very close to 1215. The Tribunal is inclined to try an experiment to see whether we make haste by giving a little time. We shall adjourn now until 1:30.

(A recess was taken until 1330 hours)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours 16 July 1947.)

THE MARSHAL: All persons in the courtroom will please take their seats.

The Tribunal is again in session.

THE PRESIDENT: May I inquire of counsel for the defendants as to whether or not they have had sufficient time for lunch?

DR. LATERNSE: Yes, Your Honor.

THE PRESIDENT: Very well.

MR. DENNEY: May it please your Honors, the next document is NOKW-929 which is a combination of an affidavit by the defendant Foertsch dated -

THE PRESIDENT: What page, please?

MR. DENNEY: I am sorry, sir -- page 40, Document Book I, page four zero, dated March 18, 1947; and in conjunction with it is submitted his service record, the whole exhibit being -- I beg Your Honors' pardon -- 929 is Exhibit No. 11. Is that right, Major Hatfield?

MAJOR HATFIELD: Yes, Sir.

MR. DENNEY: 929 is received as No, 11 but we haven't gone into it. The next one is 1559 which is a service record, which will be 12.

THE PRESIDENT: I believe it might be well to read this affidavit because it gives a fairly short but complete description of the defendant's military career and perhaps can save some time later on.

THE PRESIDENT: May I inquire as to what the document is to which you are referring?

MR. DENNEY: 929, NOKW, Your Honor. It is on page 40.

"I was born as the son of a manager of an estate in Frahnów (West Prussia) on April 4, 1885. I attended the elementary school for three years. I then went to the Humanistische Gymnasium in Filehne and later in Schneidemühl. I graduated from the last named in spring 1913. I joined the 175th Infantry Regiment in Graudenz as an officer candidate in March 1913.

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After having been assigned to the war academy in Potsdam (November 1913 until July 1914) I was assigned to the 175th Infantry Regiment with the rank of lieutenant. With this regiment I went to the front as a Platoon Leader. And I participated in the battles of the XVII Infantry Corps in East Prussia, Poland and on the Western Front. I was transferred to the 7th Assault Battalion as Company Commander and fought in the West until the end of the war. In 1919/20, I commanded a volunteer company with the rank of first lieutenant (since 1917). I was employed for the security of the Army Command and also in combatting interior unrest. In World War I, I received the Iron Cross 2nd Class in 1914, the Iron Cross 1st Class in 1916 and the Order of the House of Hohenzollern in 1918. 1921-25 I was assigned to the Training Course for assistant chiefs of Staff, two years with the Münster (Westphalia) Wehrkreis, one year with the 17th Infantry Regiment in Brunswick, 2 years with the Reichs Wehr Ministry in Berlin. Of the last mentioned, I spend one year as Ordonnanzoffizier (Adjutant) of the Chief of the truppenamt. Having successfully concluded my training as assistant Chief of Staff I became Press liaison officer in the Reichs Wehr Ministry from 1925 to 1930 and I was charged with evaluating and advising the German Press and the Military Periodicals. I was promoted to Captain in 1926. I was Company Commander of a rifle company in the 17th Infantry Regiment in Göttingen from April 1930 to August 1932. After that I was transferred to the Reichs Wehr Ministry as Press Chief of the Ministry with the rank of Major. Later I became a section Chief "Inland" (Internal Affairs) and I was charged with handling all general problems pertaining to the Wehrmacht. I was transferred to Treptow (Pomerania) as a Battalion Commander in the 4th Infantry Regiment. There I was promoted to lieutenant Colonel in 1936. In fall, 1936, I was assigned to substitute for a sick instructor in the War Academy in Berlin. Subsequently I was transferred there. I became a Colonel in 1938. At the outbreak of World War II, I was Chief of Staff of Wehrkreis VIII in Breslau.

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After the Polish campaign I became Chief of General Staff of the XXVIth Infantry Corps in the West. In the fall of 1940 I became Commanding General of the General Staff Courses in Berlin. I participated in the Balkan Campaign as Liaison Officer of the OKH with the 12th Army. I became Chief of General Staff of the 12th Army in May 1941. In 1942 I was promoted to Generalmajor (Brigadier General). I remained in the Southeast as Chief of General Staff of Army Group E and later of Army Group F. From 1943 on I had the rank of Generalleutnant (Major General). I was appointed Commanding Officer of the 21st Infantry Division in the Northern Sector of the Eastern Front in Summer of 1944. Subsequently I was promoted to General der Infanterie (Lieutenant General) and was Commanding

Officer of the Xth Army Corps until December 1944. After an interval I took over the command of the 1st Army on the Western Frontier of the Reich on 2.3.45 I remained in this position until the end of the War. On 4.5.45 I signed the surrender of Army Group G in Haar near Munich.- In World War II, in 1940, I was decorated with clasps to the Iron Cross 2nd and 1st Class. In 1943 I received the German Cross in Gold and in 1944 the Knights Cross to the Iron Cross.

"I have been married since 1924. I have three sons who were born in 1925, 1928 and 1934 respectively. The oldest son - an Army Lieutenant - has been missing since January 1945.

"I have never belonged to any party or any other organization. I have been a regular Army Officer without any break.

"From 1927 to 1939 several of my writings of a military nature were published, particularly in the daily press and in military periodicals. My most important book published is entitled "Kriegskunst heute und morgen" (The Art of Warfare Today and Tomorrow). It appeared in Spring 1939 and has been translated into several languages. It was also published in the United States of America."

And then follows the jurat in which he says he has read the statement in the German language and believes it to be true and he has had the opportunity to make changes and corrections and made the statement voluntarily without any promise of reward and was neither threatened nor compelled to do so, signed by defendant Foertsch.

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On the German there appears a statement by the witness Kreilishheim which is missing on the English. He was the man who took the statement.

The next exhibit which has already been offered as Exhibit 12, starting on page 43, is the service record of the defendant Foertsch. On the first page in the English, over in the lefthand column under "Home address" the letter "T" should be the first letter on the third line. I don't think it is correct in the German, not that it makes any difference.

Now, the service record as such is not of importance until we get to the period 1941, which states on the 10th of May, 1941 -- on the first page, page 43 -- he became Chief of Staff of the 12th Army and to the recitation there is "Chief of Staff Army Group E" but there is no date to the left and I don't know what that applies to. The date may have been omitted in the translation. In any event, the arrangement, the statement of May 5, Chief of General Staff, 12th Army, is what we are concerned with at this point and later the date of 15 October 1943 when he became Chief of the General Staff Army Group F.

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Turning then to page 3 of the personnel report, there are various reports by other defendants on April 1, 1942, which was the tie in with the 12th Army when the defendant Kuntze was in command, the defendant Foertsch was Chief of Staff to him, and it was some two or three months prior to Kuntze departing, which took place in August of 1942.

Kuntze had this to say about him:

Outspoken, leadership personality, systematic, energetic, enthusiastic, intelligent. Excellent General Staff Office. Fully proven as teacher and educator. Good in word and writing. Adapted for Chief of the Generalstaff in an Army Group, Division Commander.

1.3.43 Loehr: Proven excellent as Chief of The General Staff. Mentally superior personality, of rare military and general knowledge. Knows how to represent the German point of view without friction to those allied with the Germans. Always proven as a collaborator Commander in Chief far above average. CG of an Infantry Corps.

24.8.43, Loehr: Filled office further in a distinguished manner.

11.4.44, Freiherr von Weichs: Commander in Chief Army Group F. Proven excellent as Chief of the General Staff. Good expert on the Balkans. Always proven as collaborator and advisor to the Commander in Chief. Mentally superior, especially comprehensive military and general knowledge and interests. Physically fully fit for service. Led the Staff with a firm hand. Superior. CG of an Infantry Corps.

From 25.44 made available by Personnel 3 – for use in other Quarters.

I think that those are all that we need to read of the recommendations. However, I believe it is apparent that his commander regarded him as a strong personality, one who led the staff of which he was chief, and that he served as an able adviser to his Commander-in-Chief.

The last page of the record of service shows principally his pro motions, which have already been read in the affidavit.

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He set forth there the various ranks he held, and the times he received them, and I do not think there is any need to go into it further at this time.

The next document is 484, NOKW, which is an insert that I do not believe your Honors have in the document book, but we will hand it up at the present time, so that counsel for defense may not be worried. It is a copy of the Commissar order, substantially the same as the one which you have in the book, except that it is the order issued from OKW, the one you have in your book is the one from OKH, and this is offered purely in order that the court may see the method of distribution. It is not very often that we are able to get both OKW and an OKH release on the same order. And in view of the fact that the next exhibit has some additions to it the order is OKW 484, which we offered as Exhibit 13, and will be commented upon but briefly with reference to the distribution list. We will go more fully into the contents of the order in the next document.

This order is dated 6 June 1941, and is from Fuhrer Headquarters OKW, the 10th copy of 20 copies, and I would call your Honor's attention to the instructions here issued by Warlimont, [NOKW to](#) the effect that distribution is to be carried down to Commanders-in-Chief of Armies, or Chiefs of the Luftwaffe only and that the Commanders and Kommandeurs be informed orally, and that is placed for the Chief of the High Command of the Wehrmacht.

This distribution list which occurs just below the signature of Warlimont shows that:

High Command of the Army Operations Department 1st copy General Quarters 2nd copy General for Special Purpose at the High Command of the Army 3rd and 4th copy Commander of the Luftwaffe/Luftwaffe Operations Staff 5th copy General Quarters 6th copy Commander of the Navy/Naval Operations Staff 7th copy OKW/WFSt 8th copy and so on.

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The next exhibit which is [NOKW 1076](#), which we offer as Exhibit 14, is the same, with the addition of the first page, which is dated 8 June 1941, and as your Honors can see, this came from the Army High Command Headquarters the OKH, and encloses all of the orders as received from OKW, with of course, a different distribution list, which appears at the end of the order here.

The instructions which are contained, are the same except for two additions which Field Marshal von Brauchitsch, who was still at that time the head of OKH added on the first page, "Action taken against a political commissar must be based on the fact that the person in question has shown by a special, recognizable act or attitude, that he opposed or will in future oppose the Wehrmacht". He states further that "political commissars attached to the troops should be segregated and dealt with by order of an officer, inconspicuously and outside the proper battle zone".

The second page of the order contains the original order, with the suggestion, or the order by Warlimont for the Chief of the Supreme Command of the Armed Forces, reciting that this is the enclosed directives for the treatment of political Commissars and the aforementioned limitation on distribution with the warning to give it to Junior Commanders by word of mouth.

On page 3 of Exhibit 14, NOKW, 1076, the directive starts;

Directives for the treatment of political commissars When fighting Bolshevism one can not count on the enemy acting in accordance with the principles of humanity or International Law.

In particular it must be expected that the treatment of our prisoners by the political commissars of all types who are the true pillars of resistance, will be cruel, inhuman and dictated by hate.

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The troops must realize:

- 1.) That in this fight it is wrong to treat such elements with clemency and consideration in accordance with International Law. They are a menace to our own safety and to the rapid pacification of the conquered territories.
- 2.) That the originators of the Asiatic barbaric methods of fighting are the political commissars. They must be dealt with promptly and with the utmost severity.

Therefore, if taken while fighting or offering resistance they must, on principle, be shot immediately.

For the rest, the following instructions will apply:

I. Theatre of Operations.

1) Political commissars who oppose our troops will be dealt with in accordance with the "decree concerning jurisdiction in the "Barbarossa" area".

"Barbarossa", if your Honor Pleases is the code name which was applied for the planned invasion of Russia. In all of these operations I think it has become apparent that the German High Command used a name which they applied for the operation while it was being planned; and "Barbarossa" was the name applied to the planned invasion of Russia.

"Political commissars are recognisable by their special insignia - red star with an inwoven golden hammer and sickle on the sleeves (for details see 'The Armed Forces of the USSR' OKH/GenStdH Army High Command/General Staff of the Army) Then there are some more figures and:

They are to be segregated at once e.c. while still on the battlefield; from the prisoners of war. This is necessary in order to deprive them of any possibility of influencing the captured soldiers. These commissars will not be recognized as soldiers; the protection granted to prisoners of war in accordance with International Law will not apply to them. After having been segregated they are to be dealt with.

3.) Political commissars who are not guilty of any hostile act or are not suspected of such will remain unmolested for the time being. Only in the course of a deeper penetration into the country will it be possible to decide whether officials who remained in their positions can be left where they are, or should be handed over to the "Sonderkommandos". The latter should preferably scrutinize those cases themselves.

As a matter of principle, when deliberating the question of "guilty or not guilty", the personal impression received of the commissar's outlook and attitude should be considered of greater importance than the facts of the case which may not be decisive.

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4.) In cases 1) and 2) a brief report (report form) on the incident is to be submitted:

a) to the Division (Ic) (Field Intelligence Officer) by troops subordinated to a Division.

b) to the Corps Command or other respective Commands, as follows (Ic) by troops directly subordinated to a Corps Command, an Army High Command or the Command of an Army Group, or Armoured Group.

Pencil Note: G MISC/ 1/30 (Page 3 of original) Rubber Stamp:

2047/142

5.) None of the above mentioned measures must delay the progress of operations. Combat troops should therefore refrain from systematic rounding-up and mopping-up measures.

II. In the Rear Areas Commissars arrested in the rear area on account of doubtful behaviour are to be handed over to the "Einsatzgruppe" or the "Einsatzkommandos" of the SS security Service (SD) respectively.

III. Restriction with regard to Court Martials and Summary Courts The Court Martials and Summary Courts of regimental and other commanders must not be entrusted with the carrying out of the measures as under I and II.

Pencil Note: G MISC/ 1/31

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MR. DENNEY: And then follows a distribution list, and it is to be noted that the eleventh copy of this order went to the High Command of the 2nd Army, which was , at that time, commanded by the Defendant Weichs. It was pointed out yesterday that it is to be noted that this order was issued from OKW on 6 June, which was some fifteen days prior to the invasion of Russia, and that it was passed down by OKH two days later, when there still was no war, so far as the units that are concerned with the Russian campaign are concerned. We now come to Document 454-PS, which is offered as Exhibit 15. It's a Hitler order of 9 June 1941, which goes to all branches, from the Wehrmacht, and also one to List, as the Wehrmacht Commander Southeast. This order of Hitler is the one which sets up the Armed Forces Command Southeast. This order of Hitler is the one which sets up the Armed Forces Command Southeast. It's dated 9 June 1941 and is from Hitler, Order No. 31.

In order to create clear and unified conditions of command in the occupied Balkan area, I give the following commands:

1.) To be "Wehrmacht Commander in the Southeast" with headquarters in Salonika, I nominate Field Marshal LIST.

The Wehrmacht Commander, South east is the supreme representative of the Wehrmacht in the Balkans and exercises executive authority in the territories occupies by German troops.

The Wehrmacht Commander Southeast is, as such, directly subordinated to me.

2.) To the Wehrmacht Commander Southeast are subordinated:

a) For the area old area Serbia:

The "Commander Serbia" (Lt. Gen.

anti-aircraft artillery, von Schroeder)

b) For the area Soloniki and the Island Lemnos, Mytilone, Chios and Skyros:

the "Commander Saloniki- Aegea" (to be filled by OKH)

c) For the territories Athens, Crete, Kythera, Antikythera and Melos:

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The "Commander of Southern Greece" (to be filled by the C-in-C of the Air Corps)

3.) With the exception of the conduct of offensive air warfare, the Wehrmacht Commander Southeast is to bring together in a unified control all military questions of the Wehrmacht which arise from the

occupation: security, supply, transport, and communication affairs of the occupied Southeast area. This is to be done for all three Wehrmacht branches. And he is to make decisions in terms of the overall responsibility which falls to the Wehrmacht in the Southeast area. In this way, the leadership will be simplified, the branches of the Wehrmacht will be relieved of the many individual questions and differences of opinion which are the inevitable result of having all Wehrmacht branches working side by side in the same area.

The following is incumbent on the Wehrmacht Commander Southeast in detail:

A. The safeguarding of the unified defense of those parts of Serbia and Greece which are occupied by the German troops, including the Greek Islands, against attacks and unrest.

Besides the Commanders named who are responsible for the defense as directed by him in their spheres, the following are also subordinated to him in these questions: The Admiral Southeast and the Commander in Luftgau Balkans. Both staffs are to be organized within the staff of the Wehrmacht Commander. The Wehrmacht Commander Southeast, determines also to what extent the staffs of the commanders of Salonika-Aegea and Southern Greece subordinated to him are to be united with offices of the other Wehrmacht branches.

b. The centralized direction of the necessarily comprehensive ocean transport movements in the near future to and from Crete and the security thereof:

c. Organized direction of the cooperation with the Italians and -

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so far as necessary -- with the Bulgarian Wehrmacht in the Balkans.

d. The control of supply on land and on sea for all the Wehrmacht branches deployed in the Balkans in accordance with their demands and the measure of the transport space available;

e. Supervision over the Military Administration to be exercised by the commanders in the territories occupied by the German troops.

4.) The Wehrmacht Commander Southeast has all the powers of a territorial commander in the parts of Serbia and Greece, including the Greek Islands which are occupied by German troops.

The areas occupied exclusively by German troops are operational territory. Here the Wehrmacht Commander Southeast exercises executive power through the Commander subordinated to him.

In the territories belonging to the Italian occupied area in which German troops are quartered, he exercises Military Sovereign Rights for all Wehrmacht Branches insofar as is required by the military mission of the German Wehrmacht.

5.) The limitation of powers of the Wehrmacht Commander Southeast against the "Plenipotentiary of the Reich for Greece". (see supplement).

6.) The Island of Crete occupies a special position in the Southeast area:

It is the operational territory from which air warfare in the Eastern Mediterranean Sea in conformity with the situation in North Africa is to be continued (see No. 7) Organization and construction of this base, its security and its provisioning is at the moment the most urgent mission in the Southeast area.

Being an operational base of the Air Corps, the Island of Crete is to be subordinated as a fortress to a special commander (Commandant) of the Air Corps.

This person exercises executive power in accordance with the general directives of the Wehrmacht Commander Southeast, as a Plenipotentiary (or for) the Commander of South Greece. He is responsible for the unified defense of the Island with all the troops located there and which are subordinated to him for this purpose.

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Also, the installations of the Army necessary for the War Administration are under his command.

The Eastern part of the Island to a general line, the western edge of the Bay of Meranbelo to Jerapetra inclusive, is assigned to the Italian occupation. It is subordinated to the Commandant of the Island in all tactical questions which refer to the unified defense of the Island.

7.) Air Warfare in the Eastern Mediterranean is to be conducted according to the orders of the Commander-in-Chief of the Luftwaffe.

The necessary arrangements are to be made directly by him with the Italian Luftwaffe.

Through the Admiral Southeast and in collaboration with the Italian Navy and the X Flieger-Korps the Wehrmacht Commander Southeast regulates the transport of troops and the sending of reinforcements by sea as well as the necessary security on the water or from the air.

The cooperation of the Admiral Southeast with the Rumanian and Bulgarian Navy and questions pertaining to operational naval warfare in case they should arise in the Eastern Mediterranean, are to be regulated by the Commander in Chief of the Navy, directly with the Admiral Southeast.

9.) The order 29 of 17 May 41 is rescinded insofar as it is superseded by the above orders.

Signed: Adolf Hitler Certified Wien Major-General Staff Corps

MR. DENNEY: For the distribution of this the first three copies went to Commander-in-Chief of the Army (Operations Branch), Commander-in-Chief of the Navy (Operations Division), and Commander-in-Chief of the Luftwaffe (Luftwaffe Operations Staff -to the OKH, OKM, and OKL, the Army, Navy, and the Luftwaffe. And the fourth copy went to the Wehrmacht Commander Southeast, the Defendant List.

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This Order 29, which is referred to here, is Exhibit No. 9, which has been received in evidence. Now, on the next page there are some "Limitation of Powers of 'Reich Plenipotentiary for Greece' and the 'Wehrmacht Commander in the Southeast.'" They provide that "The relations.....

1. The relations of the "Reich Plenipotentiary for Greece" and the "Wehrmacht Commander in the Southeast" to one another and to the Greek Government are to be noted from the following reasons.

a.) Fuhrer decree of 28 April 41 for the "Plenipotentiary of the Reich for Greece".

"1. I nominate a "Plenipotentiary of the Reich for Greece". His office is to be Athens.

"2. The plenipotentiary of the Reich has to represent the political, economic, and cultural interests of the Reich in Greece with the new Greek Government until assumption of formal diplomatic relationships with Greece.

"3. Further, the plenipotentiary of the Reich must maintain whatever contact with the Italian occupation he finds necessary for the execution of his duties.

b.) The right of the "Wehrmacht Commander in the Southeast" to exercise power in the territory occupied by the German troops.

II. The Wehrmacht Commander Southeast has to support the Reich Plenipotentiary in every respect and to concur with him in the measures he prepares for Greece.

III. Duties in the political , economic and cultural fields will in general devolve on the Reich Plenipotentiary for Greece. Negotiations with the Greek Government with respect to the interests of the Reich along these lines are incumbent on him.

In so far as the current business relative to the territory occupied by the German troops is concerned, agreements will take place on the spot between the plenipotentiary of the Reich and the Wehrmacht Commander Southeast.

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The Reich Plenipotentiary for Greece is to keep the Wehrmacht Commander Southeast informed on foreign political questions, a knowledge of which is necessary for the execution of his military duties.

IV. In the case of military orders which may have foreign political reactions, the Wehrmacht Commander Southeast is to establish agreement with the Reich Plenipotentiary for Greece first i.e., in so far as the military situation permits.

V. Control of propaganda in Greece is the duty of the Foreign Office, which is to cooperate with the High Command of the Wehrmacht (WFSt/Wehrmacht Propaganda Office) in this matter.

Handwritten /Initial W

MR. DENNEY: At this time the authority of the Defendant List in the Southeast was clearly setup. It was also at this time that the Defendant Foertsch, who had come to this theatre as Chief of Staff to List early in May, went along with him as Chief of Staff for the entire theatre, that is, as Armed Forces Commander Southeast, in addition to his duties as Commander in Chief of the 12th Army. And, of course , Foertsch maintained his post as Chief of Staff for both units. The threat of List's power in the Southeast I believe is apparent from the Hitler order.

The next document is [NOKW-1432](#), which is offered as Exhibit 16 in evidence. This is a Keitel order which contains regulations for the execution of Directive No. 31, and it's dated, Hitler Headquarters, 15 June 1941.

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- 1.) By the appointment of General Field Marshal List to Wehrmacht Commander Southeast his position and duties as Commander-in-Chief of the 12th Army remains unaffected.
- 2.) The Wehrmacht Commander Southeast is the sole Command Authority of the Wehrmacht on the Balkans concerning all those duties for which he is responsible, pursuant to direction 31. And Directive 31 is the order of 9 June which we have just read.

The High Commands of the branches of the Wehrmacht and the offices of the OKW have been instructed to organize communication with their offices in this area accordingly.

The incorporation of the staffs of Admiral Southeast and of Commander of the Luftgau Balkans may be supplied by liaison detachments of these offices with the staff of Wehrmacht Commander Southeast in as far as the situation requires a transfer of the Navy and Luftwaffe offices to other places.

- 3.) Administrative offices will be put at the disposal of the Wehrmacht Commander Southeast by OKH.

Administrative procedure is regulated according to the general rules and directives issued by OKH. In basic problems it will be regulated according to directives issued by OKH/WEST/1.

- 5.) This next stamp which appears here appears at the bottom of the first page of the photostat and is the receipt stamp of 12th Army showing that this title order was received by them on that date. Liaison with the Italian armed forces for the Greek mainland is to be established with the Commander-in-Chief of the Italian 11th Army. Liaison for the Aegean is to be established with the Governor of Rhodes. In basic questions, liaison is to be established directly with the High Command of the Italian Armed Forces (via OKW or via the German General with the High Command or the Italian armed forces.)

- 6.) The Wehrmacht Commander will be informed by the respective offices of the OKW concerning current military, political and economic directives and events.

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The Wehrmacht units will regulate the delivery of gazettes.

- 7.) Reports will be made as follows:

- a) Daily situation reports before 2 o'clock to OKW and OKH concerning the events of the previous day.
- b) Monthly reports to OKH with copy for OKW concerning the problems of military administration.

8.) Requisitions for personnel – officers, officials and auxiliary personnel – for the execution of Wehrmacht duties are to be sent to OKW Central Section of Armed Forces High Command as far as necessary – for all three branches of the Wehrmacht.

This order was issued by Keitel from OKW and it had the same distribution as the Directive No. 31 which, as we have seen, went to OKW, OKH, OKL, OKM, and the next copy going to the defendant List, and of course coming to him through his chief of staff to defendant Foertsch.

The next document –

DR. LATERNER: Your Honors, may I please ask the prosecutor to speak a little slower so that translation mistakes which appear in the documents can be found by me? I would ask him to speak a little slower, please.

THE PRESIDENT: I am certain that Mr. Denney will comply with your request.

MR. DENNEY: Certainly, sir. I am sorry if I have been going too fast.

The next document is [NOKW-1148](#) which we offer as Exhibit 17 and as the document is contained in the document book the pages are reversed. However, it doesn't make any difference in the English. The second letter which appears on page 64 which–

THE PRESIDENT: On what page, please?

MR. DENNEY: On page 64, your Honor, which is from General von Schroeder, General of the Anti-Aircraft Artillery, to the Military Commander in Serbia as of this date enclose the letter which starts on page 63. It is just a matter of the letters having been reversed. There were two separate pages originally and as they mimeographed them, one ran over so I shall read the second letter, the one which appears on page 64, which is dated 22 June 1941 and headed "The Military Commander in Serbia" and signed "von Schroeder" first.

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The Military Commander in Serbia Belgrade 22 June 1941 Enclosed you will find a letter from the Chief of my Administrative Staff to the Serbian Minister Commissioner Acimovic.

I have ordered reinforced employment of the Serbian Police and Gendarmerie Agents. They are to be supported in every way. They will turn directly to the agents and/or the troops subordinate to me if danger threatens, i.e., if the local commander of the Serbian police forces no longer believes himself master of the situation.

Moreover if a general employment of the troops should become necessary pertinent orders will be issued by central authority.

There follows the distribution list on the next page and the letter which he encloses is one from the administrative staff, military commander in Serbia. It is addressed to the Minister Commissioner of the Interior, Belgrade 22 June 1941.

On the basis of the latest events of the war I request that the arrest of all leading Communists be carried out immediately, as discussed with you previously, and the Police President of Belgrade be instructed to have the leading Communists of the City of Belgrade which are known to him arrested. These persons are to be interned on the Zigeunerinsel. Later on these as well as other Criminal Elements arrested in the country and Communists are to be transferred to the concentration camp which you have been directed to erect. Simultaneously, you are to see that all Rod Spain fighters are to be arrested this very night.

Furthermore I request that the Police President be given the following directives:

1. The Police are to increase street patrols. As ordered before, the police are to organize the night duty details also.

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2. The Police President is to issue the necessary directives for the special guard of public buildings and other important installations.

In order to facilitate these tasks, I shall see to it that the necessary arms coming from captured materiel be placed at the disposal of the Serbian Police.

Simultaneously, the German troops will be informed of these directives and will be requested to render assistance to the police if necessary.

In conclusion, I should like to direct your special attention to the cities of Nish, Dragujevac, Uzice, Cacak, Rtanj and the Trepca Mines as well as to the mines of Bor.

Report of completion of mission is requested.

For the Military Commander in Serbia The Chief of the Military Staff (signed) Turner Councillor of State It is here again that we see a reference to concentration camps and the arrest of people solely because of the political affiliation that they have, and the dates of this letter are substantially after the time 9 June of the Hitler order and again after the Keitel order direction which is the 15th of June, a week later, and for a week following the time when the defendant List became the armed forces commander for all of the Southeast.

The next document which is [NOKW-902](#) is an extract from the war diary of the Military Commander of Serbia. It is offered as Exhibit 18. I don't think we need to read all of it. The entry for 5 July 1941 states that thirteen communists and Jews were shot to death and gives as the reason "in an air raid cellar next to the square, where a big demonstration of German Nationals was to take place, 423 packages of explosives were found.

"On the 17th of July 1941, 16 communists were shot to death in Belgrade. Others were arrested and arms were found.

And over to the 19th of July, 1941. "During the illness of the Commander, Colonel von Kaisenberg was at first to become Deputy Commander; by order of Wehrmacht Commander Southeast, General of the Artillery Bader will take over the affairs of the Commander."

Bader, it is believed, if your Honors please, is dead. Then it continues "During the leave of General Field Marshal List, General of the Air Corps, Felmy, one the defendants, shall be Deputy Wehrmacht Commander Southeast."

These reports are the first of a very extensive number which will be submitted and it is submitted that they indicate the rather casual way that they were accustomed to dealing with the questions of the shootings of Jews and communists. No reasons are given. There is a reason given for the first one but there is no connection which is set forth in the report between the finding of the explosive and the execution other than that the explosives were found and then the people were killed.

In [NOKW-1036](#), which is Exhibit 19, I will put this in at this time and at a later time we will connect it with the retaliatory measures which took place. This original document -- that is, the photostat which we have has the initials of the defendant Foertsch on it. This is a communication to the 12th Army from the 65th Corps; which was commanded by Bader and which was under 12th Army, 65th Corps, at that time was in Yugoslavia. It was receipted for on the 19th of July, 1941, and is addressed to the Supreme Commander Southeast and also the Supreme Commander of the 12th Army. The actual photostat is the photostat of a teletype; however, the teletype is pasted on a blank such as I believe is familiar to your Honors for the use of teletype and it is on the bank where the 12th Army that the pencil or pen written initials of the defendant Foertsch appeared.

Of course it was addressed to his Chief, the defendant List, and the teletype recites; "Automobile of the Commanding Officer of the 724th Infantry Regiment, General Lontschar fired on 20 kilometers South of Valjevo. General uninjured. 1 officer shot in lung." It is from Roman 65 Corps Command Branch," which is 65th Chief Commander. Written below, not as apart of the telegram, there appears, in German "What counter measures?" and then the question below that , again on the blank, not on the teletype print, "Why no hostages in Valjevo?" Then below that, over to the right is the initial F, or rather the signature of the defendant Foertsch. On Your Honors' copy to the left it says 19 September. That is not correct. That should be 19 July.

The next document is No. [NO-2942](#) which is offered as Exhibit 20. This is a report of events by the Chief of the Security Police and the SD in Berlin, dated 19 July 1942 and recites the report from one of their Einsatzgruppe in Yugoslavia which tells of some orders by the military Commander in Serbia. These are given in July, after the time when the defendant List became Armed Forces Commander Southeast and continued his post as Commanding General 12th Army. The first part is of no importance. It has to do with the Political Review in the Reich. Party (b) says, "Other occupied territories: Yugoslavia:

"Einsatzgruppe Belgrade reports:

"The long distance cable in the city area of Belgrade was cut during the night from 16 to 17 July 41, Military Commander Serbia has ordered the shooting to death of a number of leading communists as a reprisal measure.

16 Communist functionaries and Jews were shot to death by the Serbian Gendarmerie."

The report isn't clear whether these were shot separately or whether these were reprisal measures for the alleged cable cutting on 16 and 17 July, In any event, it is clear that here the Chief of the Security police and the SD is reporting that the Military Commander Serbia gave these orders and that the people that they specify is that they be a member of, or a leading communist.

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There is nothing to show that they knew who cut the cables, whether they were communists or perhaps some other group doesn't appear. Then we have a report from Einsatzkommando Zagreb reports:

"In the night of July 14, 140 leading Croatian Communists escaped from the Croatian concentration camp Kerestines near Samobor, The inmates had captured the camp commander and threatened to kill him. The Communists escaped to the surrounding woods. One third of the persons who had escaped have been recaptured up to now. The rest is approaching the German-Controller border. Suitable security measures for the arrest of the Communists were taken immediately by the Croatian Security Police.

"A land area of Zagreb has been blocked off by the Ustasha Police. Meanwhile a member of the people who had escaped were caught and shot to death. Probably 70 Communists were shot to death as compared with 6 members of the guard of the concentration cap who were murdered. The Croatian Police intends to arrest an additional 300 communists. The majority of them will be shot to death by the summary court martial procedure as a reprisal measure."

And, it is to be noted that the distribution list on this report from the Security Police SD in Berlin sends a copy to the OKW Operation Staff Lieutenant Colonel Tippelskirch.

The next report is an additional report of the Chief of the Security Police and of the SD, Berlin 20 July 1941, and again we are concerned with a report on Yugoslavia. This document ties in, if your Honors please, with the document No. 19 which speaks of the General being fired on. Your Honors will recall that that was a report to the High Command by the 65th Corps. Here we see the SD---

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THE PRESIDENT: Mr. Denney, pardon me, I do not believe you have identified it by number, have you?

MR. DENNEY: This new one, 2943, Your Honor, will be Exhibit 21. The first teletype is dated 19 July and here a day later we got a report on it out of Berlin and this confirms the idea which was conveyed, in the early report about the Military Commander in Serbia giving orders to the Security Police in the SD under Yugoslavia:

"The German General Lomtscha, Division General of Uzice was fired on by bandits on the road between Uzice and Valjevo on 18 July 41 in the afternoon. The general was not hit, his executive officer was shot in the chest. By order of the Military Commander Serbia an operation was initiated with the task of searching for roving bands in the entire territory. This operation was carried out on 19 July 1941 by two companies of the German municipal Police Corps and the troops stationed in Uzico in cooperation with the Serbian Gendarmeria and the Einsatzgruppe of the Security Police and of the SD. Measures are being taken to confiscate all radio sets from the population. It is further intended to reduce basic rations in order to prevent the population from giving economic assistance to the bands in the forests, Curfew in this area is set for 1900 hours. Persons found on the street after 1900 hours will be shot to death. In addition 10 hostages are seized in each village. These measures will be made known by means of posters in the villages."

Then there is the additional note that the population must feed the German troops, who have been dispatched into these areas, for the duration of the occupation.

And, here again a copy of this document went to the OKW Operation Staff Lieutenant Colonel Tippelskirch. We have the Military Commander in Serbia who was under the defendant List giving an order which calls for the combined action of German police corps and German troops stationed, in Yugoslavia, Serbian Gendarmeria, and Einsatzgruppe of the Security Police of the SD.

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DR. LATERNSE: Your Honor, I regret having to intervene again, but at this moment I must point out a translation mistake which has caused this conclusion by the prosecution. I would like to point out that the German original is as follows: "By direction' of the Military Commander" and not as translated, "by order", that is, 'by order', if there is a difference in military language. During the course of the proceedings I have found many more translation mistakes of the same kind. I shall notify the court accordingly in writing.

THE PRESIDENT: As I have said before, it is quite possible that there will be differences in translation and in connection with this matter the counsel for the defendants will have the opportunity to present their evidence, to call this to the attention of the court, and the court will also keep in mind that there is bound to be some disagreements as to whether or not it is a correct translation. The court will keep these matters in mind.

MR. DENNEY: Whether it says order, or directive, at least it was Military Commander Serbia who started all this commotion and I trust Dr. Laternser and I will be able to work it out.

THE PRESIDENT: For that matter, I believe it might be well for Dr. Laternser and Mr. Denney to make some notation of these matters and then if they have agreed upon it to call it to the attention of the Tribunal. You may proceed.

MR. DENNEY: I am sure Dr. Laternser will keep notes as he goes along and whenever we can I shall be glad to comply with any suggestion.

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Then we have another report from the Chief of the Security Police and of the SD, dated 22 July 1941. This is [NO-2944](#) which we offer as Exhibit 22 and which has more to say about Exhibit 19 which was the original teletype from the 65th Corps to the 12th Army. It continued one story which we had in Exhibit 21. This is Berlin 22, July 1941, two days after the prior report, Exhibit 21 in evidence; with reference to Yugoslavia, it says "In reprisal for the attempted attack on the life of German General Lomscha near Uzice, 52 communists, Jews and families of band members in the villages of Uzice, Valjevo and Cacac were shot to death on 20 July 1941. In addition to the previously reported measures a large scale operation with support of Wehrmacht units is in preparation, in agreement with Military Commander Serbia." And again a copy of this went to OKW Operations Staff.

So, to sum up those documents, on 19 July a teletype goes from the 65th Corps to the 12th Army, and on 20 July they start sending reports out on it from the Security Police and SD in Berlin; and the reprisal measures have already been referred to which were taken. There is nothing to show that the lieutenant who was wounded died. One report says he was shot in the lung and another says he was shot in the chest; and nothing happened to the general, apparently the whole thing was done because a German general was fired on.

The next document is [NOKW-1199](#), which we offer as Prosecution's Exhibit Number 23, and is extracts from the War Diary of the 704th Infantry Division; and the extracts are included between the period 4 April 1941 and December 30, 1941. That is withdrawn -- December 30, 1941. However, the extracts which we have quoted are those commencing in July of 1941, at which time the 704 Infantry Division was a part of the 65th Corps which again was part of the 12th Army, which was commanded by the defendant List. And from the date of the Hitler Order in June - after 15 June, while List was also Armed forces -commander of the Wehrmacht in the Southeast.

On 14 July, I don't think that there is anything there that deserves any particular attention.

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It speaks of a conference, discussing the combatting of Communist bands. Then on 15 July they speak of "Secret Field Police Units and asks for 7 already arrested communists to be shot to death in Obrenovace at the dynamited bridge." Then, the comment that the "Radio Station Belgrade announces the shooting of these communists at 1400 hours." There again there is nothing to show here that the Communists had anything to do with the bridge dynamiting.

Then on 20 July, they speak of shooting the reprisals which ties in again with the shooting at the German general, which has been earlier described, with the "Serbian Gendarmerie has shot 52 Communists, 17 of them in Valjevo, in reprisal for the attack on the car of Brigadier General Lontschar, Commanding Officer of the 724th Infantry Regiment on 18 July."

Then the entry of 17 August from Valjevo says "Villages east of Uzice near Gorjani which supplied bands with food stuffs are searched by 5 Jaeger Commandos of the 1st Battalion, 724th Regiment, in a strength of 6 officers, 144 men, and 80 Serbian gendarmes. Two farms in which arms were found were burned down, as well as two farms from which shots were fired. One farm was burned down near the

tunnel in which in the preceding night a dynamiting attempt had taken place and in which arms had also been found. Five Serbs who were the owners of the farms have been shot to death."

And then the next speaks of an operation, in the character of captured equipment. This report of 18 August 1941 is of some interest because these units had a typewriter, and had a community seal of a community and had two camp newspapers and a camp library, and it is submitted that roving bands of a few people who have no organization would not have that equipment.

Then over on the entry of 25 September 1941, Shillin, Valjevo, they speak of burning 71 farms in which arms and ammunition had been found.

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And further down, on 26 September, they speak of 120 farms burned down by the 125th Infantry Regiment, and that is all there is to the project. There is nothing to show what they had done, whether they had found any ammunition in them, whether the owners were the ones who had offended, whether they were Communists -- just a comment 120 farms burned down.

The next document is [NOKW-1091](#), which is offered as prosecution Exhibit Number 24.

THE PRESIDENT: Mr. Denney, perhaps this would be a good time to have our afternoon recess.

MR. DENNEY: Yes.

THE PRESIDENT: The Court will be in recess for fifteen minutes.

(A recess was taken)

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THE MARSHAL: The Tribunal is again in sessions.

MR. DENNEY: If Your Honors please, the document to which reference was made just before the recess, was [NOKW 1091](#), which has been assigned the Exhibit No, 24.

This is an excerpt from a 3 page report dated: "Belgrade 22 July 1941", which has to do with "Unrest and attacks in the area of the Command", and there follows a list of people who have been shot to death up to now, with the dates and places:

On 5 July in Belgrade 13 6 July Borcana 2 9 July 1 10 July 1 15 July Obrenovac 10 17 July Belgrade 16 (Handwritten) 18 July Sepci 1_4 (Handwritten) 20 July Valjevo 17 Cacak 12 Uzice 22 Palanka 16 111 (Handwritten) (illeg.)

Captain The total is handwritten and there is a signature which is illegible.

DR. LATERNER: Mr. President, I have just looked at the photostat of this document, of which only a part is in the document book in the English language. If the prosecution had taken the first two pages into this document book, of course, he could see on the strength of it, why the shootings took place. We would have to do that now, because only a partial quotation of this document will give a false picture. It is not possible, that only the result is cited, if in the same document, the cause of this can be found.

MR. DENNEY: If your Honor please, they can offer such additional parts of the document as they wish when they got to their case in chief.

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The good faith of the prosecution in the matter is shown by the fact that we gave them all three pages of it. We are not trying to conceal anything.

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THE PRESIDENT: As the Tribunal has previously stated, the defense counsel will have opportunity to show any further parts of these documents that they may wish to show in their case in chief. If they feel that some part of this document has not been shown here, which should be shown, they can do so in their case in chief.

MR. DENNEY: That becomes, Major Hatfield, I believe, Exhibit 24. The next document is C-52, which is offered as Exhibit 25.

DR. LATERNSEER: Mr. President, the order of this document OKW-52 I will protest against this for the following reason. This order was never valid for the southeast to which this trial refers -- that this order was only intended for the Russian front is shown by its content, especially from No. 6, which is only contained in the English Document Book and which especially stresses that this order is only intended for security measures in the conquered Eastern territories. I know exactly that this order was present in the first trial before the International Military Tribunal as merely valid for the Eastern front. That it was only for the Eastern front is clear from the distribution marks, In the distribution no official date is mentioned -- just station -- at that time in the Southeast. I see no connection with the Prosecution document which refers to the Southeast area. This document will, therefore have to be revoked.

MR. DENNEY: If Your Honor please, first this document is not only applied to the East. There is also, as Dr. Laternser can see on it the Army High Command Norway. You will note that Dr. Laternser contends that this is in the East. Second, one of his clients, the Defendant Weichs was in Russia at the time that this order came out -- 23 July 1941 -- as Commanding General of the 2nd Army, which was part of the Army Group under Field Marshal von Wach, and it is offered to show what was urged at that time by the High Command of the German Army.

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And I submit that it is relative for that purpose.

DR. LATERNSEER: I cannot be convinced by this because the distribution mentions AOK Norway, and that is right, and I still maintain that that is valid for only the Eastern area because AOK Norway had one part, the northern part. From the contents of this order it is quite clear that it was only valid for the Eastern front, and not for the Southeastern front. For that reason it would have to be rejected.

MR. DENNEY: In addition, there is a later order in which the Defendant List refers to language which is used in this order. It is certainly submitted that it's admissible now as against the Defendant Weichs

because he was on the Western front at the time, subject to being introduced later against Defendant List by future documents.

DR. LATERNSEER: The case would be valid for Weichs if, in fact, from the distribution it became clear that this order reached the corps led by Weichs. That is, however, not the case. I mean it isn't admissible that orders valid for one front alone could be introduced into this trial which is mainly concerned with the Southeastern front.

MR. DENNEY: If Your Honor please, with reference to the trial, the general charge of the indictment is the Southeast, but we are not limited to it. In the third Count, which specifically has to do with the Commander's Commissar orders and the copy of the Kommando order, of the two copies of the Commissar order which we have introduced one is from OKW to OKH, and the other is from OKH again, only to the armies in the East.

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And we may at a later time be able to produce the Commissar order to the Southeast. As yet we have not done it.

DR. LATERNSEER: I think, Mr. President, that the Prosecution should confine itself to the framework which it has set for itself in the indictment. We cannot allow that we now jump to another front because in that direction the defense did not prepare itself in any way whatsoever. Nothing has been mentioned in the indictment that things which appeared in the East could be dealt with here. Therefore, I ask that this order be rejected. If it is not rejected, then, in fact, the Prosecution could use every order which is valid in any front during the war.

MR. DENNEY: Of course, we don't claim to use every order which was valid on any front, but we submit that this is relevant because it applies to the theatre in which the Defendant Weichs was engaged at the time, and also because of the later List reference to language which is contained in this order. And Count 3 of the indictment, the first part, has to do with such illegal orders directed in this order that members of enemy troops should be summarily executed. The restriction also concerns Greece, Yugoslavia etc. Further, this same order having gone to the Norwegian Command may well have been, in effect, at the time that the Defendant Rendulic was put over that area prior to the evacuation of Finnmark.

JUDGE CARTER: Mr. Denney, I notice that this is a supplement to Order No. 33. Do you know where Order No. 33 was sent? That isn't in the record?

MR. DENNEY: No sir, No. 31 is the last one that we put in with its supplement.

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THE PRESIDENT: It is apparent to the Tribunal that this particular document, even though it may be of a general nature, is indicative of a general plan, although we're restricted and will restrict ourselves to that which pertains to particular individuals and particular actions, yet we feel that it does not indicate a

plan and a course of action which at least bears out that fact. For that reason the objection will be overruled.

MR. DENNEY: This order is dated the Fuhrer Headquarters, 23 July 1941, the Chief of the High Command of the Armed Forces, Top Secret, by officer only. The parts with which we are concerned particularly show that it is a supplement to Order No. 33.

MR. DENNEY: "On 22 July, the Fuhrer, after receiving the Commander of the Army (who at that time was Field Marshal von Brauchitsch), issued the following order with a view to supplementing and enlarging Order No. 33." We will find it on page 62 in the German text, paragraph 6, provides "In view of the vast.

..."

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EXTRACT TRANSLATION OF DOCUMENT C-52 OFFICE OF U.S. CHIEF OF COUNSEL
Top Secret By Officer only.

Führer Hq, 23 July 1941 Chief, High Command of the Armed Forces No. 441254/41, Top Secret, by officer only Armed Forces Operational Staff/Dept.

L (1 Op) (Note:

Several hand-written routing notations and rubber stamp) Supplement to order no.
33.

1 to 5: (strategic measures) 6. In view of the vast size of the occupied areas in the East, the forces available for establishing security in these areas will be sufficient only if all resistance is punished not by legal prosecution of the guilty, but by the spreading of such terror by the occupying forces as is alone appropriate to eradicate every inclination to resist among the population.

The respective Commanders, with the troops available to them are to be held responsible for maintaining peace within the regions where security is their responsibility (Sicherungsraums), not by demanding more security forces, but by applying suitable, draconian measures.

(Signed) Keitel Distribution:

CERTIFICATE OF TRANSLATION OF DOCUMENT NO. C-52 24 November 1945.

I, PAUL W. FREEDMAN, S/Sgt. 33799122, hereby certify that I am thoroughly conversant with the English and German languages and that the above is a correct and true translation of Document No. C-52. EXTRACT.

PAUL W. FREEDMAN, S/Sgt. 33799122.

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MR. DENNEY: Of course, it was necessary -- and the order is signed Keitel -- of course it was necessary that an order like this come out at this time because in July 1941 the German forces were considerably spread out. They had a tremendous Eastern front. They were occupying the Southeast countries, about which we have heard much. They were occupying Holland, Belgium, Denmark, Norway, and France.

DR. LATERNSEER: Mr. President, I regret to have to speak here again in this matter, and here I refer to a usage which was customary before the International Military Tribunal in cases where it could not be looked upon as just that the Prosecution's referring to only part of the document, and when this part is referred to it will have to be followed by an incorrect conclusion. The Court ordered that the whole document would have to be submitted. I refer to this usage and apply that the Prosecution, which so far in its Document Book only gives one figure of the order which contains six figures. I apply to this Prosecution add the other five figures and that they read them during these proceedings. It cannot be right merely by referring to one figure. The facts of the case which are to be proved by this document are shown in another light. It will be shown from the first five figures that this order was meant in a completely different sense than the Prosecution has just read, and it will be shown by reading the other figures. That's what I have to say in this connection, and it is conformity with facts.

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MR. DENNEY: If Your Honor pleases, this is exactly the way the exhibit was introduced in the International Military Tribunal and to my knowledge it has always been available to counsel for the defendant to offer such other parts as they want. If we translated every part of every document, that is just a practical impossibility. We do give them the complete copies. They have had them. That is a very old document. Dr. Laternser has seen this before because it is a "C" document.

THE PRESIDENT: May I make this statement. The tribunal has been advised that the translation department is being burdened with a great deal of work and that due to the fact that six courts are now being operated, they have just about reached their capacity in handling the volume of translations that are presented to them. I am expressing the thought of all the members of the tribunal, I believe, when I state that if Dr. Laternser and his associate counsel wish to call to the attention of this tribunal at this time any matters of importance which are not shown by the English translation and which they feel are material to a fair and proper presentation, this tribunal will not have any objections to their doing so and I take it that the prosecution would not object.

MR. DENNEY: No, your Honor. I don't object at all.

THE PRESIDENT: Now if there are any matters concerning this particular document which the defense counsel wish now to present to the tribunal, they may do so through the interpreters.

DR. LATERNSEER: I thank you, Mr. President, for the opportunity which you have given me. I will be quite brief. I will only say that the first figure of this order refers to the Southeastern part of the Russian front. Figure two refers to the center sector of the Russian front, and part three refers to the Northeastern sector of the Russian front. The figures 4 and 5 - figure 4 contains the announcement that

the high command of the army will have to reckon in the further course of events, that Troops will have to be withdrawn from parts of the Russian fronts.

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Figure 5 refers to the activity of the navy and the air force, also with respect to the north and the transfer of military aircraft, the Finnish area and the area around Smolensk, and then figure 6 begins, which the prosecution has submitted here, and that is my conclusion that this order was valid for the east and should therefore have been rejected in conformity with this order.

THE PRESIDENT: The Tribunal will adhere to its former ruling. Counsel for defendants will keep in mind the statements which this tribunal made in its prior ruling, that it is to be considered for what it shows as possibly indicating a general plan and is accepted for that purpose in so far as the conclusions of the courts are reaching in ruling upon this matter. You may proceed.

MR. DENNEY: Thank you, your Honor. The next document is No. NO2952, which is offered as Exhibit 26 and these are extracts from a report of the Chief of the security police and the SD in Berlin, and there will be a later tie-in with reference to one of the instances here to army reports.

Under the heading of Yugoslavia.

The Chief of the Einsatzgruppe of the Security Police and the SD in Belgrade reports.

On 25 July 1941 at 1520 hours in Belgrade an unidentified Jew wearing the yellow brassard threw a bottle of gasoline at a German motor vehicle in an attempt to set fire to the automobile. He was prevented from doing so and escaped. On the same day three more incidents, unidentified culprits threw bottles of gasoline at German motor vehicles. In an identical incident a sixteen-year old Serbian girl was arrested. She admitted that she was incited to the deed by a Jew. In reprisal 100 Jews were shot to death in Belgrade on 29 July 1941.

On 26 July 1941 the Wehrmacht Liaison Office reported that a Communist plot to bomb radio broadcasting station Makisch was planned for the evening of the same day.

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On the basis of this report, members of the Einsatzkommando Belgrade were able to arrest the culprit while he was transferring the bomb. The bomb weighs about 3½ kilograms and was to be filled with Ecracite. The plotter had received a 6.35 pistol and a pineapple hand grenade for his defense. The main culprit who was established by this arrest, committed suicide.

In addition three Jewesses in whose house the instigator of this attack resided were arrested. The prevented attack aimed at the blasting of radio broadcasting station Makisch. If the demolition of the broadcasting station had been successful, the Ministry of the Interior was to be blasted. After this demolition it was intended to blow up the airplane plant in Rakobica with all its workmen.

And then there is a recital about the band printing money and attacks on motor pools and the destruction of trucks of the German forces. Then over on the entry of 29 July, "On 29 July 41 at 0500

hours 100 Jews and 22 communists will be shot to death in Belgrade. On the same day 200 communists from the Banat who were arrested previously will be shot to death in Gross-Betschkerek. The population will be informed by the press and the radio of the executions. They will be requested to cooperate actively in combatting the Communist movement in order to prevent any further bloodshed.

And then they recite that a piece of rail had been removed and a blasting and another railroad bridge having been blown. Then follows the distribution list with again the OKW getting a copy. It is not clear for what reason the 100 Jews and 22 communists were shot in Belgrade, or why the 200 communists in Banat who had been previously arrested were to be shot. It is clear that they were going to publicize it amply and the prior entry with reference to the motor pool apparently refers to the 26th or the 27th of July, the recitation being that the activity took place on the 27th and the note being under the date of the 26th. At a later time, we can show how these same instances were reported by the Wehrmacht.

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The next document is [NOKW-1100](#), which is a communication from the Wehrmacht Commander Southeast to the Commander in Serbia. It will be Exhibit No. 27.

"To Commander Serbia--S e c r e t. OKW deems it requisite that death sentences for sabotage be carried out by hanging and in addition that all other means of intimidation which are customary with the residents of the country be employed." It is signed "Wehrmacht Commander Southeast." and is dated 29 July 1941.

It is submitted that the language used there is at least suggestive of the language of the Higher Keitel order.

The next document 1128 is offered as Exhibit 28. This is from the Commander of Serbia to the Wehrmacht Commander Southeast and refers to an order of 2 August 1941. At this time, the defendant List was still commander Southeast and the defendant Foertsch was his chief of staff. The order apparently had to do with counter measures, based on the contents of this teletype. It is dated 2 August 1941 and states:

Up to the 22.6.1941 the situation in Serbia, apart from smaller band activities, which did not effect the German Wehrmacht, has been quiet. Since then troubles have occurred in various places.

Thus far - countermeasure have consisted essentially of surprise police operatives of the SD and of the Reserve Police Battalion 64 with Serbian Police men. Troops have been employed only occasionally as single units which are readily mobile to follow against bands which move easily.

As of 22.6.1941 razzias have been carried out against Communists in co-operation with the Serbian Police and Gendarmerie, whereby a great number of Communist functionaries were gradually arrested.

Approximately 412 Communist functionaries were shot.

Commander Serbia Command Staff / Ia 2.8.41 238/41 secret And bears a note on the bottom which is illegible.

The next document [NOKW-968](#) is offered as Exhibit 29. This contains reports from various administrative and sub-area headquarters in teletype to Wehrmacht Commander Southeast, reports from the SD in Belgrade and on the daily reports to the Wehrmacht Commander Southeast.

- 1) Lt. Neesen of the 7th Company of the 146th Artillery Regiment shot to death while collecting weapons.
- 2) According to reliable reports about 3000 irregular Serbian soldiers are still in the area Pokuplje Bojnik (North of Levane) Kursumnija, among them Major of the Reserve Krista Mihailowitsch. Yugoslav officers also describe the last named as a very ruthless and consequently dangerous person. He does not hesitate to shoot down all those resisting his orders and plans. Major M. has appropriated the Army Motor Vehicle DKW Opel Olympia Ia 1542 (Engine No. 397024) as booty of war which had been taken during temporary capture of wounded first Lt. Kleffel by Yugoslav soldiers. However, in addition to this, private property of 1st Lt. Kleffel (black suitcase, yellow brief case with identification and key, gray laundry bag with contents and Zeiss-Glasses, Silvermar and other things). Headquarters in respect to this refers to the report of the 11th Corps on 17 April 1941.
- 3) During the night from 23 to 24 April 1941, a Serbian band attacked the volksdeutschen officials of the Gold and Silver Mines Leci in Leci (North Medavedja) which belonged to the Hermann Goering Works with machine gun fire and hand grenades. Though lasting several hours, the attack was unsuccessful. A.G. Leci can no longer be reached by motor vehicle. At the request of the OK I/866 (1st Battalion of the 866th Regiment), the divisions of the Divisional Supply Commander of the 294th Infantry Division have gone to Leci today in order to provide to the security of the management on the spot.

Then, there is teletype to the Wehrmacht Commander Southeast, also commander of the 12th Army, "In connection with the finding of explosives reported previously, 10 communists and 3 Jews were shot to death today."

That is dated 5 July 1941.

Then there is an entry 20 July 1941, "a leave train fired upon. While patrolling three armed franc-tireurs shot to death, 11 arrested, Further investigations....."

There is a note containing the number shot to death, Valjevo, Cacak, Uzice, Palanka, respectively 17, 12, 22, 16, a total of 67.

Then the next note on 21 July 1941, "Administrative Sub-Area Headquarters 610, Pancevo, reports on the day before Sunday while executing an operation, the 714th Infantry Division killed two Communists, Southwest of Palanka and captured 16 Communists who were also shot to death subsequently....."

"The Chief of Einsatzgruppe of the Security Police and SD reports on 30 July 1941. According to a report which has been submitted a blasting plot has been executed by unknown culprits on the garage Zuhumska 26 - owner (Codomir Nedeljskovic) and 22 July 1941.

They recite: "The fuse found by the Serbian Police permits the assumption that the attack was carried out with an egg-type grenade...."

"Administrative Sub-Area Headquarters 610, reports by telephone: Leading Communists were shot to death by the local police in the presence of the SD in reprisal for the arson committed."

DR. LATERNSE: Mr. President, I have just looked at the photostat copy which has been given to me in order to judge what kind of document is in question here. I have established the following facts; First, the document has no heading; it cannot be found who wrote it; secondly, the document bears no date; thirdly, it bears no signature. It is just sheets written on the typewriter. It is also interesting, page 1 is not numbered. Page 2 is not called page 2 but page 12. The next page is page 48 and the next is page 49a, the next 57a, the next is called 61, and the next page, for a change, carries no number at all. The last two pages are marked 68 and 73 respectively. Mr. President, in my opinion, the foundation of such evidence is not permanent.

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As defense counsel we must be able to determine from whom this material comes, the heading, and it must bear some kind of signature or name and we would also have to see a date. Because all these essential prerequisites of a written document in order to have any probative value at all, since they are lacking, I must object to the introduction of this document and apply to the court before it passes ruling on the admissibility of this document to look at the photostat copy.

MR. DENNEY: Your Honor, these are captured documents taken from the files. It is apparent from the numbering that we have on the left pages that the excerpts taken here are not seriatim. We skip from 112 to 120, 127 to 136, and it is true that there are pages extracted from a complete report. As to their being signed, unfortunately we don't have anything to do with the way the documents are when they are captured. Certainly, if Dr. Laternser wants the pages in between, if the court deems he should have them, we can send over for them. I don't know what material is in there. They have been screened in Washington and of the seven or eight pages that we have here we have used perhaps half of the material. I believe it is apparent that these are just a compilation of reports based on the various units whose names appear.

DR. LATERNSE: Mr. President, in my opinion, there must be a limit. The indiscriminate picking out of documents and the mix up of documents, I want to point especially to the last page which is marked as No. 73 bears another note under it, 73a is to follow. At least the prosecution should have provided me with the last pages in order to see who signed this document, from whom it originates, also the heading is lacking. It is definitely possible and I maintain it is a private compilation. I don't know from whom it comes and the prosecution also will find no point in the document from whom this document originates.

MR. DENNEY: Obviously, your Honor, it is just a compilation of reports which was captured from their files and as can be seen from what is here the entries one above or below the other don't have anything to do with what went on before.

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It is certainly true that there is nothing on it to show. I believe it is apparent from the contents of the document that it is a report which has to do with a military office in Serbia because there is a copy later of the daily report to the Wehrmacht Commander Southeast. There is a report from the SD Belgrade and from various sub-area Headquarters. As I say we are not responsible for the condition of the documents when we get them.

THE PRESIDENT: The Tribunal is conscious of the fact that the documents which have been presented or the translation of these documents which have been presented are fragmentary. If counsel for the defendants wish to make demand of the prosecution for the presentation of these parts which are not shown here, that is their privilege, and failure to produce them or to give counsel the opportunity to know what they show will be considered by the court in connection with its consideration of these particular matters which are shown in this exhibit.

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DR. LATERNSE: (Counsel for the defendant List): I agree with you on this proposal, but I request that it should not be allowed until the missing parts have arrived. The prosecution should not be allowed to proceed with the reading of this document because we don't know where this document comes from, who issued it, who signed it. The prosecution does not know that, I do not know that, and for that reason, I ask that until the parts which are missing have arrived, that until then, the prosecution postpone the reading of this document.

THE PRESIDENT: The Tribunal is of the opinion that the consideration of this document and its admissibility, and the reading of it, should not be deferred at this time. I am wondering if counsel for the defendants understood my suggestion as to a demand for it -- on their part, not from us the Tribunal -- but on the part of the defendants of the prosecution. Do I understand the counsel to make such a demand? Dr. Laternser, if you will make such a record through the loud speaker so that it can go into the record rather than by some nod of the head, it would make a better record for the Court and the entire proceedings.

DR. LATERNSE: (counsel for the defendant List): I make the request that the prosecution submit the rest of this document and only then continue reading from this document.

THE PRESIDENT: The Court will make notice of the comments of Dr. Laternser as a request unto the prosecution for the submission of the remainder of these documents; however, the Court will not restrict the reading of these documents that is now before them, and the prosecution may continue with the reading. As the Tribunal previously stated, the failure to present such documents for the benefit of the defense counsel will be taken into consideration by the Tribunal in its consideration of this particular document.

MR. DENNEY: I take it that Dr. Laternser request has been directed to Document NOKW-/968, and the missing pages as shown by the pagination which appears in the document?

THE PRESIDENT: That is the understanding of the Tribunal.

MR. DENNEY: Then, there is a report from Administrative Sub-Area 610. "Yesterday at 1830 hours in Petrovgrad leading Communists were shot to death by the local police in the presence of the SD in reprisal for the arson committed last night."

And then there is the report of sabotage under the date of 26 July -

THE PRESIDENT: What page number are you now reading?

MR. DENNEY: On page 96, Your Honor, that is the second entry from the bottom; out to the left is "120". And in the entry below that they speak of setting fire to a grain silo by the Communists and then that 300 double hundred weights were destroyed. And then the "District Headquarters Petrovgrad...." on page 97, the first full paragraph that starts there about six lines down, they suggest "as a deterrent that 5 of the known Communists who are at present under arrest should be shot to death on this very day."

And then the next entry is a daily report 1-A, to the Wehrmacht Commander Southeast of 29 July 1941. "80 executions by shooting on 28 July in retaliation for attack on Police Patrol on the road of Uzice-Valjeva." And the next entry, "122 Communists and Jews shot to death in Belgrade on 29 July for acts of sabotage in Belgrade previously reported."

The next refers to Wehrmacht Liaison Officer's report with reference to the Serbian Lt. Col Mihailowitsch who is supposed to be the leader of bands, and the balance of the paragraph is an operation report. Then on 1 August '41 "Attacks of smaller bands on Serbian gendarmerie stations and Serbian Mayors' Offices without damage of any extent near Petrovgrad, Pancevo, Topola, and the District Uzice. In reprisal for unrest reported near Petrovgrad, 90 Communists were shot to death yesterday."

And then 6 August '41, "In Zagreb, 4 attackers and 98 Communists and Jewish hostages shot to death."

The next document which is offered as prosecution's exhibit number 30 is [NOKW-1114](#). This bears the signature which is illegible of a Lt. Colonel and is in effect three reports, the second of which starts on page 105, and the third starts on page 109. The first report is dated 31 July 1941 and is directed from the Liaison Office in Belgrade to the Wehrmacht Commander Southeast, List, and on the front page there is the receipt stamp on 5 August '41 of the Wehrmacht Commander Southeast.

"The widespread acts of sabotage during the last days may without doubt be ascribed to instructions given by the London and Moscow radio. It is certain, that news from foreign countries is still very often

listened to and that the order against listening in to foreign countries has been without any essential effect.

Though nothing is said publicly about the shooting of Jews and Communists as reprisals for acts of sabotage, these shootings have however made a deep impression in Belgrade.

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It is doubtful whether the shooting will prevent a repetition of acts of sabotage. The saboteurs are to be looked for in the camp of the former Serbian officers, of the Cetniks as well as of the Communists, who have the common interest of creating unrest in the country and stirring up the population to boiling point against the occupation authorities. For their purpose the shooting of people who did not directly participate in the acts of sabotage is actually welcome.

In opposition to the reporting of persons of draft age, there were also people busy trying to recruit for the Cetnici. Officers and men received the instructions not to conform to the duty to report, but to go to the Cetnik gathering places in the country. Persons of draft age who avoided reporting could be got hold of easier, if the local Serbian authorities would work for that purpose; for instance, if one made the proprietors and housekeepers in Belgrade personally responsible, under threat of severe punishment in case of failure, to draw up exact lists, and to submit them, of the inhabitants of the houses, one would certainly be able to seize a large amount of Yugoslavian soldiers who failed to report. Formerly, the police went very often from house to house, asked for the list of inhabitants and checked them in the individual apartments. In this way, too, quite a number of Serbian soldiers who did not report could be seized. In general the population does not understand that the Serbian officers were set free again and remained free, because the large majority of the population expects the officers to carry out operations for the liberation of the country. One often hears that it is good that the officers have got to a safe place, because in that way they can now work for the future liberation of the country.

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Especially the younger officers, who have no judgment with regard to reality and what is possible, who have no longer any expectations and who have placed their hopes on a restoration of the old Yugoslavia and a victory of the enemy powers, form a lasting source of danger. Also the other unemployed youth is ready to follow the words of those men who lead the operations directly against Germany. This youth is strongly under the propaganda of the enemy which is extraordinary clever and attuned to the mentality of the Serbian people. Whispering propaganda goes on in every office. Many rumors actually come from state offices and thereby gain their credibility. Even policemen stir up unrest among the population, by promising aid to persons, against payment, in this or that imminent event or because they want to be considered as especially well informed or as important personalities. It is an open secret that in the offices there are often people, who have worked hard against the German Reich and even today are anti-German. In the offices it is even considered dangerous, to be considered friendly towards Germany, as pro-Germans are chased out of the civil service. It is equally an open secret, that University professors, physicians and teachers participate in anti-German and Communist propaganda."

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THE PRESIDENT: May I interrupt, please? The Court will adjourn at this time but before we do adjourn I wish to make certain comments on certain requests.

During the course of this day's deliberations, Dr. Laternser has made all comments on behalf of the defendants and the other counsel, I believe has, not spoken, but I want to suggest to all counsel that in appearing before the desk and the Court and the Tribunal that they identify themselves, so that the record may be properly shown as to who they are and for whom they are speaking. There has been no violation today because the reporters know Dr. Laternser but in other cases they may not know who counsel are and who they represent.

The Tribunal also wishes to make this request and ask that it be complied with. The assistant secretary has certain information that he desires to present to defense counsel. I take it you wish all the defense counsel to remain. I therefore ask that all defense counsel remain for a conference with the assistant secretary general.

It is also requested that one German court reported and interpreter remain for the assistance of the deputy secretary general.

It is also requested that one German court reporter and interpreter remain for the assistance of the deputy secretary general.

The Court will adjourn until nine-thirty tomorrow morning.

THE MARSHAL: The Tribunal will recess until nine-thirty o'clock tomorrow morning.

(The Tribunal adjourned until 17 July 1947, at 0930 hours.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List, et al, defendants, sitting at Nurnberg Germany on 17 July 1947, Judge Wennerstrum presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

THE HONORABLE: Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal. There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants are all present in court?

THE MARSHAL: May it please your Honors, all of the defendants are present in the court.

THE PRESIDENT: The Secretary General will note for the record the presence of all of the defendants in court.

SECRETARY GENERAL: May it please your Honors, all of the defendants are present in court.

THE PRESIDENT: Before we proceed, Mr. Denney, may I make some comments? The Tribunal wished to state to counsel for the defendants that their motion and request concerning the manner in which the defendants are being confined in the prison have been submitted through channels to the proper authorities for consideration, and will later be reported back to this Tribunal.

The Tribunal wishes also to call to the attention of all parties concerned, that the communication which undoubtedly has been brought to the attention of defense counsel, and perhaps to the prosecution concerning the matter of translations, -in order that there may be no question as to all parties concerned being advised as to this particular matter, I wish to read the following communication, which has been sent out by L. Wartema, Defense administrator: Dated 14 May 1947:

"Subject: Document Books to be submitted to the translation department.

To Defense Counsel:

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1. Some defense counsel have failed to realize the amount of time which is necessary to have document books translated, stencils mimeographed and assembled. As a result, the court has been delayed.
2. It is absolutely necessary that defense document books be turned over for translation and reproduction at least two weeks in advance. A careful check is being made on each document book submitted to defense centers. Individual lawyers will be held responsible if sufficient time is not provided for translation and reproduction.

For the secretary general.

(Signed) L. Wartema, Defense Administrator" I am reading that in order that all parties concerned may be advised and guide themselves accordingly.

I realize also that there is a lot of work to be done in connection with the preparation of this case, both on behalf of the prosecution and the defense, and the Tribunal asks the cooperation of all parties concerned so that we may proceed as promptly and as effectively as time and circumstances will permit.

The Tribunal would like to have a conference with two representatives of the prosecution and two representatives of the defense. counsel at the morning recess, and if the defense counsel will select some members of their group to meet with us at that time it will be appreciated if you will kindly come to my office.

MR. DENNEY: Your Honor, perhaps we might have Mr. Jacobson, one of the interpreters, come in too.

THE PRESIDENT: That is a very good suggestion, and we will ask Mr. Jacobson to come with us.

You may proceed further then, with the presentation of the matter on behalf of the prosecution.

MR. DENNEY: May it please your Honors, to sum up what we had yesterday, the first documents showed the initiation of the war in the Southeast.

We had several orders which were introduced to show the manner in which the people were treated there, followed by the 100 to 1 order late in April, issued by the Second Army, to gather with the poster which was sent out to be placed in the various villages this order having been issued by the defendant Weichs, before he left the theatre, and we have seen nothing to indicate that order was sent to him from a higher headquarters; rather was it something that he initiated and passed down himself.

Following that, early in May, on the 10th, the defendant Foertsch came into the theatre and became Chief-of-Staff to the defendant, List, and remained there as Chief-of-Staff to List, both for the 12th Army and for the Armed Forces Command Southeast from that time, May, 1941, until May, 1944, when he left the theatre.

Then we have the Hitler order of 9 June, setting up the Southeast Command, and putting the defendant List in charge, with complete executive powers in Greece, Serbia, and the Aegean Islands. Then in the months of May and June, when the troops were being withdrawn from the Southeast, in order that they might be regrouped and re-equipped to enter the campaign against Russia which was to start late in that month, we find resistance breaking out.

The S.D. reports and the Wehrmacht reports showing how this resistance was treated, also showing how they collaborated the report the execution of 100 Jews for a young girl throwing gasoline at a car, and we are in the middle now of a document, Exhibit No.30, OKW 1114, which is a report showing that the methods that were being used were not being effective; that the resistance was increasing.

The Army was undermanned here. There is nothing show that these measures were militarily necessary, actually, they were militarily unwise because as this report has shown up to now and will show later, the resistance instead of being calmed, as a matter of fact was made the more fierce by reason of these reprisal measures which were being practiced in the southeast.

At page 103 of Document Book I, continuing Exhibit 30 NOKW 1114, this report continues:

It is to be regretted that the German propaganda is not attuned to the people and is not to be heard during the most favorable hours. In Belgrade the workers are already at work in the factories at 0700 therefore radio propaganda should begin earlier, already at about 0530 hours in the morning, so that the workers are subjected to propaganda in the early morning when they are rested and are more inclined to listen. The broadcasts should be given in Serbian language only and should be kept in a popular character. It was also striking, that radio Belgrade announced the shooting of Jews and Communists as reprisal for acts of terror in the German news transmission only and not in the Serbian, where by the deterrent effect among the Serbian population remained questionable. The propaganda should also reach the Serbian woman who naturally is especially approachable. Reasonable arguments appealing to the woman as mother and builder of the people would probably be very successful.

The reports of the enemy stations London, Moscow, which unfortunately are still often listened to, are to be commented on by propaganda. One would have to prove to the people that the reports are false

and made up of lies. The Serb loves discussion, therefore propaganda broadcasts in the shape of discussions would be an advantage.

Another source of false news and rumors comes from the prisoners of war dismissed from the Reich as Croats, Slovenes and so forth. Former Yugoslav officers dismissed from captivity have also said, that the food in the German prison camps in the Reich was very bad, that the civilian population was war-weary and that on account of the numerous air raids they flee into the prison camps and there loudly express their war weariness.

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Then there is a signature which is illegible, and then the report continues with a report from the Wehrmacht Liaison Office, Belgrade 8 August 1941, directed to the Commander in Serbia and an information to the Wehrmacht Commander Southeast, and on the first page of that report, which is page 4 of the original, page 104 in the Document Book, there are two stamps showing that the report has been received by the 12th Army on 12 August, 1941.

The report also recites the enclosures.

We then turn to page 150 where the report commences.

Handwritten Yes! Then they should help!

The week now reported on brought a renewed deterioration in the attitude of the population. Among the Serbs the acts of sabotage that became known caused terror and excitement, because it is feared that the consequences of these acts of force might affect the population. A large part of the Serbian population disagrees with these acts of sabotage of the Communists, which hinder the building of the country. On the other hand however it can be seen that among the Serbs a certain malicious pleasure appeals, when they believe themselves unobserved, because the German authorities have, up to now, not succeeded in preventing the acts of sabotage. There is also a tendency amongst them, to spread the news that these acts of sabotage were not committed by indigenous Serbs, but by Croatian Communists or by Serbs who do not originate from old Serbia.

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(Handwritten) The whispering and atrocity propagandas flourishes as before. It said, *that the German war reports are lies and that the war pictures are posed, that the German losses in Russia are enormous and that the German troops are already being pushed back in numerous places. In Serbia the Russians are supposed to have landed parachutists, who have established contact with the Cetniks and Communists gathered together in the mountains. These insurgents together with the parachutists were going to start an offensive in the near future. These insurgents were supplied in arms and ammunition by the English and Americans. The German soldiers on the other hand were war-weary, part of them leaned towards Communism and some acts of sabotage are even said to have been committed and some acts of sabotage are even said to have been committed by German soldiers.

The Serbian police has little authority over the majority of the population. Again and again it happens that the public takes up an attitude opposed to the intervening police. The opinion amongst the population about the Serbian authorities is bad. On the one hand, especially in combatting the high prices of food, the authorities show extreme weakness according to the opinion of Serbian circles, on the other hand, they are guilty of allegedly provoking arbitrary acts. As an instance, in cases of complaints.....

DR. LATERNER: I believe, as I have established, something has not been translated here. I admit the possibility that I am in error here. ...my views are not expressed in the translation. I am sorry; I have made a mistake.

.....concerning housing the courts are said to force people to move without consideration, or without taking into consideration * Counter propaganda.

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the distress of the individual in question. The population does not have much confidence in the Serbian authorities and often the wishes are expressed that other people be put at the head of the administration and the police.

Many insecure elements are said to have penetrated into the police force.

(Handwritten)

Pay attention to arms!

It was to be observed that individual Serbian policemen and police patrols showed complete disinterest in the occurrences in their proximity. They prefer to frequent well lighted streets, whilst in the dark side streets no policemen are to be seen.

Attention must be drawn to the fact that the designation of the Serbian police by black numbers printed on a red arm band is insufficient, as these numbers can hardly be read by day and not at all at night. In case of encroachments committed by members of the (Handwritten) Concentration Camp police there is no possibility to identify the guilty person.

Often it could be determined that Jews walked about without the prescribed yellow arm band. Also the Jews who were baptised "Christians", and who have besides changed their names are not yet taken care of.

It would be advisable to find out at the ecclesiastic matriculation offices which Jews are baptised in recent years.

In the last period many unpleasant contacts of German Nationals were to be determined. Threatening letters also have been sent repeatedly to German Nationals.

German Nationals can be heard complaining about the officials of the food distribution offices of the people's welfare organization. The auxiliary helpers who are German Nationals are said to distinguish themselves by rudeness and coarseness in their behavior towards the customers of their own nationality.

(Handwritten)

As in Germany!

Particular discontent is caused among the population on account of the great difficulty in procuring articles necessary for living, as for instance oil and fat.

These articles are not distributed to the merchants, though there are supposed to be large enough quantities of them in the community warehouses.

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These articles are only distributed through the community stores where the consumers have to queue up for a long time and many do not have time enough for this. There are also complaints about the supply of bread. On the other hand, in the restaurants there is bread of the best quality for those who have the necessary means. These discrepancies lead to discontent among the poorer classes of the population. Also, with regard to the tobacco supply, it is found that at the tobacco shops either nothing or only very little is to be bought of better qualities, whereas in the coffee houses and restaurants the waiters sell good tobacco at considerably higher prices.

MR. DENNEY: And herewith is the enclosure No. 3496-7, which is recited on page 104 as being an enclosure. It is a report on the resistance movement in the area of the former Yugoslavia, state of development in general, especially during the period from 1 to 7 August 1941; and it gives the source of their own researches, their own, not of confidential agents and not of confidential agents of the Local Administrative Headquarters in Zagreb.

Summing up it can be said that the general attitude has deteriorated.

(Signature Illeg.)

Enclosure to Wehrmacht Liaison Office Belgrade No. 3496/7 41 Secret L. of 8 Aug. 41.

(Stanp)

Secret.

Belgrade, 8 Aug 41 IH Report on the resistance movement in the area of the former Yugoslavia, state of development in general, especially during the period from 1 to 7 Aug 41.

Source: Own researches, own not of confidential agents and net of confidential agents of the Local Administrative Headquarters in Zagreb.

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Present general state of affairs Insecurity and unrest in the entire Serbian area, furthermore also in the north Banat, Bosnia, Montenegro, Herzegowina, Lika, and Croatia south of the Save.

The areas south of S Uzico-Nis, which are listed as gathering areas of Cetniks, and furthermore Croatian areas north of the Save are to be regarded as comparatively quiet in the recent period. Reprisal measures, as for instance the severity of the shooting of 81 persons collected haphazardly did not bring about pacification nor did it serve as an intimidation. On the contrary the feeling of being plundered

chased away or slaughtered with wife and child either by criminal Ustaschi people in Bosnia or Herzegowina or by robber elements, or to lose life and property as the casual object of reprisal at the hands of the Germans has embittered and made desperate the otherwise quiet and politically indifferent and loyal parts of the Serbian population, who are automatically driven into the ranks of some kind of Insurgent groups."

MR. DENNEY: It is submitted, Your Honor, that it is clear from this report that the measures of pacification which they were attempting were not working, that, if anything, it was designed to cause more unrest, the upset people who were paying attention to their own business and not bothering the occupying forces. But rather they were forced to flee to the mountains because of the senseless killing of people, which is recited in the document. And, of course, it is to be noted from the stamps that the document was sent to 12th Army Armed Forces Commander Southeast, commanded by List. The next document is No. [NOKW-1034](#), which we offer as Exhibit 31. This is a teletype which goes to the Wehrmacht Commander Southeast, from the general in Zagreb. It is dated 10 August 1941, and the receipt stamp of the 12th Army and Wehrmacht Commander Southeast appears in the upper right-hand corner. And just above that is the initial of the Defendant Foertsch, as Chief of Staff The telegram reads: "Reports of English.....

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To be filled out by Teletype Office Teletype Office 31 e Jr Foertsch Teletype Code Address Receipted for:

Sent: (stamp) Wehrmacht Commander Southeast Received:

Date:

(12th Army Command)

Time: 2045 To: Ic/ Army Command Department From:

LTCS By:Through:

Received on; 10Aug 41 2200 hours Through:

Re Reel:

No. 6058/41 Secret Enclosure; 0 Wu: (initial illegible) Army Command Chief 03 07 06 and For special Headquarters Army Command Remarks:

Secret very urgent Sch R----Purpose----Teletype:

Postal Telegram:

from:

Telephone:

.....

(handwritten) To the files.

..... Date of Transmission Time of Transmission To:Remarks for transmission:

(to be filled out by sender)WAGN 1296 10/8 0940 To Wehrmacht Commander
Southeast Ic Department Athens To No. Ic/AO.

VG 5 Aug 41 Reprots of English radio correct.

Besides the 98 Insurgents mentioned an additional 85 following the first incident in Zagreb and a great number, not yet exactly known, of Insurgents shot to death in these last days.

German General Zagreb Ia No. 0613/41 Signed Signature Captain 10 Aug 41 5869 (initials illegible)
2135 initialed by Foerstsch 12th Army Command 18171/5 CERTIFICATE OF TRANSLATION I,
Thomas Desmines, French Civilian, AGO # 434, hereby certify that I am thoroughly conversant with
both the English and German languages; and that the above is a true and correct translation of document
No. NOKW - 1034.

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Thomas Desmines # 434

MR. DENNEY: This is apparently a reply in answer to an inquiry by 12th Army. It is to be fairly assumed, I believe, that the inquiry is similar to the one which we saw made earlier by 12th Army, concerning a Russian radio report. However, the only document that we have on this is this reply. Next, we have the report of a Battalion Commander of the 724th Infantry Regiment, which is part of the 704th Infantry Division. This document is [NOKW-1216](#), and we offer it as Exhibit 32. The 704th Infantry Division was part of the 65th Corps which was serving in Serbia. And the 65th Corps was under the Supreme Commander Southeast, the Defendant List.

3rd Battalion 724th Infantry Regiment Ia In the field 16th August 1941 5257 Initial illgbl.

Stamp: Stamp:

704 the Infantry Division IVa 704th Infantry Division Received 17 Aug 1941 IVb Received:

18 Aug 41 Letter No. IVc Department Ia IVd Commander IIa IIb Ia Ib Ic III Initial illeg.

To the 704th Infantry Division.

On 16 Aug 1941 the Commander in Serbia made known by radio that a village in which a car of the Wehrmacht had been shot at, had been leveled to the ground and that the inhabitants "had been shot to death and hanged".

The inhabitants had seen the preparations for the attack and had omitted to notify the police post situated nearby or to warn the occupants of the car.

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Therefore they became accessories to the crime. A similar case occurred in Bela-Crkva, which is shown by the behavior of the inhabitants, especially of the priest and the mayor who left the village already in the morning.

A part of the village was set on fire by the 12th company, however it is likely that there are still houses left into which they inhabitants have returned. Perhaps the priest and the mayor have also come back. The battalion suggests sending another penal expedition to Bela-Crkva, to destroy what is left of the village and to have the priest and the mayor arrested.

(signature) illgbl.

Captain and Commander of the Battalion For Information:

724th Infantry Regiment (Handwritten note:

17 August Ask in Krupanj) Initial illegible I, Thomas Desmines, French civilian, AGO # 434, hereby certify that I am thoroughly conversant with both the English and German languages; and that the above is a true and correct translation of document No. [NOKW - 1216](#). Thomas Desmines

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MR. DENNEY: There is an illegible signature for the Captain and Commander of the Third Battalion. They don't in their order, of course, suggest how the inhabitants could know that the car was coming in or how they could have warned them. The attitude toward the priests and the mayor of the village certainly needs no comment.

We will pass Document [NOKW 901](#) and the next document will be [NOKW 455](#) which we offer as Exhibit 33. If your Honors please, perhaps with reference to the comment which Dr. Laternser just made, we could give this paragraph to the interpreter and let them read it into the record as they translate it.

THE PRESIDENT: The interpreters which have been appointed for this court?

MR. DENNEY: Those are the interpreters for this court, yes, Your Honor.

THE PRESIDENT: Dr. Laternser, does that meet with your approval? Do you have any comments to make concerning it?

DR. LATERNSEER: I don't think I understood you correctly-whether it should be done now or in the future in connection with the correction of the mistakes in translation. Is this to be done in the future or is this to be done right away?

THE PRESIDENT: It would be my personal suggestion that if the Tribunal is to receive any benefit from it, it should be done now. Is that agreeable with you, Mr. Denney?

MR. DENNEY: Yes, Your Honor.

DR. LATERNSEER: Yes, indeed.

THE PRESIDENT: Very well then, those matters which seem to be in controversy may be handed to the official translators for their translation at this time and for the benefit of this Tribunal.

MR. DENNEY: If I may mark the paragraph on the document--Dr. Laternser is here.

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THE PRESIDENT: Just a minute, please. Is it agreed by counsel for the prosecution and Dr. Laternser, representing counsel for the defendants, and the defendants that the document as marked is the portion which is in controversy.

MR. DENNEY: Yes, your Honor.

DR. LATERNSEER: Yes, quite.

JUDGE BURKE: Mr. Denney, are the first four lines on page 113 the subject matter of possible dispute as to interpretation?

MR. DENNEY: The first four lines of the report, your Honor.

THE PRESIDENT: It being agreed that the document, as marked is the matter in controversy, it may be handed to the interpreter to be read.

THE INTERPRETER: The transition of this paragraph reads as follows: On the 16th of August, 1941, the commander in Serbia made known by wireless that a village in which a Wehrmacht car had been shot at was levelled to the ground and that inhabitants had been shot at and hanged. I agree with this translation.

THE PRESIDENT: You may proceed.

MR. DENNEY: Document 445 which has been offered as Exhibit 33 is in order from the corps command, the 65th in Serbia which was serving under the defendant List dated 19 August 1941. It applies to an operation called "Geier" and the order was to be sent to those units appearing in the distribution list on the second page.

Paragraph 1, "The village of Grabovac, presumably the Communist center of the district of Obrenovac, will be surrounded and searched on Saturday 23rd of August 1941 in a surprise attack."

Paragraph 6, the translation of which does not appear in your Honor's copy, gives orders to the troops, the Wehrmacht in connection with this, and reads as follows: "At 4 a.m. on 23 August 1941, all sections will go from their points of departure on a wide front, using as many separate routes as possible, concentrating on Grabovac.

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The reinforced 5th Company of the 750th Regiment coming from Bajani, Grabenow-Folji, before Grabenow-Folji will swerve in a northwesterly direction and will march above the village Jem on Grabovac, Kreba, Dor; meanwhile the approaching infantry command of the 704th Infantry Division

will break up over the Bajani, Grabenow-Jolji at 4:15 23 August 1941, and advance southeastward on the road Bajani, Grabovac, on Grabovac."

Paragraph 7 provides that "Grabovac must be surrounded from all sides by 0530 o'clock on 23.8.41. The village is to be entered from all sides. The male population of over 14 years of age is to be arrested, collected at the church of Grabovac and handed over to the police. People who resist, who are in possession of arms, or who take flight are to be shot. The farms are to be searched for men only. The search of the houses for arms, etc., will take place only by order of the men in charge after all men have been rounded up."

Then Paragraph 11, an order with reference to the other units which are to participate in it for the operation planned at Grabovac, the following are available:

"1) 40 gendarmes of the gendarmerie station Obrenovac.

"2) 30 gendarmes of the gendarmerie station Ub.

"3) 10 agents of the Belgrade Serbian special police.

"4) 2 leaders, 10 men of the Belgrade Einsatzkommando of the security police."

In this order the commander of the 65th Corps has a combined operation against a town for the purpose of arresting the male population and collecting them. The provision saying that anyone who takes flight will be shot and the order goes not only to troop units but also to the Gendarmerie and also to the Einsatzkommando of the security police.

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The next document is [NOKW 1487](#) which is offered as Exhibit 34 and is a letter from the Serbian Minister of the Interior to the Military Commander in Serbia enclosing a report with reference to German actions against communists and others. The letter is dated 20 August 1941, Belgrade. It is addressed to the Military Commander in Serbia.

"I have the honor of enclosing the report of the District Head in Arandjelovac for your information.

"The report shows clearly the urgent necessity of the closest cooperation between agencies of the German Military Authorities and agencies of the civil administration since only in this manner can the combatting of the common enemy, the Communists, be successful."

THE PRESIDENT: Dr. Laternser, do you have some matter to present to the court?

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DR. LATERNSE: Yes, Mr. President. I object to the introduction of this document for the following reason: I certainly see that a capture of a great number of documents, the prosecution cannot be asked to prove details regarding these documents but one thing is certain, Mr. President, that not everything that has been found also represents a document, and I maintain this is so governing this document. This is a document of three pages which are merely written in typescript, and which is expressly at the beginning marked as copy, that is, as a subsequent copy. In order that a documentary character can be presented, it

must have certain prerequisites which must be met in case of a document of this kind. I cannot see that even a single prerequisite is present in this document. It is not a document and for this reason I object to its introduction.

MR. DENNEY: If Your Honor please, this is all that we have. We submit that it is complete on its face with the original and the enclosed copy. That is the letter with the enclosure; we don't know where the original is. It is here as it has been photostated. We didn't make the copy.

MR. PRESIDENT: This Tribunal is conscious of the fact that these documents which are presented here are documents which have been obtained through capture at the close of the war or during the war, and that they will have to be considered as documents of that character and their value appraised by the Tribunal in its consideration of the case as a whole. The objection will be overruled.

MR. DENNEY: Continuing with the fourth line of the second paragraph on page 118 of Document Book 1, Exhibit 34 in evidence:

The Servian Administrative agencies know all the details concerning any persons under the slightest suspicion of Communism. However, they can bear full responsibility for the entire anti-Communist action in the country only if they are enabled to apply the methods in the country, which have proved their efficacy in activity over many years.

Page Unlabeled

However, if such cooperation is lacking and if the German agencies proceed independently, it achieves, beyond doubt, the opposite result, that is the result which the Communists themselves wish to bring about by all means. Therefore, I request urgently that an authoritative office issues directives to all German Wehrmacht agencies concerned as soon as possible, pointing out the necessity for cooperation as it is being practiced, with the greatest success, here in Belgrade.

A German officer - a Captain - was killed from ambush on the road Arnadjelovac-Topola, 4 kilometers from Arandjelovac near the village of Banja on the morning of 16 August. The officer was going on duty by car to Belgrade. The offense was committed by a Communist who has remained unknown. This Communist had been lying in ambush in the corn field and had fled through the corn to the woods after committing the deed.

Eleven young farmers working in the fields were captured and shot for this murder by the Germans at the place of the incident, a state of siege was declared for the entire district.

In order to combat Communist operations which had got out of hand during the last few days, the German headquarters sent a motorized assault troop which is at present going through all the villages, making arrests and - due to ignorance of the situation - is killing innocent men, women and children. All this is done on their own initiative, without inquiries and without any kind of close cooperation with the Administrative authorities and the Gendarmerie, although such cooperation is an absolute necessity for the combating of the Communist action and for exterminating the Communists in the woods.

The District Office has available reports from which the movements of the Communists could be established and it also has at its disposal all personal data of the individual Communists. However, the German headquarters does not request anything nor does it ask the District Administration for any information and is opposed to any suggestion. -246 The consequence of the procedure of the German assault troops will be that a large number of innocent people will be slaughtered and that the Communists in the woods not only will not be exterminated but will increase in numbers.

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Because many farmers, even entire villages – even though up to now, they had no connection with the Communists will flee into the woods only out of fear and will be received there by the Communists. They will be provided with arms and used for combat and for open revolt against the German Wehrmacht. This insurrection will develop on a large scale and will have incalculable and terrible consequences for the entire population.

Because of this procedure by the German Wehrmacht and the lack of the necessary cooperation with the Administrative authorities and the Gendarmerie, the position of a District Head is untenable and intolerable.

Up to now, the Gendarmerie was powerless and avoided all fighting. Now after such procedure by the German Wehrmacht, there is a danger that all gendarmes will flee into the woods because they do not wish to participate in such murders. It is true that the German soldiers on their patrols take along gendarmes and district officials but only to have them show the way and take hostages. Otherwise, they reject any suggestion by the officials or the gendarmes.

The population, however, sees German soldiers coming accompanied by officials, of the district administration and by gendarmes and assumes that the necessary cooperation exists between these agencies of the native authorities. This assumption will make the situation of the district head and of the officials even worse, as that not only their remaining on their part but also their lives are endangered.

On the basis of the above report, I request that suitable steps will be taken in order to bring about speedily the necessary cooperation of the German Military Authorities with the Administrative Authorities and the agencies of public security.

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Returning for a moment to the first page of the enclosure, it says that the person that shot the officer was a communist; yet they cite he was unknown; that he fled, they failed to indicate how they identified him; in retaliation they take 11 young farmers from the fields who were working near the place and shoot them; there has been some cooperation between the Germans and the police but only to the extent of using the police apparently to take hostages. The same recitation is here made which was made earlier in Exhibit 30, that the continued shooting of innocent people is driving more and more people who are otherwise passive, into the woods.

The next document is [NOKW 529](#) which is offered as Exhibit 35. This is an order of the Commander of Serbia dated 21 August 1941. The subject is "Transfer to Security Police of Bandits captured in Combat."

1. In regard to the capture of bandits captured in combat vagueness exists in almost all authorities, which emanates from the delays of the interrogation and the proper treatment of the people.
2. As a matter of principle all bandits are to be transferred to the "Einsatzgruppe of the Security Police and of the SD" - in the following designated by the official abbreviation "SP".
3. Prisoners made in Belgrade are to be delivered to the Security Police in the Police Prison Alexandrova 5.
4. If prisoners are made they are to be transferred as rapidly as possible to the nearest Administrative Sub-area Headquarters or District Headquarters. If possible prior announcement should be made, that preparations can be made. Telephone discipline is to be observed thereby.
5. They are experts of the Security Police attached to the Administrative Sub-area Headquarters who can give information in case of doubt.
6. Together with the prisoners to be delivered, a brief report is to be sent regarding the circumstances of the capture. As a matter of principle protracted proceedings by the unit, etc. are to be avoided, except in special individual cases.

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7. It has happened that units and organs of the Ordnungs Service have retained prisoners and exposed them to long interrogations without enabling the security police to get hold of these people. Such interrogations are, as stated above, the affair of the security police.
8. In this connection, attention is to be called expressly to the fact that the unit is authorized to shoot down any prisoner attempting to escape.
9. This explanation pertains accordingly to all other political prisoners.

Distribution & Draft For Commander Serbia The Chief of the General Staff (initial) fe (signed) Gravenhorst The other political prisoners, of course, would apply to any other prisoners or bandits they take.

[NOKW 1209](#) is offered as Exhibit 36. This is a report by teletype from the Corps Headquarters of the XVIIIth Corps commanded by the deceased Boehme which is sent to 12th Army Headquarters on 5 August 1941.

164th Infantry Division: Renewed acts of sabotage committed against the telephone line in the area of Florina on 4 August 1941. Increased guard by civilians. Fixing monetary fines and arrest of hostages was ordered.

Activity by Bulgarian agents under Communist influence in the area of Florina. According to statements by Greek authorities, within the next days attacks from the area of Bitolje on Greek territory

are to be expected. The troops have been ordered to maintain increased guard and to take ruthless measures.

5th Mountain Division: A Greek civilian detained by rear elements of the 1st Battalion 100th Mountain Infantry Regiment was shot by the guard while escaping.

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Report follows.

.....

Corps Headquarters XVIIIth Corps.

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And then another report, still part of this same exhibit, from the same Corps, the 18th, to the same addressee, the 12th Army, commanded by the defendant List, dated 29 August 1941. The daily report recites that an "Army wire circuit was cut in three places at Chalkis in the night 25-26 August 1941. The perpetrator as yet unknown. Three suspects arrested by the Greek police. 15 hostages taken. By order of the Greek Prefecture about 15,000 people not formerly resident in this area who had migrated thither are to be expelled from Euboea." And again it is from the 18th Corps.

The next document is [NOKW-1387](#), which is offered as Exhibit 37, which is a report from the Commander in Serbia to the Wehrmacht Commander Southeast, and Headquarters 12th Army, dated 6 August 1941. It is a daily report and recites: "Train collision reported yesterday was not due to sabotage. Losses: 8 dead, 8 seriously wounded, 5 slightly wounded. Interruption of traffic for about 36 hours. Tonight 6 communists arrested at Petrovgrad with arms and incendiary material, 1 communist shot while escaping; at Mokrin, 10 miles north of Kikinda, 70 loads of wheat was burned, the perpetrator who was recognized escaped after disarming the custodian. At Zagreb 4 perpetrators, as well as 98 communists and Jewish hostages, were shot. New communist sabotage device: three pointed wire hook, 7 centimeters high, placed on roads, so far damaged 22 tires, according to reports. Forward directing center 'Jug' departed for Bucharest." And it is from the commander in Serbia.

And follows a daily report for the 15th of August 1941 to the Wehrmacht Commander Southeast, Headquarters 12th Army, again from the Commander in Serbia: "While proceeding to Sabac, car from 3rd Company 64th Police Reserve Battalion (passengers; 1st Lt. Ehrmann, 3 sergeants) subjected to machine gun fire by bandits in the vicinity of Skela. Patrol found the burned-out car. A company of the Police Battalion sent from Belgrade recovered the corpses of 1st Lt. Ehrmann and 1 sergeant out of the Save; 2 sergeants are missing. On 15 August, Skela will be burned and 50 communists from Belgrade hanged there.

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Public informed through radio, newspapers and posters. On 14 August, in the vicinity of Lazarevac, 30 kilometers northeast of Valjevo, Telephone Operation Squad fired on by band. At Darosava, 20 kilometers northwest of Topola mines caused derailment of three railroad cars and engine; relief train

coming from Lajkovac fired on by bandits; wire were cut. During the night 14-15 August, an ammunition train was attacked at Lajkovac railway station. Infantry Regiment 7 24 suffered 5 dead and 7 wounded, special force sent to the scene of the occurrence. 14 August, 4 band attacks on communities." From the Commander in Serbia.

Then follows a daily report for the 17th of August to the Wehrmacht Commander Southeast, and the Commander of the 12th Army again from the Commander in Serbia. "During the night 14-15, a train carrying a detail transporting arms was attacked by a light machine gun, a heavy machine gun, and with hand grenades in the vicinity of Lejkovac, Wehrmacht losses: 3 dead, 4 wounded, 1 missing. The transport reached its destination after defending itself. According to traces of blood the enemy suffered losses. At 0230, 16 August, the Lejkovac railway station was attacked by unknown persons. Wehrmacht losses: 5 dead, 3 seriously wounded. 1313 hours, 16 August 'S.F.860' fired on by machine gun between Bralina and Stalac. 1330, 16 August, 1 member of Organization Todt shot on the road Cuprja - Jagodina, two kilometers southwest of Jagodina. 2030, 16 August, explosive sabotage on Tunnel No. 10 in the vicinity of Uzica railway station. No considerable damage. Own activities: In the evening of 16 August a fighter detachment of 704th Infantry Division located band 100 men strong in the vicinity of Mionica. Three missing German soldiers and 1 missing German police sergeant were liberated, two communists captured. Pursuit continues, Own losses: 1 missing. A further fighter detachment en route towards Pozega shot three communists and captured three of a band. At Banja, three kilometers north west of Topola, an army car was fired on. Thereupon, a fighter detach ment shot 11 communists and set a number of houses on fire.

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16 August, farmhouse in the vicinity of the village of Kikinda burned down, presumably on account of arson. 16 August, band attacks on 5 communities. On 17 August, Sunday morning, five communists convicted of acts of terror and sabotage were publicly hanged in the main street of the city and left there until 1900 today."

The daily report for the 19th of August, again from the Commander in Serbia to the Wehrmacht Commander Southeast, and also head of the 12th Army. "On 16 and 17 August, 6th Company 920th Regiment sent out a fighter detachment in return for band attack on a German bicycle patrol on 16 August in the vicinity of Milanovac. Two bandits were shot, 6 captured, 4 houses set afire. On 18 August, a fighter detachment from of Pozega. Thirty-eight bandits were shot, 2 machine guns, typewriters and camp library were seized. 1800, 17 August, band attack on Serbian Gendarmerie Station between Zavor and Cuzica, as well as on Gendarmerie Station Cuca. In the morning of 18 August, band attack on Serbian Gendarmerie patrol at Mokrin. 17-18 August, band attacks on 6 community offices."

And the last daily report, the one for 29 of August, again to the Wehrmacht Commander Southeast and 12 Army from the Commander in Serbia. "Kraljevo airfield threatened by bands on 22 August, 24 August, 28 August, airfield troops were committed. Two Serbian gendarmes were killed, 1 communist was shot. Two 12-kilogram bombs were eliminated. On 28 August, troops operating in the area of Sabac dispersed bands. On 27 August at Kopljaro 3 houses were burned as reprisal measure.

Ammunition was found. Between 22 - 28 August, 5 acts of sabotage in railway installations at Knjazevac, Paracin, Adrani, Vruzi, Darosava. Between 23-28 August, 5 further attacks in the Area Ivanjica-Mionica-Sabac. Files of the community were burned. On 28 August, near Stave, engagement between Serbian gendarmes and communists. Three communists dead, 2 wounded.

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One Serbian gendarme wounded. On 26 August, band attack on Serbian gendarme Station. Seven Serbian gendarmes disarmed. On 27 August, Serbian Red Cross car fired on at Topola; driver dead, passenger wounded." The next recites of telephone lines being interrupted. "28 August, strong concentration of insurgents in the area east of Kos. Mitrovica. 28 August, again band attack on railway station at Umkare driven off. 28 August, Wehrmacht patrol shot at railway line Padej-Potiski. One wounded. 29 August, 6.45, truck from Organization Todt fired on 8 kilometers south of Kragujevac. One dead, 1 wounded." And it is from the Commander in Serbia.

These reports that are submitted are a fair example of the kind of opposition they were meeting down there, and there certainly is nothing to warrant the frightful ratio of executions of 100 to 1 and 50 to 1.

DR. LATERNER: Mr. President, I have just understood that these exhibits, are to prove that such information was sent out. I cannot see any proof in that, and I would subsequently like to contradict the introduction of these things. It is quite clear from the photostat it is a common draft, the preparation for reports of which I don't know whether these reports later on went out like this. We see this from looking at the documents which are, incidentally, not signed. They don't bear any heading. They are again, as so many documents, submitted here, merely sheets of paper which have been written on with a typewriter. From the contents and from the corrections, we can see that they are drafts. The prosecution should at least prove from the evidence which it submits that it was actually valid and had some effect. For this reason, I object to the introduction of this exhibit [NOKW-1387](#).

MR. DENNEY: Of course, Your Honors, we admit that the drafts of documents only go to the weight and are to be given such consideration as the Tribunal sees fit. However, we will have occasion later to show similar drafts where we will also be able to show orders and the finished product based on these drafts. Now, in this case, the only thing we found was these drafts and they are submitted for such weight as the Tribunal sees fit to give them.

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THE PRESIDENT: The objection will be overruled. The Tribunal is admitting these exhibits having in mind the character of the evidence as presented, and will so consider them in its deliberation and final determination of this whole matter. It is also being admitted with the thought that the very character of the evidence as being representative of this type, defense counsel can rebut these matters and also are in a position to comment upon the character of the evidence as presented. The objection therefore will be overruled.

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MR. DENNEY: The document in Document Book I is offered as Exhibit 38. It is Document [NO-2838](#) and it is an extract from a report of the Head of the Security Police and the SD in Berlin, 30 August 1941. With reference to Yugoslavia it states that the "Einsatzgruppe Belgrade reports:

"As a reprisal measure for the continuous attempts on members of the German Wehrmacht, 50 Communists well known as functionaries and terrorists were shot to death on 29 August 41 in agreement with the Military Commander of Serbia."

Now, we have seen before other reports by the Einsatzgruppe to the Head of the Security Police and the SD in Berlin which were again issued from the Berlin office of the Security Police and the SD and here on 30 August we have another one where the Einsatzgruppe are reported as committing an act "in agreement with the Military Commander of Serbia."

We also had the earlier order offered today with reference to the operation Geier wherein the Commander of the 65th Corps gave orders to his troops as well as to the SD for the cooperation of the two units in the operation Geier.

That concludes Document Book I and Mr. Fenstermacher will take over, if your Honors, please.

THE PRESIDENT: Mr. Denney, I believe this would be an opportune time for our morning recess, and may I again remind counsel for Prosecution and counsel for defendants that we -- that the Tribunal are desirous that two representatives from the prosecution and defense meet in our chambers during the recess period.

The Tribunal will be in recess.

(A recess was taken).

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THE MARSHAL: All persons in the courtroom will please be seated.

The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: I believe, if your Honors please, several of the documents which we have introduced up until this time have been reports from subordinate units in the field to various higher headquarters. The reports of the various armies in the field were also sent to Central Headquarters in Berlin, to the office of the OKH. The next document, which is Document No. [NOKW-551](#), we offer as Prosecution's Exhibit 39, shows the compilation which Army Headquarters in Berlin made of the various reports which they received from the field. In order that Your Honors may have some understanding of what these OKW reports actually looked like, I would ask that the Prosecution exhibit be shown to Your Honors, so that you might have some understanding of the nature of this document. If you will turn to Page 17 in your document book,

THE PRESIDENT: Volume I or Volume II?

MR. FENSTERMACHER: Volume II, Your Honoryou will note that on that page we have a translation of the Morning Report, which was prepared by the Operations Department of OKH, Berlin -- a Morning Report of the 29th of July 1941--and you will note that under the Southeast, meaning the matters which follow, were reported by the Wehrmacht Commander Southeast on the 28th of July, the day previous.

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The 28th of July, 1941, states as follows: 25 July, "In Belgrade Jewish attempts to burn German vehicles, 100 Jews were shot to death." There is the execution of a hundred Jews in retaliation for an attempt--an attempt! to burn a German vehicle.

On page 16 of the English document book, the daily report of the armed forces commander in Southeast for the 29th of July, "Because of sabotage acts reported previously not 100, but 122 Communists and Jews executed."

And on page 15 of the English document book the daily report of the Armed Forces Commander Southeast for the 1st of August 1941, "Telephone wires cut on the Road Mladenovac-Topola. Attack on Gendarmerie guard. Attacks of small bands on Serbian authorities without particular damage near Petrovgrad, Pancevo, Topola and Uzice."

On 31, July "Petrovgrad--90 Communists executed."

Page 14 of the English document book, the daily report of the armed forces commander Southeast for the 2nd of August 1941, "144 people shot to death during search operations against former Cretan Franc tireurs near Alikianu (southwest of Chania). The village of Skines near Alikianu was burned down because shots were fired from there, on our approaching troops."

On page 12 of the English document book, the daily report of the Wehrmacht Commander Southeast for 7 August, 1941, "3 more dead communists discovered after the operation Kikinda on 4.8. Meanwhile the leader of the band, a former Serbian 1st Lieutenant, was captured and shot dead." The German document itself admits that the band was led by a Serbian 1st Lieutenant. He must have been wearing a uniform or they wouldn't have known he as a Lieutenant. He was captured and he was shot dead.

On the 6th of August, eighty-seven more communists and Jewish hostages shot dead in Zagreb, the capital of Croatia.

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Turn to page 10 of the English document book, the daily report of the Wehrmacht Commander Southeast for the 8th of August, 1941--

DR. LATERNSE: I have to ask for a slower presentation since only the pages of the English document book are mentioned and the defense has to deal with the German document book and has to follow by that. Either both pages have to be mentioned or we will have to go slower, please.

MR. FENSTERMACHER: I am sorry. I will try to mention the crossGerman pagination too, Your Honor.

THE PRESIDENT: All right. I think it would be advisable if you did mention it. In fact, it is necessary that German page numbers be mentioned so that counsel can follow from it.

MR. FENSTERMACHER: I will be glad to do that. The one we are on now is page 10 of the English--that is on page 6 of the German. The daily report of the Wehrmacht Commander Southeast for the 10th of August, 1941. "In Uzice: Colonel von Stockhausen ordered the shooting dead of Serbs as a reprisal measure near the locality where an attack on German police drivers had occurred. The Police Company collected 81 Serbs from neighboring villages and Serbian gendarmes were forced to shoot them. The incident caused a temporary crisis in the cabinet. The matter could be settled almost immediately so that all was quiet with regard to this local incident."

Note in German sadism how they get Serbs to shoot Serbs in retaliation for attacks on German police drivers.

The next is on page 8 of the English. The daily report of the armed forces commander Southeast of the 15th of August, 1941, it is on page 8 of the German, 14 August p.m. German police guard attacked near Skela, 15 kilometers west of Pokonovac. One officer, one sergeant of police killed, three sergeants of police missing. As a reprisal, Skela burned down and 50 communists hanged on the 15th of August. Two men were killed and three were missing, but 50 communists had to be hanged and the whole village had to be burned down.

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The The next is the morning report of the 16th of August, 1941. It appears on page 6 of the English and on page 8 of the German, the political situation in the area of the Wehrmacht Commander Southeast This document, if Your Honors please, will tell you exactly what the Germans themselves said was going on, what they were faced with.

1) Serbia:

Situation still tense. Acts of terror and sabotage, seemingly executed according to plan are directed also against the Wehrmacht. Lately also terrorization of the population. Attacks on soldiers have decreased, Operations almost exclusively of communist origin. Reason for this--amongst others - is mass expulsions of Serbians from Croatia. The alleged cession of the Banat which I might say parenthetically was to Hungary contributes to the unrest of the Serbian, population and also of the Germans still living there.

DR. LETERNSER: A mistake on the translation. In the German it says "for the pacification" and not as the translation says "for the unrest." That is for the future possible cession of the Banat.

THE PRESIDENT: May I suggest that the question of interpretation be handed to the official interpreter so that he may give the Tribunal his conception of this particular matter?

DR. LATERNSEER: Page 6 of the English Document book, No. 1,9,8 -8 of page, it says in the English, "The alleged cession of the Banat contributes to the unrest."

In the German document book, page 9, line from above 8. it says "to the pacification of the Serbian population." The correct translation would be to the pacification and not "to the unrest."

THE INTERPRETER: The correct translation, as Dr. Laternser has pointed out, is "to the pacification of the population",--"contributes to the unrest."

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MR. FENSTERMACHER: Shall we read that line for the purpose of the record then? "The alleged cession of the Banat contributes to the pacification of the Serbian population and also of the Germans still living there."

Continuing, "Up to now only individual actions, which however may lead to larger armed communist insurrection if the situation becomes more tense. The political and economical life has not been disturbed to any extent. The mass of the population itself also suffers heavily under the terror potions, and in general, behaves loyally. Cooperation of Commander Serbia with Commissar government and Serbian police is good. Combatting of bands according to plan of all available troops, police SS and Serbian police.

Turning to the next page , page 7 of the English, we turn to Greece for the moment, page 11 of the German.

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"Increasingly negative attitude toward occupation troops as a result of organized communist and English propaganda. Some few cases of sabotage counteracted by reprisals."

So, we see that even in Greece, the resistance was not great - that the German answer was reprisal. Continuing on a few lines later:

"The position of the Greek government is difficult. Lacking authority, a large part of the population rejects it. Population dissatisfied but quiet. At this time the situation does not give any cause for worry. However, we must reckon with further incidents. The remainder of the Franc-tireurs hidden in the mountains are making attacks on Crete. Sharp countermeasures assured."

In the morning report of the 17th of August, turning to page 5 of the English, page 11 in the German. This is the OKH report in Berlin and it includes the report of the Armed Forces Commander Southeast to OKH in Berlin of the preceding day. Besides, the commission hanged Skela, prior to the report of the 15th of August which I have previously read, 15 villages inhabitants shot dead for omitting to report the presence of the bandits.

This is the attempt of the Germans to impress the local population with the operations of its own military forces.

Then turning finally to page 1 of the English, Morning Report of the 1st of September, 1941, page 12 in the German.

1.) 30.8 Communists have pillaged Serbian Gendarmerie post Sidjagovac (or Siljekovac) (20 kilometers southeast of Krusevac).

.....

2.) 28.8 10 bandits taken care of by fighter detachment on ridges southwest of Beljavac (26 kilometer southwest of Zajecar). 7 Houses burned down.

30.8 4 Bandits shot in combat during band attack on the German police station Ubub (16 kilometers northwest of Lazarevac).

Shooting Communists and bandits without any definition of how a bandit was to be warned.

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I turn now to the next document which is [NOKW 626](#) becomes Prosecution Exhibit No. [40](#). These are extracts.

THE PRESIDENT: What page, please.

MR. FENSTERMACHER: Page 20 of the English Document Book, Extract of the War Diary of the Commanding General and Commander in Serbia And, again I wish Your Honors might take a look at the actual exhibits so you will know what a war diary really looks like, have some understanding of the nature of the documents we are presenting. We will be presenting reports and war diary extracts and actual orders and it may help to actually see what they are. This is from the War Diary of the Commanding General and Commander in Serbia for the month of September 1941 and about in the middle of the page in the actual photostat copy you will see reference to the 2nd of September.

"20 Communists shot for the 3 German soldiers killed in the surprise attack on the mine of Ptanj (20 Aug)."

There is a relation of three Germans killed and 20 Communists shot in retaliation. A note at the bottom of the page, actual photostat, with reference to 3 September:

"50 Serbs shot in reprisal for the soldiers of the 724th Guard Regiment shot by Communists at 8 a.m."

And, that is from the War Diary of the Commanding General in Serbia. There seems little doubt that the actual report to which the war diary contains a reference was actually sent on to List and Foertsch and 12th Army Headquarters in Athens.

The next document is on page 21, Document [NOKW 453](#) which becomes Prosecution Exhibit No. [41](#). This is an order of the Armed Forces Commander Southeast, Field Marshal List, of the 4th of September, 1941 and as you will see tells the subordinates not to enter into any negotiations with the members of the Serbian Resistance Movement. Again, if Your Honors will take a look at the actual photostatic copy you will have some idea of what a teletype order actually looks like.

You will see on the right the initials W B Suedost which means that the order went out from the Wehrmacht Commander Southeast. You will see on the left of the document that it went out on the 4th of September time 1545. You will see that it went to Befehlshaber, Serbia, to Commander Serbia, Higher Headquarters IXV, and the text is very interesting because it shows the great concern which Field Marshal List had for political maneuvers in Serbia:

Request immediate brief estimate of overall situation.

- a. What guarantee is offered by the new Serbian government?
- b. What are its prospects?
- c. What concessions are offered? (Armed power?)
- d. What intentions generally to restore the situation and its unconditional authority?

The situation in the insurrection area around Krupanj must be restored as speedily as possible with own resources. What measures are usually met with. Take strictest action. Use of arms without consideration, never discussions. Unified leadership of the operation (one commander). Insurrectionists must without exception feel the superiority of the German soldiers and the force of their arms. Do not employ inadequate strength. Reverses must be avoided since they are untenable. Relieve incapable leaders, and if necessary, call them to account.

With severe language like that issuing from a General Field Marshal in command of the 12th Army you can well imagine the type of reports which are going to flow in from the subordinate units in execution of that type of language. The order is signed, Wehrmacht Commander South East, 12th Army.

General Field Marshal List.

We now turn to page 23, Document [NOKW 084](#) which becomes Prosecution Exhibit 42. This, Your Honors, is one of the most important documents.

I wish your Honors would take a look at the photostatic copy which is signed in the handwriting of Field Marshal List. It is from List? Wehrmacht Commander in Chief of the 12th Army. It is from his headquarters on the 5th of September 1941. Six copies were made and this one which we have actually captured is the sixth copy:

"Subject: Suppression of the Serbian insurrection movement. The situation in Serbia does not seem to eliminate the possibility of spread of the insurrection movement. Increased attacks on soldiers and Wehrmacht installations by strong, well-armed bands apparently organized and adroitly led, prove that previous counter-measures are not adequate."

Now, note that language. We are going to hear a lot about this case later on; that these were individual attacks, and that the insurgents were not lead by responsible leaders; that they were not particularly well armed; that they did not wear insignia and that they were apparently just individual bandits.

DR. LATERNSEER: I ask for a slower presentation so I can check the correctness of the translation of this order.

THE PRESIDENT: Counsel will keep in mind the request made. I think that is a, very reasonable request.

MR. FENSTERMACHER: This document begins, Dr. Laternser, on page 21 of the German, at the second paragraph.

Commander Serbia and LXVth Corps Command consequently are to make all preparations immediately to enable them to cope with any aggravation of the situation and to pacify the country completely before the beginning of the winter.

In regard to the above the following aspects are to be taken into consideration:

a) If the tension in the situation in Serbia increases the Divisions are to be concentrated on the focal points and on the local centers of the insurgent regions. Then a list of the various places involved.

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Villages are to be garrisoned not below battalion strength! Considerations of comfort and improved billets must be secondary! The units are to regard themselves as living under campaign conditions.

This is no insurgent movement by isolated bands. This is a real war. Turning to the next page, page 24 of the English:

"They will have to do without permanent billets during this period and make their billets more like those of mobile warfare. This requires a constantly maneuverable composition and equipment free of any unnecessary ballast.

"Surprising, sudden attacks on the centers of insurrection by surrounding them with superior forces (including Artillery!) The operations are to be commanded by senior, experienced officers, Divisional Commanders, according to detailed plans of operation and after preceding patrolling and reconnaissance."

If I might say parenthetically, war against the insurgents is to be commanded by experienced officers, divisional commanders. And, the outrages which you will see in the succeeding documents, will not be isolated and sporadic retaliatory measures taken by outraged units under lower rank commanders. It will be under the direction of the Divisional Commanders and lead by officers of general officer rank.

Continuing with the document:

Commandos assigned up to now as need arose are no longer sufficient in the present situation. The next paragraph deals with the types of objects these troops were to protect.

The protection must therefore - when not necessary - be limited to objects whose preservation is vital. In this category belong primarily: Belgrade as the capital (here sufficient mobile reserves!), the railway Lenkovac - Nis - Belgrade - Direction Zagreb, the Danube and the Save bridges, the Danube break-through near the Eisern Tor, the copper mines of Bor, etc.

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Active strengthened propaganda in the Serbian language with all means at our disposal (radio, leaflets, newspapers, picture posters, etc.

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) Increased pressure on the population in areas where insurgents are tolerated in order to bring the residents to a point where they will report the appearance of bands to the German authorities or otherwise co-operate in neutralizing the focal points of unrest." Now, to the next paragraph, the most important one in the document. This is a field marshal of the German Army issuing orders to subordinate units, and this is the language he uses. "Ruthless and immediate measures against the insurgents, against their accomplices and their families. (Hangings, burning down of villages involved, seizure of more hostages, deportation of relatives, etc. into concentration camps.) Close supervision of the Serbian Gendarmerie. Effective punishment must follow immediately in case of passive behavior, for instance, permitting oneself to be disarmed without suffering casualties. On the other hand it is recommended that the prospect of rewards (premiums) be held out for courageous behavior and for corresponding procedure. Increased employment of confidential agents to find out who and where the ringleaders, wire pullers, and focal points of insurrections are. Full employment of the influence of the Serbian Government which is to be made to accept responsibility and to co-operate actively. All members of the German Wehrmacht in Serbia are to be instructed again and again in the situation in Serbia and on their behavior in case of attacks, etc. These instructions are to stress that initiative and prompt action must be demanded from every German soldier. That in no situation can he negotiate with insurgents and that he can never surrender. I particularly expect the unit leaders of all ranks to use exceptional energy and initiative as well as full personal devotion to the task assigned which at this time consists solely and exclusively of suppressing the Serbian insurrection movement rapidly and finally.

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"Incapable---"

THE PRESIDENT: May I see the original German document again?

MR. FENSTERMACHER: That would be Exhibit No. 24, Major Hatfield.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: The final paragraph. "Incapable leaders are to be relieved without delay and if circumstances warrant, they are to be called to account." Signed List, Field Marshal. The distribution list of this order is to the three subordinate units under Field Marshal List, 65th Special Corps Command in Serbia, the Commander in Serbia, and to the Commander in Greece of the Saloniki, Agais Theatre.

We will see in a few minutes the results which flowed in from the issuance of this severe order.

The next document is [NOKW-625](#) on page 27 of the English which becomes prosecution Exhibit 43. This is the same order as the preceding document except that the-

THE PRESIDENT: Pardon me, please, what is the German page number?

MR. FENSTERMACHER: The German is on page 23.

THE PRESIDENT: Will you kindly give the German page number at the same time you give the English page number?

MR. FENSTERMACHER: I will, sir. This is the same as the preceding document from a content standpoint, but it shows the actual receipt stamp of the military commander in Serbia.

The next document is on page 31 of the English and page 27 of the German, Document [NOKW-214](#). It becomes prosecution Exhibit Number 44. This is a report of 738 Infantry Regiment to the 718 Infantry Division, and it relates to various encounters which the regiment has had with enemy groups. The report from the Regiment is dated 9 September 1941, and it was received by the higher division on the 12th of September 1941.

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We needn't read this in its entirety but the last paragraph which is on page 33 of the English and on page 29 of the German, under "Supplies.) It reads as follows: "The fights around Kevljaca have shown that the Serbian Insurgent movement already has at its disposal perfectly well organized and disciplined units under good leadership. Terrain and national character favor guerrilla warfare very outstanding in manner; the patrol service and the transmission of Communications facilitated in an extraordinary way the co-operation of the entire population," and the report is signed by the regimented commander, first Lt. Dzaack.

The next document is on page 34 of the English and page 30 of the German, Document [NOKW-1049](#), which becomes prosecution Exhibit Number 45. These are reports of the 65th Special Corps Command which was operating under General Boder in Serbia, commander of the 18th Mountain Corps under General Boehme, reports from those two units to List and Foertsch as the commander and Chief of Staff of the 12th Army in Athens. We need not read all of these again. I wish if Your Honors might take a look at the photostatic copies so that you will understand the nature of the reports of the subordinate units to higher headquarters. First is the daily report of the 17th of August 1941, and the reports are broken down into the various divisions subordinate to the unit which is reporting. For example, there is the 704 Infantry Division and what it reports, and later the 714 Infantry Division and its full line reports, finally 718th Infantry Division and its reports. Those three Divisions were under the Higher Headquarters of Special Corps Command LXV, and in its reports the Corps coordinates reports which it has previously received from the divisions operating under it.

Turning to page 35 of the English and page 32 of the German, the daily report of the 19th of August 1941, the 714th Infantry Division reports as follows:

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"A peasant's house, in which munition was found, was burned down on 18 August '41 by the Pursuit Detachment of the 2nd Battalion 721st Regiment, in Glocane, 2 kilometers east of Lapovo. Inhabitants shot." Signed LXV 65th Corps Command.

Turning to page 37 of the English, the daily report of 28 August 1941 page 32 of the German, the daily report, as I said, of the 28th of August. You will note in the succeeding page, page 38 of the English under the 717th Infantry Division, and still page 32 of the German; "Communist leader Petrovic shot; three inhabitants of the house arrested by Pursuit Detachment of the 1st Battalion, 749th Regiment in Rigjage, 5 kilometers west of Cacak, 27 AUG." And still on page 38 of the English, the daily report of 29 August 1941, page 33 of the German, the report from Boehma who was the Commander of the XVIIIth Corps then operating in Greece; and he reports to his Commander of the 12th Army List as follows: "Military cable net in Chalkis cut through in three places the night of 26 Aug. 41. Perpetrator not yet known. Three suspects arrested by Greek police. Fifteen hostages killed."

DR. LATERNER: Again, there is a mistake in the translation. I have to ask again that the documents be presented a little slower so that I can check the translations. The report as we just followed it, "15 hostages..." on page 33 of the German Document Book from the top the 10th line reads as follows, the original text in German reads: "15 hostages taken," quoting. Now, reading the English text, the translation reads: "15 hostages killed." Yes, that is correct. I ask to correct this translation. The English text is on page 38. In the English Document Book, it is the last sentence, the last line.

THE PRESIDENT: May I ask that it be handed to the official interpreter for her interpretation for the benefit of the Tribunal?

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INTERPRETER SCHAEFFER: Your Honor, the German text reads as the German counsel stated--"15 hostages were taken." It doesn't say "killed" in any way.

THE PRESIDENT: You may proceed. Well, perhaps this would be a good time to adjourn. It is now 12:15. The Tribunal has observed that it pays to give a little extra time. We make some headway by giving counsel a little more of a recess period, and we suggest that you show your appreciation by being back here promptly at 1:30. The Tribunal will be in recess until 1:30.

(A recess was taken until 1330 hours 17 July 1947)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours 17 July 1947)

THE MARSHAL: Will all persons in the courtroom please take their seats.

The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: May it please the Tribunal, you will remember that before the luncheon recess we talked about certain reports which subordinate units had sent to Field Marshal List, 12th

Army Headquarters, and other reports which the 12th Army Headquarters had sent out to OKH in Berlin.

We also spent some time on orders issued by Field Marshal List for the destruction of the insurrection movement in Serbia.

Now, with the next document, which is on page 47 of the English and on page 37 of the German, [NOKW-1141](#), which becomes prosecution Exhibit No. 46, you see the connection between the Wehrmacht and concentration camps. This document is in an order of the Commander in Serbia and it is dated "Belgrade 1 September 1941."

The great number of the Communists under arrest impedes the troops. There is danger that these Communists will be liberated by their comrades. Consequently, it is necessary to transfer the arrested Communists to Belgrade as soon as possible in accordance with requisitions of the Security Police. For this purpose the individual military offices are to make lists if possible, immediately -- of the Communists detained by them. These lists must show:

"a) Exact personal data of persons under arrest, "b) Day and place of arrest and the troop unit which has made the arrest, "c) Reason for arrest and brief description of factual circumstances, "d) Exact place where person arrested is presently located.

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"For the sake of convenience, these lists are to be submitted directly to the liaison officer of the security police with Higher Command IXV - SS - Obersturmfuhrer Muller -- in Belgrade."

And on the following page, page 48 of the English, page 39 of the German, is letter from "Servia Commander, Command Staff, Section Ia," Secret under date of 21 August 41, ordering that:

"Prisoners with the troops are to be transferred to Concentration camp Belgrade in order that the troops may be relieved of their responsibility. This cancels out the local importance of the concentration camp Belgrade subordinate to the Administrative Sub-area Headquarters.

"Therefore, effective immediately, the concentration camp will be made subordinate to the Commander Serbia/Administrative Staff and will be designated as 'Concentration Camp Serbia, Belgrade.'

"The Administrative Staff will regulate directly the process of taking over of the concentration camp and the inclusion of the Einsatzgruppe of the Security Police and SD. Guarding of the concentration camp as heretofore."

Signed "Lt. General Air Corps."

You will hear a lot in the next few weeks in this trial about the lack of knowledge by the Wehrmacht Commander of the concentration camps which I am sure they will claim were entirely within the jurisdiction and knowledge of other units of the German occupation forces in Serbia; namely, the SD and Security Police.

This document, I think, will make quite clear that the Wehrmacht knew and had jurisdiction over certain concentration camps in Serbia.

The next document is [NOKW-1141](#). I beg your pardon. The next document will be [NO-3154](#), prosecution Exhibit No. 47, page 50 of the English and page 39 of the German. These are extracts from situation reports of the Chief of the Security Police and the SD and I think if your Honors would look at the original photostat it might be helpful for an understanding of the actual document.

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You will note that this is a fairly voluminous report of 16 pages. It's from the Chief of the Security Police and the SD and the date line is "Berlin 11 September 1941" and it contains various references to the activities of the Einsatzgruppe, how it occupied certain territories.

Actually, the excerpt which we are using is Document [NO-3154](#) and this exhibit is the final page of the photostatic copy of page 16. You will see it refers to the "Balkans" and then "Serbia" and the excerpt in translation is as follows:

"Increase of the insurgent movement in the Drina-Save-Triangle and in the area around Lazarevac. Considerable concentration of insurgents around Gor. In general numerous attacks and acts of sabotage mainly on railroads. Line Belgrade-Nish as yet not repaired. In reprisal for attack on a Wehrmacht vehicle on 5 September in a village north of Cacak, the village was destroyed on 6 September."

It is quite clear from this document that the destruction of a village as a retaliation for an attack on a vehicle was not a spontaneous act of outraged troops because the reprisal action took place a full day after the attack occurred.

DR. LATERNER (Counsel for defendants Weichs and List): A translation is not correct. In the German text of the document book, page 39 -- that is page 50 of the English -- it says on the last line: "The village was shot to pieces on the 6th of September"; while in the English document book, on page 50, in the next to last sentence of the text of the document, it is translated as follows: "The village was destroyed."

The translation is not correct at all because the sense of the document if I use the words "shot to pieces" means that it is probably shot to pieces with a fight of bands and not as it looks from the English translation, by way of reprisal.

MR. FENSTERMACHER: If your Honors, please, I think the translation is quite clear as to whether it was shot to pieces or whether it was destroyed.

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It was in fact in reprisal for an attack on a Wehrmacht vehicle which occurred the day previous.

THE PRESIDENT: If there is a question as to whether the translation as given in the English is correct, The Court will ask that it be handed to the official translator for his translation.

May I ask that the translator refer both to the English page of the document book and the page in the German page so it may be properly identified.

THE INTERPRETER: Then in the German document, in the last paragraph -- in the English document book it is page 50 and it is again the last paragraph --- the translation is: "as a reprisal for the attack in the village north of Cacak on the 5th of September on a Wehrmacht vehicle the village was shot to pieces on the 6th of September." That ends this paragraph.

MR. FENSTERMACHER: I think, if your Honors please, that does not affect the purpose for which the document has been introduced by the prosecution. We intend to show that the village was shot up, or what we intend to show is that the village was shot up in reprisal for an attack which occurred the day previous and it is quite clear, I think, from the text that there was no combat action involved through which the village was shot up.

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MR. FENSTERMACHER: The next six documents in Document Book 2, your Honors, are probably the most important documents which will be introduced by the prosecution against the defendant List, and I think I should fill in the background a little bit before we actually introduce them.

When the German Army made preparations for the attack against Russia, which was launched on 20 June 1941 -

DR. LATERNER: I believe I must again object. In order to give the background, the prosecution had ample opportunity in its opening statement. We are now in the case in chief, where according to the rules established by the International Military Tribunal connecting sentences, are possible. Additional statements are not possible in the case in chief as far as I know, in the procedure.

MR. FENSTERMACHER: I do not mean to enter into any argument at this time, but I believe that for the proper understanding of the document, there ought to be a little bit of association between external events and these somewhat dry and dull words that appear on the printed page. I would fill in the background, as I term it, in about 4 or 5 sentences.

THE PRESIDENT: Mr. Prosecutor you may make such explanatory comments as you feel may be necessary in connection with these documents. However, this Tribunal is of the opinion that this is not the time to comment on their value or to give your conclusions as to what you think about them.

This Tribunal is interested at this particular time only in the presentation of the evidence. However, as I stated before we have no objections to your briefly commenting on those matters as you feel you should do so to connect them up. Let's limit it to that.

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MR. FENSTERMACHER: To go on from the Southeast theatre after the campaign ended in May, immediately during the course of the summer, the insurgent movement grew larger and larger, and finally something had to be done, and we can see that Field Marshal List suggested what should be done

from the next document, which is [NOKW 1424](#), and begins on page 51 of the English translation, and page 42 of the German. It becomes Prosecution Exhibit No. [48](#).

This is the request which Field Marshal List sent to OKW in Berlin, requesting that there be unification of commands in Serbia in order to successfully defeat the insurgent movement.

There was a military commander in Serbia at that time, who had administrative troops under him,, and there was a technical commander in Serbia and General Bader with the 65th Army Corps Command who had tactical groups under him.

DR. LATERNER: Mr. President, I object against this presentation here. It is not right, in order to show the court why these documents are submitted here, the prosecution here presents assumptions, and from these assumptions he must bring proof, and this is not the time to add any assumptions to the documents presented here.

THE PRESIDENT: The Tribunal is of the opinion that the objection is made by counsel for the defendant is a proper one, and that the matters which are commented upon become, in their nature, evidentiary. As I stated before, we have no objection to your making brief comments as to these documents, as they are connected, as I stated before, and I believe it should be limited to that, and that there should be no comments as to what could very well be termed evidence being given by the prosecutor.

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MR. FENSTERMACHER: Exhibit No. 48 is a memorandum from the defendant List, the commander-in-chief of the 12th Army dated 15 September 1941. It goes to OKW headquarters, and it reads as follows:

TRANSLATION OF DOCUMENT No.NOKW 1424 OFFICE OF CHIEF OF COUNSEL FOR WAR CRIMES I (Page 1 of original) (handwritten) O Qu Qu2 (Illegible initial) 14 Sept.

M.C.

(Stamp) Top Secret.

Priority 5 copies Teletype 4th copy To OKW/Headquarters Group same text OKH, Army General Staff.

Threatening development of the overall situation in Serbia demands energetic measures. Even the new Serbian Government does not come up to expectations, according to reports of the Commander in Serbia. Gendarmerie unreliable on an increasing scale. Association between the insurgents - in my opinion not aptly described as Communists by the Commander in Serbia - with the Cetnicks, has been confirmed.

First requisite is a rigid uniform leadership of the offensive operations which are necessary for the restoration of unconditional authority. Moreover it is essential that the overall executive power, including command over the troops which will be committed, should be united in one hand. This can

only be that of the supreme troop commander. The present command regulations are based on peaceful conditions and are unbearable under the present turbulent combat conditions.

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General of Infantry Boehme is a person to be considered as especially suited for this position since at the same time he has an excellent knowledge of conditions in the Balkans. Together with his staff, he should be made free for this task.

(Stqmp)

12th Army.

Received 13th Sept. 1941.

O.Qu No. 1163 (handwritten) Top Secret.

O Qu/Administration 134/41 top secret.

(Page 2 of original)

It is fully understood that the interests of the Four Year Plan will also be taken into consideration in this case. Main condition for its realization is security and order in the country.

Even after the transfer of the reinforced 125th Infantry Regiment, the German Forces are in no way sufficient for carrying out the necessary operations in Serbia. The divisions of the 15th Wave, both as regards personnel and material composition, as well as regards leadership, are unsuitable, according to experiences made up until now, "for the destruction of this revolt, which is universally breaking out." Mobile supply installations for larger sized operations are also lacking.

I therefore see myself forced, in spite of my appreciation of the overall situation, to propose the speedy transport of at least one powerful front-line division with tank support.

(Signed)

Wehrmacht Commander Southeast Certified true copy (signed) (Illegible) (12th Army) Colonel GSC
13th September 1941.

(Signed) List.

After release. Field Marshal.

Chief (Teletype - 1a-1c-O.Qu War Diary.

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CERTIFICATE OF TRANSLATION 19 June 1947.

I, Mary E. Carter, British civilian #20134, hereby certify that I am thoroughly conversant with both the English and German languages; and that the above is a true and correct translation of Document Np. [NOKW-1424](#).

Mary E. Carter # 20134

DR. LATERNSEER: Mr. President, I must complain about a mistake in the translation which in my opinion is present. In the German text on Page 41, in Line 9, "for suppressing this revolt which calls itself universal".

This sentence in the English document, on page 51, page 52 I beg your pardon it is on page 52, that's right, - on page 52, line 8, it is translated, "for the destruction of this revolt, which is universally breaking out".

"Destruction" in my opinion is too strong a translation for the military "Niederschlagung" expression- it is not as strong, it is "to suppress", and this translation makes this order bear another sense than it was originally intended to bear.

THE PRESIDENT: Unless there is some objection on the part of counsel which they wish to present, the Tribunal will request that the document in German be submitted to the court interpreter for his interpretation.

MR. FENSTERMACHER: It is agreeable with the prosecution, your Honor.

THE PRESIDENT: Is it so agreeable with the defense counsel?

(Dr. Laternser indicated it was by nodding his head "yes").

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Dr. Laternser has indicated his approval and it will be landed to the interpreter.

May I ask the interpreter, for the purposes of the record, to indicate from what page and line in the English and in the German documents he is now reading?

INTERPRETER: The English text, page 52 of the English Document book, line 8.

The German text is on page 41, and on the 9th line from the top. I must add here that the German text, in the German document book, does not correspond with the document in English and for that reason it is very difficult to translate it. The document on that line says, and I read it in German now:

"Fuer niederschlagen dieses sich abzeichnenden Aufstandes"; (The interpreter then read the sentence again) - "des sich allgemein abzeichnenden Aufstandes"

MR. FENSTERMACHER: If your Honors please, perhaps we could have the actual line from the document itself translated by the interpreter.

THE PRESIDENT: The interpreter shall interpret the line in question from the document as presented.

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INTERPRETER: It's on page, Line 9 and reads as follows:

"For the suppression of this revolt which can now be seen and is universally breaking out."

MR. FENSTERMACHER: That's the end of this passage. The next document will indicate the reply of Hitler to Field Marshal List's request, as set forth in the previous document. It appears on page 53 of the English and on page 42 of the German. It's Document [NOKW-1492](#), which becomes Prosecution's Exhibit No. 49. It's from the Fuehrer and Supreme Commander of the Wehrmacht, Fuehrer Headquarters, 16 September 1941. There are twenty-two copies and this is the eleventh copy.

(stamp) (Handwritten)

Top Secret Directives The Fuehrer and Supreme Commander of the Wehrmacht
OKW/WEST/Branch (National Defense) No. 44 1538/41 Top Secret for Officers only (stamp) Top Secret for Officers only Fuehrer Headquarters 16 Sept 1941 (Handwritten) To (excerpt to (illegible)) (illegible) Wehrmacht Commander Southeast 22 Copies 11th Copy (Initial) W 12/9 I charge the Wehrmacht Commander Southeast, General Field Marshal List with the task of suppressing the insurgent movement in the Southeast area.

The primary task is to secure in the Serbian area the traffic arteries and objects which are important for the German War Economy and to re-establish order in the entire area on a long-term basis by the application of the most severe means.

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In Croatia, (up to the line of demarkation) measures deemed imperative against the bands are to be taken in agreement with the Croatian government through the mediation of the German General in Zagreb.

For the duration of the execution of these tasks all Army Forces stationed in the insurgent area, as well as those to be brought there, are to be concentrated under the order of the Commanding General of the XVIII Infantry Corps, Lt. General of Infantry Boehme. The latter exercises executive power in the insurgent area itself, pursuant to directives of Wehrmacht Commander Southeast. In so far, all military and civilian offices must follow his instructions.

The Wehrmacht Commander Southeast regulates a more accurate definition of his authority. The interest of the Four Year Plan are to be taken into consideration as a matter of principle.

An Infantry Division, Panzer Platoons and captured tanks will be sent by the Commander-in-Chief of the Army into the Serbian area in addition to other security forces (those for Croatia also). He prepares for the bringing up case of need of an additional division as soon as one is released in the East.

I request that the measures be reported in detail to the OKW.

As before, the Commander-in-Chief of the Luftwaffe supports the operation in the insurgent area with all the forces available for this purpose. He designates to Wehrmacht Commander Southeast a leader for tactical co-operation with Lt. Colonel of Infantry Boehme.

It is not permissible to employ forces of the Hungarian, Rumanian and Bulgarian Army and Luftwaffe for these operations without the approval of the High Command of the Wehrmacht. However, Hungarian and Rumanian ships which are offered may be employed together with the Danube Fleet for

the security of the Danube traffic. With a corresponding commitment of the German Flotilla, they are to be assigned such duties as will prevent them having anything to do with each other.

The use of Croatian troops in the Serbian border areas adjoining Croatia has been conceded by the Croatian government, and may therefore take place.

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The Italian High Command will be informed of the intended measures and will be requested to take suitable energetic action in the territory occupied by the Italians, in agreement with the Wehrmacht Commander Southeast.

The Foreign Office will carry out a joint political action of the Balkan States against the Communist Central Offices in these countries.

A representative of the Reich will inform Wehrmacht Commander Southeast regarding the details.

(initials)

W K (Signed) Adolf Hitler Distribution:

Wehrmacht Commander Southeast 1 Copy Military Commander Serbia 2 " German General in Zagreb 3 " German Wehrmacht Mission in Rumania 4 " German General with the Headquarters of the Italian Armed Forces 5 " Commander-in-Chief of the Army (O. Qu. I) 6 " (Op. Branch) 7 " Naval High Command (Naval Operations Branch) 8 " Luftwaffe High Command (Luftwaffe Operations Staff) 9 " Chief Wehrmacht Transportation 10 "

O K W W F S T 11 "

MR. RENSTERNMACHER: The document is initialed "W" and "K" -which are Field Marshal Keitel's initials, the Chief of the OKW, and it is signed by "Adolf Hitler", in his own handwriting.

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It's distributed as follows: The first copy to the Wehrmacht Commander Southeast, the second copy to the Military Commander Serbia, and the third copy to the German General in Zagreb. In the next document it's apparent that it rather is Field Marshal List's order in accordance with the Hitler directive, appointing Lieutenant General Franz Boehme to suppress the insurrections mounting in Serbia. The number of the document is No. [NOKW-1334](#), and becomes Prosecutions Exhibit No. 5. The document is a radio message from the Wehrmacht Commander Southeast, of 19 September 1941. It goes to the Commander in Serbia, LXV Corps Command, and the German General in Zagreb.

(Handwritten) Copy (Handwritten.)

Without stamp Vort.

Enclosure 64 Military Commander in Serbia Ton Secret Command Staff Ia No. 220/41 of 19 September 41 Radio Message from Wehrmacht Commander Southeast of 19 September 41 To The Commander in Serbia

LXV Corps Command German General in Zagreb By order of the Fuehrer, General of the Infantry Boehme Commanding General of the XVIII Army Corps is commissioned with the Leadership of military operations in Serbia.

In compliance with Fuehrer Order I transfer to General Boehme the entire executive power in Serbia.

All Command authorities and forces of the Army existing there or to be transferred there are subordinated to him.

As the only possessor of executive power in accordance with the Fuehrer order binding instructions to all military and civilian offices.

The interest of the Four Year Plan will be protected on principle.

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In suppressing the insurgent movement in the Croatian – Serbian frontier area, General Boehme possesses executive power there too, in so far as it is an operational area, in agreement with the Croatian government, via the German General in Zagreb. Instructions for the carrying out of operations for the necessary protective measures will be given by no only to General Boehme who is responsible for their being carried out. Certified True Copy: Wehrmacht Commander Southeast Ia 1953 Top (signature illegible) Secret Lieutenant of 18 September (signed) List General Fieldmarshal

MR. FENSTERNMACHER: The document is signed the Wehrmacht Commander Southeast. List, General Fieldmarshal. I think it is important that the Tribunal know who this man was. General Fieldmarshal List was considered especially suitable to suppress the insurgent movement on the Bethaus Franz Boehme was indicated as defendant in this case, but he has died since the indictment was served; however, we have an affidavit of Boehme's which was executed in Nuernberg on the 12th of March 1947. The next document is that affidavit which appears on page 59 of the English and page 47 of the German. It is Document No. [NOKW-876](#), which becomes Prosecution's Exhibit No. 51. The first part of the document simply outlines Boehme's carrier from the time he entered the Austrian Army until 1936. I think it need not be read, but I should like to read the bottom, beginning the last six lines on page 59 of the English and page 47 of the German.

AFFIDAVIT:

I, Franz Boehme, Being duly sworn say and depose:

I was born in Zeltweg/Styria (Austria) on 15 April 1885. I am an Austrian citizen. From 1900 to 1904 I attended the Infantry Cadet School in Liebenau near Graz (Austria). In 1904 I entered the Austro-Hungarian Infantry Regiment Number 95 as a Cadet (Lemberg, Galicia, later Ragusa and Cattare, Dalmatia). In 1905 I was commissioned Lieutenant, in 1911 I became ist Lieutenant from 1911 to 1914.

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I attended the war academy in Vienna. I participated in World War I as 1st Lieutenant and since 1915 – as Captain of the general Staff. At first I was with the 38 Honved Infantry Division in Galicia, later with

tho 132 Infantry Brigade. In Wolhynia, Russia , I was with tho Austrian XXIV Infantry Corps. Then I was exchanged and attached to the German 51 Corps Headquarters in Kurland. I participated in tho fighting in Italy first with tho Austro-Hungarian XXIV Infantry Corps and later in the Isonzo Army. In France I was with tho first Austro-Hungarian Infantry Division, From 1920 to 1938 I was in tho Austrian Bundesheer: first as Major (1920), Lieutenant Colonel (1921), Colonel (1929), General Major (Brigadier General) (1936). During that year I was tho Austrian observer in the Abyssinia Campaign.

After tho Anschluss of Austria with Germany I was taken over by the German Army. From July to October 1938 I was in Potsdam for retraining. From November 1938 to August 1939 I was Infantry Commander with tho 23 Infantry Division. I was promoted to General lieutenant (Major General) in 1939.

From September 1939 I was a commander of tho 32 Infantry Division (Polish Campaign and the first part of the French Campaign), I was promoted to General of Mountain Troops in 1940. From June 1940 to December 1943 I was Commander General of the XVIII Infantry Corps, in the second phase of the French Campaign (1940), in the Balkan Campaign (1941) and in Finland (1942/1943). From January 1944 to the end of June 1944 I was Deputy Commanding General in Salzburg. From 38 June 1944 to 10 July 1944 I was the Commander-in-Chief of the 2nd Panzer Army in the Balkans. Having been in a plane crash on 10 July 1944 I was in a hospital until the middle of January 1945. From 22 January to 8 May 1945, I was Commander-in-Chief of tho 20th Mountain Army and Wehrmacht Commander in Norway.

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In World War I received the following Austro-Hungarian decoration: Signum laudibus in Bronz and Silver, Military Merit Cross 3rd Class, Order of the Iron Crown 3rd Class. The Republic of Austria granted no the Military Merit Order.

In World War II I was decorated with the Iron Cross 1st Class and 2nd Class (Clasp) with the Knights Cross of the Iron Cross and the German Cross in Gold.

I am married and childless and my wife never was a Party member. I never belonged to the "ILLEGALS" in Austria and I always was true to my oath as an officer. I never belonged to the National Socialist Party, neither in Austria nor after the Anschluss. I have no party decoration.

I have made this statement voluntarily without any promise of reward and I was neither threatened nor compelled to do so.

I have road carefully each of the three pages and countersigned them with my own hand, have made the necessary corrections in my own handwriting and countersigned them with my initials, and I herewith declare under oath that all facts stated by me in the above affidavit are the entire truth to

MR. FENSTERNMACHER: I think the remainder of the document also need not be read. Signed Boehme. The following document which begins on page 62 of the English and page 40 of the German, is a Service Record of General Franz Boehme. It is Document No. [NOKW 1560](#) which becomes Prosecution's Exhibit No. 52. I think most of it also need not be read since it simply outlines his career,

which he also outlines in his own affidavit, but on page 64, of the English and on page 50 of the German are some recommendations from various other German Commanders who commanded General Franz Boehme, and I think it will throw some light on the nature of this man which Fieldmarshal appointed to suppress the revolt in Serbia. On the 22nd of February 1941 Fieldmarshal Weichs said, "Quiet, considered, intelligent, always considerate in furthering the educational position of the subordinate divisions. For his especial adaptation for higher position not yet be disregarded". Then General Dietl in a private letter of 1 September 1943 to the Chief of the Personnel Office says, "Dependable, adaptable troop commander.

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Good head. Have not yet learned to know him under large-scale battle conditions. Has to show yet whether he possesses, in long-enduring, largescale battle, necessary severity and the considered leadership qualities above the level of corps. At the present time, therefore not yet adapted for army commander. Considering his knowledge of languages, especially adapted for employment in the Balkans." Then, later on, on the 10th of January 1944, Dietl again says of Boehme, "Has served well as commanding general. No opportunity was present for employment under major and heavy fighting conditions. Very active and adaptable leader. Sometimes somewhat nervous and irritable. Could, as senior commander, be somewhat more generous at times. Especially adapted for employment in the Balkans."

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We can now pass to the next document which is on page 67 of the English, and page 52 of the German. If there is any document that is basic in this case, it is this document which we are now about to introduce, [NOKW 258](#), which becomes prosecution Exhibit No 53. This is Field Marshal' Keitel's directive of 16 September 1941 for the suppression of the Communist insurgent movement in the occupied territories. You can see from the distribution list which appears on page 69 of the English and on page 53 of the German that it went to the units operating in Serbia under the command of Field Marshal List. It went to the Corps Command, 65. It went to the 342 Jaeger Division, and it went to the 125 Infantry Regiment. The document originates from the Fuhrer's headquarters, dated 16 September 1941. Forty copies were distributed of which this is the second.

1) Since the beginning of the campaign against Soviet Russia-communist insurgents movements have broken out. The forms they take have increased from propanganda measures and attacks against individual members of the Wehrmacht to open revolt and widespread band warfare. It is established that it is a question of centrally directed mass movement which also must be made responsible for minor isolated incident appearing in territories quiet up to now.

In view of the manifold political and economic tension in the occupied territories one must also assume that nationalists and other circles will exploit this opportunity to cause difficulties for the German occupation power by joining the communist revolt.

In this way an increasing danger for the German conduct of the war arises which shows itself at first in a general insecurity for the occupation units, and which has also led to the transfer of forces to the main places of unrest.

2) Measures taken up to now to counteract this general communist insurgent movement have proved themselves to be inadequate.

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The Fuehrer has not ordered that severest means are to be employed in order to break down this movement in the shortest time possible.

Only in this manner, which has also been applied successfully in the history of the extension of power of great peoples can quiet be restored.

3) The following directives are to be applied here:

a) Each incident of insurrection against the German Wehrmacht regardless of individual circumstances, must be assumed to be of communist origin.

b) In order to stop these intrigues at their inception, severest measures are to be applied immediately at the first appearance, in order to demonstrate the authority of the occupying power, and in order to prevent further progress.

One must keep in mind that a human life frequently counts for naught, in the affected countries and a deterring effect can only be achieved by unusual severity. In such a case the death penalty for 50 to 100 communists must in general be deemed appropriate as retaliation for the life of a German soldier. The manner of execution must increase the deterrent effect. The reverse procedure--to proceed at first with relatively easy punishment and to be satisfied with the threat of measures of increased severity as a deterrent does not correspond with these principles and is not to be applied.

d) Indigenous forces generally will fail in the execution of such violent measures. Their reinforcement brings with it increased danger for our own units and consequently must be avoided.

However, premiums and rewards for the population may be employed to a large extent, in order to insure their assistance in appropriate form.

The document is signed "Keitel."

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The scene now shifts in time to September, October, November, and December, 1941, and to the activities of General Boehme in Serbia in suppressing the insurrection movement. We would like now to introduce a document which I am not sure is yet in Your Honors' document books.

This will be an insertion for your Honors' document Book. There should be an insertion for page 69-A and 69-B and for the German insert it should be page 63-A and 63-B, No. NOXW-1041.

THE PRESIDENT: Just a minute, please. May we wait until they have been distributed to German counsel?

MR FENSTERMACHER: Document Book II, [NOK W-1041](#), which becomes prosecution exhibit No. 54, it is again an affidavit of the deceased General Boehme and it explains the command jurisdiction which existed in Serbia prior and after he arrived there as representative of Field Marshal List. The affidavit is dated Nurnberg, Germany, April 11, 1947.

I, General Franz Boehme, swear and depose:

I came to Serbia in September 1941. My title was: Plenipotentiary Commanding General of the 18th Army Corps. Duties assigned to me were:

1. securing traffic on the main line and on the Danube, 2. Securing the operation of three mines, 3. Liberating the country from the partisan plague and reconstituting quiet and order with the aid of the forces which were to be brought up.

When I arrived in Serbia, General Rader was there. He commanded 4 Divisions which according to my recollection were numbered as follows: 704, 714, 717, and 718. When I arrived in Serbia General Bader with his four divisions, were subordinated to me though General Bader continued in command of them. Naturally, General Bader knew the situation in Serbia better than I did, so that I did not object to the fact that he remained to a great extent independent in directing the operations.

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I received the evening and morning reports from him, daily, so that I was well informed regarding everything he did. General Bader fully appreciated his relationship of subordination to me. Later two more divisions, the 342nd and 113th Divisions came to Serbia which I took over. General Bader never had anything to do with these two divisions. All reports to the 12th Army went via myself.

After my arrival, General Bader no longer sent reports to the 12th Army.

When I arrived in Serbia, General Danckelmann was still there. At that time General Danckelmann bore the title: Military Commander in Serbia. After my arrival he remained in Serbia for about two to three weeks. During that period he had no combat units under him but only some Administrative troops. I cannot recall to whom he turned over these Administrative troops when he left. When I departed, I turned over my functions to General Bader who then carried the title Commanding General and Commander in Serbia.

Following is the jurat of General Boehme. I think if Your Honors will turn to the information folder which the prosecution prepared for you, to Chart B, you will have a graphic description of the command relationship which existed in Serbia for the period September 1941 through December of 1941. You will note that Field Marshal List is in charge of the 12th army as the top command in Southeast, that under him he has Plenipotentiary Commanding General in Serbia Boehme who was simultaneously Commander of the 18th Mountain Corps and who had subordinate to him two divisions, the 113th and the 342nd Division.

We have also tried to indicate the subordination of General Bader as the Troop Commander of the 65th Special Corps Command and as Commanding General in Serbia to General Boehme with the various divisions under General Bader.

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The next document is on page 70 of the English, on page 54 of the German. It is Document No. [NOKW 456](#) which becomes prosecution Exhibit No. 55. This is an order of General Bader as Commander of the Higher Headquarters, Special Corps Command 65, to his subordinate unit, the 125th Infantry Regiment, and it is dated September, 1941. Only the third paragraph of the order seems material.

"Severest measures are to be taken. Localities showing resistance are to be blocked off and to be burned down." Signed Bader, General of Infantry.

Our next document is on page 71 of the English, page 55 of the German. Document [NOKW-1078](#), prosecution Exhibit 56. It is a report of the Military Commander in Serbia and it relates from a German viewpoint the various insurgent groups which were operating in Serbia to the prejudice of German occupational security. It is signed "For the Military Commander in Serbia," who at that time was General Danckelmann by Danckelmann's chief of staff Lt. Col. Gravenhorst. It originates in the headquarters of the Commander of Serbia in Belgrade, dated 16 September 1941.

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With regard to the insurgent movement which increases daily and whose increase is caused by temporary military victories by the insurgents, a counter-attack can only then be carried out successfully, if one is able to distinguish friend from foe, that is the guilty from the not guilty. The development of the insurgent movement was in short the following:

- a) The usual band disturbances known for decades in the Balkans
- b) The beginning of reinforced Communist agitation and Communist outrages to destroy the German supplies at the start of the war with Russia.
- c) Organization of Communist band (partly under military leadership.)
- d) Incited by partly successful fighting by the Communists, the national Serbs are organizing fighting units against the Germans.
- e) Union of Communist and National bands.
- f) Active fighting of both bands (partly united) against the German Wehrmacht.

In the Southeastern part of Serbia in the area of the Administrative Sub-Area Headquarters Nisch, apart from the bands fighting against the Germans there are also national-Serbian bands of Kosta Pecanac. The latter with his people stands behind the Serbian government and supports the German occupation troops and the Serbian government with the idea of protecting the country from civil war.

The Administrative Sub-Area Headquarters Nisch has permitted the followers of Kosta Pecanac to carry arms. The weapons however are only to be carried openly. The followers of Kosta Pecanac are mostly in uniform and in possession of identification cards which identify them as members of the Kosta Pecanac group. They are the only acknowledge Chetniks. They want to fight the Communists and in several cases are said actually to have fought against them.

South of Nisch we also find the hitherto pro-German Komitacis.

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The treatment of these two groups is to be such that they will continue to have confidence in the German leadership and will destroy Communism in their own ranks on their own initiative. Attention is called to the decree of the Administrative Sub-Area Headquarters Nisch No. 353/41 secret, dated 11/9/41: "Relations towards the Chetniks".

In contraction to this, we find bands in the insurgent district between the line Obrenevac-Cacak-Mitrovica and the Drina (the Save-Drina band incl.) some of whom call themselves Chetniks too but who did not subordinate themselves to Kosta Pecanac nor to the Government. The fights near Loznica and Krupanj as well as single enemy operations West of Uzice and near Mitrovica have proved clearly, that these bands are at one with the Communists and face us armed and openly as enemies.

It must be made definitely clear to the unit, that, in this district, every Serb, (the gendarmerie and the finance post excepted) who is apprehended carrying weapons or who supports Communist or other bands is our enemy and is to be destroyed.

The Communist and Serbian bands camouflaged as nationals, who are hostile to us in the insurgent district, have recently organized themselves in such a fashion that one can already speak of enemy organizations. Their military structure is composed of companies and battalions which are frequently under the responsible leadership of former Serbian officers. The armament is distributed in such a manner that each company disposes over an equal amount of weapons. In one company one noticed up to 71 machine guns. The presence of numerous heavy machine guns has been confirmed. There are still numerous unarmed people in the individual companies who as relief take over the weapons from time to time.

In Serbia's other districts the situation at present is so, that up until now only Communist bands face the German Wehrmacht as enemies there.

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By reason of the order dated 13 September "Instruction of the Communist party of Serbia for guerrilla warfare" distributed to all offices and troop units within the jurisdiction of the Commander of Serbia as well as its supplement by additional available orders for service within the companies and battalions, one has to reckon with the fact, that in the insurgent district especially we are now facing an enemy who is well organized to the last detail.

For the Commander Serbia (signed) Gravenhorst Lt. Col, General Staff The next document begins on page 75 of the English, page 65 of the German, No. 3150 and becomes Prosecution Exhibit 37.

These are again extracts from the situation report from the Chief of Secret Police and SD. Most of the material contained in the actual document is not of interest to us but there is a section on Serbia which reads as follows:

The Chief of the Einsatzgruppe of the Security Police and the SD in Belgrade reports:

In reprisal for the murder plot on a German soldiers 50 persons convicted and known Communists were shot to death on 16 September.

Additional numerous acts of sabotage against railroad and telephone lines.

The mopping up of the area Belgrade-Valjevo by a re-enforced infantry regiment starts of 16 September. The supply for Valjevo is under way again by use of detours.

The Serbian Prime Minister in a radio speech requests the laying down of arms and cessation of the acts of sabotage.

Situation in Croatia particularly in Bosnia is tense.

In Zagreb bomb attacks on telephone installations.

Southeast of Karlovac destruction of railroad stations.

Bands are massing on the road Deboj-Tusla.

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THE PRESIDENT: May I interrupt just a moment, please. I observe that some of the interested parties in the courtroom are feeling the effects of the weather. Inasmuch as it is important for all parties concerned, those who are particularly affected, I would suggest that, including the court, everyone stands up at a recess, what we would call in America, a seventh inning stretch.

You may be seated.

Our German associates here may not have understood the reason for that. I noticed that someone was getting sleepy in here and if we just change our posture a little bit it might be beneficial to all concerned. It may be a little unusual but what we are interested in is that everyone keeps awake and that we proceed in a manner here which will result in benefit to all concerned.

You may proceed.

MR. FENSTERMACHER: Prosecution Extract of page 77 of the English, 51 of the German, [NOKW 1222](#), becomes Prosecution Exhibit This document again reveals how the German Army knew the enemy they faced were expertly organized into regular military units and were not isolated bands. It is an order of General Bader as Commander of the Special Corps 65, dated 18 September 1941. The order itself is for the mopping up of the Save band Vest of Sabac and for the encircling of the Cer mountains.

DR. LATERNSEER: Mr. President, I object to the submission of this document. At the bottom of this document there is a place left for the signature. This place is not filled in. The document, therefore, though it had room provided for the signature, was not signed. I say that it has not been signed because it was handled otherwise. It is a draft which has not been signed. For that reason I request that it be rejected, especially as it can be established here that it was prepared for signature but this signature for reasons which are not known to me, was not given. That would have to exclude the possibility of using this piece of paper as a document. I ask the court to take note of this document in order that the Tribunal may see that the signature was not given.

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MR. FENSTERMACHER: Your Honors, might be interested in actually seeing this document. It is true that the document is not signed but that its present condition is the way it was found in the captured files of the German Army and we think it should be accepted for whatever probative value the Tribunal wishes to give it.

DR. LATERNSEER: Mr. President, may I add that this is an operational order in this case. Operational orders of a military nature, as is well known, are always secret. This order did not receive the degree of secrecy because it was only being prepared. It would have received a secret number because no military order is without number and this confirms me in my view that it is here a case of mere preparations. I request that this document be rejected. This morning I have already said that not everything which has been captured is a document.

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MR. FENSTERMACHER: If Your Honor, please, there are many times in which letters--extra copies of letters are made and put in the files and only the signed copy is distributed. I believe that that is perhaps the case here, but even if this document and this order was not distributed to subordinate units, it certainly reveals the state of mind of the Commander of the 65th Corps, who was subordinate to General Boehme, who in turn was subordinate to Field Marshal List. It indicates the state of mind of that Commander in regard to the suppression of the insurgent movement in Serbia.

DR. LATERNSEER (counsel for the defendant List): Mr. President, may I again contradict. I say here and I maintain that it does not correspond with the state of mind. If it had corresponded with the state of mind, it would have been signed. It is a mere assumption on the part of the prosecution which he has to prove.

MR. FENSTERMACHER: I think you will see, Your Honors, on the top right-hand of the document, above the date, 18 September 1941, you will see the words "anlazen" which means "enclosures". Now, those words were certainly not put on by Americans, they were put on by someone in the German -- some soldier within the 65th Corps; and it is my belief that this is perhaps the file copy which on many occasions is never signed.

THE PRESIDENT: The Tribunal has taken the attitude heretofore, and it will take the same attitude in connection with this exhibit, that these being purported captured documents, even though it is not

signed, it will be admitted for such probative value as the Court would feel should be given to an unsigned document. With that in mind, the objection will be overruled.

MR. FENSTERMACHER: This is an order of the mopping up of the Save bend west of Sabac and for the encircling of the Cer Mountains. It reads as follows: "Enemy bands under the leadership of former Serbian Officers are terrorizing the lowlands north of the Cer Mountains up to the Save and Drina Rivers. The staff of the enemy insurgent movement is believed to be in the Cer Mountains.

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South of the Cer also, several bands of considerable strength have been reported.

"Enemy resistance is to be broken ruthlessly. All settlements from which or from the neighborhood of which German Troops are fired on or near which arms and ammunitions are found, are to be burned down. Straw and hay supplies in particular are to be burned down, if it is suspected that arms or ammunition are hidden within them.

"The entire male population above 14 years of age is to be arrested, to be sent to a concentration camp which the division will install, and to be detained there. According to the previous combat methods of the enemy, one must count mainly on attacks on the supply and on smaller detachments. Only by the arrest and the evacuation of the male population can these combat methods of the enemy be effectively obviated." Signed the Commanding General, Lt. General of Artillery.

The next document, on page 79 of the English and page 63 of the German, is [NOKW-1057](#), which becomes prosecution Exhibit No. 59. These are reports of the military commands in Serbia over a period of time 5 July to 18 September 1941. The reports from Serbia to List and Foertsch at 12th Army Headquarters in Athens; and I think here again that it might be well if the Tribunal would actually examine the photostatic copy of the document so you can see exactly what a report is and the various stamps which the 12th Army placed on it. You will note on page 2 of the photostatic copy in the right-hand corner the scribbled name "Foertsch". Foertsch is chief of Staff to Field Marshal List, 12th Army Headquarters initialed many of these documents. You will be able to see his name if you will just leaf through, usually in the right-hand corner in quite large scrawl. All of these reports from the Military Commander in Serbia have the receipt stamp of the 12th Army on them. The first report is dated 5 July 1941 to the Wehrmacht Commander Southeast, 12th Army, "In connection with the previously reported finding of explosives, 10 Communists and 3 Jews have been shot to death today.

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Signed Commander Serbia Command Staff."

The next page is the report of 16 July, "Daily Report: Additional isolated instances of sabotage, in Obrenovac, 10 Communists shot to death."

And the next page, page 81 of the English and page 65 of the German, the Daily Report of 18 July 1941. This one is on page 64 of the German. "Daily Report: Yesterday 16 Communists were shot to death in Belgrade for attempted sabotage acts. In Palanka (northeast of Topola) Communists were caught while

putting up posters. One was shot to death, two arrested. Because of new cases of sabotage on the lines in Belgrade the population was employed for guard duty."

Turning to the next succeeding page, the report of 26 July 1941: "Near Petrovgrad during last night, 1,000 100-weights of wheat, in lofts and 800 in stacks were burned. A number of Communists were arrested there. They will be shot today."

The following page, the daily report of 27 July, supplement to daily report of 27 July 1941. "On 25 July a Jew as yet unknown attempted unsuccessfully in Belgrade to set fire to a German motor vehicle by use of a bottle filled with gasoline. On the same day similar attempts were made. A perpetrator, a 16 year old Serbian woman was arrested. She admitted a Jew to be the instigator. In reprisal, 100 Jews will be shot on 29 July in Belgrade."

This, if I might comment to Your Honors, is on 27 July 1941, and the 100:1 order of Field Marshal Keitel was not received in the Southeast until 16 September 1941.

Turning to the next succeeding page, the report of 27 July 1941, the daily report beginning with the last word of the last line on page 85 of the English and 68 of the German: "Because of the destruction of grain as reported yesterday, 5 Communists were shot to death yesterday."

Turning to the next page, the report of 29 July 1941: "80 were shot to death on 38 July, in reprisal for attack on police patrol on road Uzicz-Valjevo.

Page Unlabeled

Paragraph 2. 122 Communists and Jews shot to death in Belgrade on 29 July for previously reported sabotage acts in Belgrade."

The following page, page 88 of the English and page 70 of the German -- I think the interpreter failed to read off in German the previous report which begins on page 87 of the English on page 70 of the German. The Report of 29 July to the Wehrmacht Commander Southeast, 12th Army. Daily Report: "One. 80 were shot to death on 28 July, in reprisal for attack on police patrol on road UziczValjevo. Two. 122 Communists and Jews shot to death in Belgrade on 29 July for previously reported sabotage acts in Belgrade."

The next report is on page 88 of the English and page 71 of the German, the report of 1 August 1941. "Daily Report: A reprisal measure for previously reported unrest near Petrovgrad yesterday, 90 Communists were shot to death there."

On page 89 of the English, the daily report of 6 August 1941 and page 72 of the German. "In Zagreb 4 plotters as well as 98 Communists and Jewish hostages shot to death."

On page 90 of the English, the report of 7 August -- I think the interpreters have not yet read the German for the report of the 6th of August which appears on page 89 of the English and page 72 of the German. "Item 3. In Zagreb 4 plotters as well as 98 communists and Jewish hostages shot to death."

The next report is of the 7th of August -

THE PRESIDENT: I think we will take the recess at this time. The Tribunal will be in recess for 15 minutes.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: All right, proceed.

MR. FENSTERMACHER: Your Honors, you will recall that we were reading from [NOKW-1057](#), Exhibit 59, and we were on Page 90 of the English, talking about the report of the 7th of August 1941, which is on Page 73 of the German. It's a general report from the Commander in Serbia to the Military Commander Southeast. Paragraph 4 states, "In Zagreb on 6.8 an additional 87 Communists and Jewish hostages shot to death." Reading from the next report of 15 August 1941 from the Military Commander in Serbia to the Wehrmacht Commander Southeast, Daily Report, Paragraph I, "On 14.8 1650 hours a passenger vehicle of the 3./ Reserve Police Battalion 64 (Passengers: 1st Lt. Ehrmann, 3 Sergeants) was fired on by a machine gun near Skela 915 kilometers West of Obrenovac) on the way to Sabac. A patrol found a burned out car. A company of the police battalion sent from Belgrade found the corpses of first Lt. Ehrmann and of one sergeant in the Sabac, two sergeants are missing. On 15.8 Skela will be burned down and 50 Communists from Belgrade will be hanged there." The following reports of the 17th of August again from the Military Commander in Serbia, to the Wehrmacht Commander Southeast, "An additional Jagdkommando against Pizega (12 kilometers East Uzice) shot 3 Communists and took three prisoners of war. In Banja (3 Kilometers Northwest of Topola) Wehrmacht vehicle fired upon. Thereupon, 11 Communists shot to death and a number of houses burned down by Jaegerkommando. Paragraph 5) In Belgrade 17/8 Sunday morning, five Communists convicted of terror and sabotage; hanged publicly in the main street of the city and left there until 1900 hours tonight....," signed Commander Serbia Command Staff. Next report 4th of September to the Wehrmacht Commander Southeast, Daily Report, "In reprisal for the soldier murdered on the street in Belgrade on 3 September, 50 Communists executed." Signed Commander of Serbia Command Staff. Again 50 Communists are executed in reprisal for one German soldier murdered twelve days before the order came down to the Wehrmacht Commander Southeast from Berlin.

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The next report is of 7 September 1941, to the Wehrmacht Commander Southeast of September Daily report, "In three villages near Petrovgrad and Kik*** 10 Communists each were hanged publicly. Reason: 50 acts of sabotage on telephone lines." Next the report of 16 September to the Wehrmacht Commander Southeast from the Commander in Serbia, Daily Report, *** Guilty Communists executed as a reprisal measure for plot on soldiers on railroad station Belgrade - Torcider." Next report of 17 September 1941. Paragraph ** "Parts of the Belgrade male Jewish population transported to transit **** near Belgrade Action continuing," signed by Commander Serbia. Following is the report of 1* September 1941 the Daily Report of the Commander in Serbia to the Wehrmacht Commander Southeast, "10 Communists will be hanged, attacked on railroad ***** near Kosmitrovica, I

gendarme dead, I wounded." The Prosecution's **** document is [NOKW-1315](#), which becomes Prosecution's Exhibit No. ** It's on Page 101 of the English and page 31 of the German. It's report dated 22 September 1941 of the 738th Infantry Regiment to the 718th Infantry Division, and it relates to the forced labor of native railroad workers in Serbia. The subject of the reports is "Reports on the Operation at Stoeremiried," and you will note the receiving stamp of the 713th Infantry Division of the 25th of September 1941. "In compliance with operational order No. 8 I drove from Sarajevo towards **bad on **** 1941 at 0030 hours with the 5th Company of the *nd Battalion of the 738th Regiment."

MR. FENSTERMACHER: The Regiment's material we have eliminated Your Honors; it relates purely to tactical and operational matters; so we have not had it translated.

MR. LATERNSEER: Mr. President, this document of the Prosecution's exceeds what can be called fair. If a document has only a length **** I now show to the Tribunal and one only presents the countermeasures, and that only from the first three paragraphs without fact, one can see the reason for the countermeasures which is quite plausible or which might be plausible.

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I just looked through it. Then, the Prosecution should not omit that. I cannot regard countermeasures separately, especially from that which causes these countermeasures, and I now request that in this case where it is quite obvious, the Prosecution, if it submits this document, it submits it completely.

MR. FENSTERMACHER: If your Honors please, the purpose for which we intend to use this document can be seen from the last paragraph, and I read it, "Therefore, I forced the workers by threatening to use force of arms to continue to work on the line under the fire of the insurgents and also took over the command of the Croatian soldiers as both the officers would- scarcely leave the armored car." Now, no matter what goes before, and we have taken the paragraph which immediately precedes that one and had it translated. It's the contention of the Prosecution that nothing would justify the taking of innocent civilians and forcing them to work for the Germans under the fire of the civilians' own military forces.

THE PRESIDENT: Dr. Laternser, may I inquire as to your claim for the portions of the documents that are not included in the translation?

DR. LATERNSEER: Mr. President, in this case I would like to see the whole document translated. It can not be separate. It has one page and a quarter, and the Prosecution only presents the end of it. An event cannot be judged separately from the preceding measures. One cannot just judge from the last paragraph.

THE PRESIDENT: The Tribunal appreciates that only a portion of this document was shown in the translation. However, there is no reason by Counsel for the defendants can not introduce in evidence in its case in chief, such portions of this document as he feels is pertinent to a proper defense. That is a matter that can be taken care of by the defendants in the presentation of their evidence. That being true, the objection will be overruled.

MR. FENSTERMACHER: I should like to resume the reading of Exhibit 60, in the middle of Page 101 of the English and Page 81 of the German, the middle paragraph.

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"Thereupon I had the positions of the insurgents covered with armor piercing explosive shells. However, this did not have the desired effect because the area of traverse of the tank gun is too small for it to be aimed at a side target on the heights. As, in my opinion, the insurgents wanted above all to have our work continued into the night if not to immediately prevent it, I decided to repair the line with all means at disposal before nightfall."

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On the succeeding page, page 102 of the English and page 82 of the German, appears the receipt stamp of the 738 Infantry Regiment.

The prosecution's next exhibit in [NOKW 194](#) which becomes prosecution Exhibit No. 61. It appears on page 103 of the English and page 82 of the German. It is an order dated 23 September 1941 of General Boehme as Plenipotentiary Commanding General in Serbia. and it is to the 342nd Division which was subordinate to General Boehme and you will note on the distribution list at the end of the document, page 104 of the English and page 83 of the German, that informational copies of this order were sent to the Wehrmacht Commander Southeast and to the Commander of Serbia, the SXV Corps Command, and the German General in Zagreb. The subject of the order is the evacuation of Sabac and it reads as follows:

- 1) On 23 Sept., German patrols were shot at from houses with machine guns and rifles. Losses were sustained.
- 2) 342nd Div. is to evacuate Sabac by surprise attack of the entire male population between the ages of 14 and 70 and take it to a concentration camp set up by the Div. North of the Save, For this purpose, the German troops and offices in Sabac are subordinated to the 342nd Div.
- 3) Execution:
 - a) The following are to be shot at once?

All residents who take part in the battle or offer resistance, The male residents in whose houses weapons or munitions are found, from whose houses shooting takes place, or who wish to escape arrest by fleeing.

- b) Care is to be taken, in liaison with the District Commander of Savac that Volkdeutsche as well as members of Allied or Neutral Nations are not hurt in the action. The District Command is to be charged with the responsibility for their special protection.

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- c) Serbian officials (including police and gendarmes) are to be disarmed, but in special custody and guarded closely. So far as they take part in battle actions against the German Wehrmacht, they are to be shot at once.

d) In addition to normal clothing, the male residents to be taken to the concentration camp are to be given?

1 coat 1 blanket 1 mess kit with spoon and rations from their effects.

All other effects, as well as currency, are to be taken from them.

e) Right after the commencement of the operation, Sabac is to be closed for all civilian traffic to the outside. Trespassing of the locality is to be prevented by force of arms.

4) 342nd Division is to report by 1900 hours 24 September, the status of the action and the situation of the concentration camp, after completion of the action, execution by presentation of a report in three copies.

(Signed) The Plenipotentiary Commanding General in Serbia:

Boehme On the succeeding page, page 105 of the English and page 84 of the German, is an advance order which relates to the previous order which I have just finished reading.

The advance order reads as follows:

"342nd Inf, Div. is to remove the entire male civilian population over 14 years of age out of Sabac on 24 September and conduct it into a concentration camp North of the Sava. More exact orders follow.

(Signed) The Plenipotentiary Commanding General in Serbia."

The prosecution's next document is [NOKW 183](#) which becomes prosecution Exhibit No. 62. It begins on page 107 of the English and page 85 of the German. It is an order of the Plenipotentiary Commanding General, General Boehme, dated 32 September 1941 and it relates to the mopping up of the Sava-Bend.

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1) Enemy bands under the leadership of former Serbian Officers have been reported in the Sava-Bend west of the line Mitrovica Savac and to the south in the extensive mountain terrain.

The population in the lowland between the Drina and Sava rivers has joined the insurgent movement. Women and children take care of the intelligence service and keep up the food supply of the roving bands. Thus the entire population is participating in the revolt.

2) The lowlands in the Drina and Sava-Bend which serve as the food supply base for the insurgents is to be mopped up, and bands appearing there are to be annihilated in order to cut off the continued food supply from this area for the insurgents. By means of ruthless measures a deterring example must be created which will become known all over Serbia in a short time.

3) For this purpose the 342nd Infantry Division will cross the Sava river on X day Y hours.

And then there follows material which I don't think we need read at this time.

Dropping down to paragraph 5, "Enemy resistance is to be broken ruthlessly."

All persons participating in the fighting in any form are to be considered franc tireurs and to be treated as such.

All settlements from which or in the neighborhood of which German troops are fired on or near which arms and ammunitions are found are to be burned down.

The entire male population from 15 to 60 years of age is to be arrested and to be transferred at first into prisoners assembly points which are to be organized by the Divisions. Later it is to be employed by sectors for labor in particular for the cutting down of cornfields on transit roads and for the bringing in of the harvest.

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From the first day on the entire female population is to be employed for the same work or to be forced into labor employment.

By special order the prisoners are to be evacuated to special concentration camps which are to be organized by Commander Serbia north of the Sava and the female population is to be forced away into the Cer-Mountains to the east. The villages and farms are to be burned down but harvest stores are to be spared.

Cattle is to be driven together in cattle assembly points which are to be organized by the Division directly on both sides of the Sava.

I think we need not read the rest of the order which is signed by the defendant Boehme and is distributed to his subordinate units and his allied units, namely the 342nd Infantry Division, 125th Infantry Regiment, and informational copies to the Commander in Serbia, the Corps Command SXV, and the Plenipotentiary Commanding General and - rather the Plenipotentiary Commanding General's own departments-that is, his I-A, his Operational Department, QU Quarters, his I-C, his Intelligence, and for the War Diary.

Our next document is [NOKW 1048](#) which becomes persecution Exhibit No. 63. It begins on page 114 of the English and page 89 of the German. This is a directive of General Boehme, the Plenipotentiary Commanding General in Serbia, dated 25 September 1941. Its subject is the evacuation of the Sava Drina Bend and it goes to the Commander of Serbia with a copy for the Chief of Military Administration and to the 342nd Division. It is interesting to note that an informational copy is sent to List as Wehrmacht Commander Southeast. Another informational copy is to the Corps Command LXV, the German General in Zagreb, and the Plenipotentiary General for Economics. The order reads as follows:

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In the course of the mopping up of Communists bands in the Sava Drina bend the male population between 15 and 60 years of age will be collected in prisoner assembly points while the entire rest of the population will be forced into the south into the Cer Mountains.

These measures will be executed by the unit.

A concentration camp is to be erected by Commander Serbia north of the Sava into which the prisoners can be brought from the prisoner assembly points by the unit. Regarding the possible taking over of the concentration camp organized by the 342nd Division pursuant to the order mentioned in the reference above paragraph 2, Commander Serbia will contact the division directly.

If your Honors please, I have been informed that I have been reading from Document numbered [NOKW 183](#) which is prosecution Exhibit No. 62, so that this should not be a new document. This is a continuation of Exhibit No. 62 and not Exhibit No. 63.

Now on page 112 of the English and on page 88 of the German, continuing the reading of the order of the Plenipotentiary Commanding General in Serbia, dated the 25th of September, 1941, and relating to the evacuation of the Sava Drina Bend:

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For the installation and guard the entire 64th Police Reserve Battalion is to be employed and will be relieved later by Volksdeutsche auxiliary service.

The chief of the military administration with Commander Serbia is charged with the direction of the concentration camps, with the political surveyance of the prisoners and with the jurisdiction.

The economics exploitation of the evacuated territory is the task of the chief of the military administration.

The interests of the plenipotentiary General for economics in Serbia are to be taken into consideration to the fullest extent. The Chief of the Military Administration is requested to guarantee the readiness for employment of Volksdeutsche auxiliary forces up to 28 Sept.

At first the 342nd Division will take over the protection of these forces against possible band attacks.

The Chief of Military Administration will report up to what time this protection is considered necessary.

For the protection of Volksdeutsche and members of Allied or Neutral states living in the Sava Drina Bend paragraph 3b of the order referred to above is to be applied accordingly. (Initialed) PM.

For the Commanding General - Plenipotentiary in Serbia Chief of the General Staff:

(Signed) Pemsel And the distribution of this order can be seen from the list.

Commander Serbia first copy Chief of Military Administration 342nd Division Wehrmacht
Commander Southeast Corps Command LXV German General Zagreb General plenipotentiary for
Economics The Prosecution's next document is [NOKW 1048](#) which becomes Prosecution.

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Exhibit No. 63. This is on page 114 of the English and page 89 of the German and it is a directive of General Boehme relating to the retaliation measures in Serbia. It is dated 25 September 1941 and reads as follows:

The following disposition is to be made known to all officers, non-commissioned officers and men. Distribution is to be made down to company, battery, etc.

Volksdeutsche Labor Forces are to be held in readiness for labor employment behind the unit now; the projected labor employment of the male population is accordingly dropped.

The female population is not to be put to work, likewise, but from the start, to be forced off to the Cer Mountain Range with all possible means.

(signed) Boehme Lt. Gne.

, Infantry Then dropping down to the fourth line at the bottom of the page we read:

After dissemination, destroy.

In March of this year, Serbia shamefully broke the friendship treaty with Germany, in order to strike the German units marching against Greece in the back.

German revenge stormed across the country.

We must turn to new, greater goals with all our forces at hand. For Serbia, this was the sign for a new uprising, to which hundreds of German soldiers have already fallen in sacrifice. If we do not proceed here with all means and the greatest ruthlessness, our losses will climb to immeasurable heights.

Your mission lies in carrying out reconnaissance of the country in which German blood flowed in 1914 through the treachery of the Servs, men and women.

You are avengers of these dead. An intimidating example must be created for the whole of Serbia, which must hit the whole population most severely.

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Everyone who wishes to rule charitably sins against the lives of his comrades. He will be called to account without regard for his person and placed before a Court-Martial.

The next document is [NOKW 1434](#) which becomes Prosecution Exhibit No. 64. This is a wireless message from the Plenipotentiary Commanding General Boehme, to List, as Armed Forces Commander, Southeast and it is dated the 26 of September 1941. It begins on page 116 of the English and page 91 of the German. I think we need not read anything from this document until we get to paragraph 6 which is on page 117 of the English and on page 91 of the German:

"Jews are being arrested in Smederevo and vicinity, since they were found to be instigators of the insurrection."

Then turning to page 118 of the English, paragraph 3, which is on page 92 of the German. I think the following should be read into the record at this time even though it is material which is helpful to the defense on the question of the insignia worn by the insurgent bands. Paragraph 3. "Bands near Krusevac repelled with the support of a tank platoon and Cetniks (Kosta Pocanac). 125th Infantry Regiment

northwest of Valjevo shot 49 bandits including commander (Serbian Reserve Officer). 71 houses destroyed. Some of the enemy is fighting in Serbian fatigue jackets and German caps."

I think we need read no more of that document, your Honors. Our next, document is NOK 1381 which becomes Prosecution Exhibit No. 65. It is a report of the 724th Infantry Regiment, dated 27 September 1941 and relates to the insignia worn by the partisan units. The subject of the report is: Communist bands in the area, Valjevo Krupanj:

In the night of the 26 to 27 September 1941 the traffic constable of the 5th Company at the east gate, Private Seliger received the following information unasked for from the Serbian gendarme Hacinovic Milorad who was on duty with him:

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He had come into contact with Communists in the neighborhood of Valjevo and had heard that the HQ and leaders of the food supply for the bands was located in the school building and the neighboring buildings in Pricevic. Kitchen and vehicles were sheltered there completely hidden from view of planes. Also air raid trenches had been dug. Their bread was baked in Pecka. Another HQs was located in Susica.

Equipment and clothes as well as weapons captured at Krupanj were utilized by the bandits. Usually they wore a Soviet star on their cap. Wagons with rubber tired wheels drawn by former troop horses brought up the bread. The prieses of Krupanj and of Pricevic as well as a former Serbian Reserve officer (Narednik?) were the leaders of the movement. The front towards Valjevo followed a line from the blasted stone bridge shortly behind Valjevo on the road to Osacina, where troops had already been fired on from machine gun nests hidden on the slopes on both sides of the road, over the heights south of Valjevo to the site of the blasting on the road to Uzice, then along the heights south of Kolubara and to the east along to Mionica and Music. In the latter places were the command posts for the destructions on the railway line Valjevo - Lajkovac. A school teacher was the Commander.

(signed) by a Lieutenant We next offer [NOKW 193](#) as Prosecution Exhibit 66.

This is an order of the Plenipotentiary Commanding General in Serbia, General Franz Boehme, dated 27 September 1941 and it relates to the concentration camp Jarak:

The Jarak Concentration Camp is to be transferred by the 342nd Division to the 64th Police Reserve Battalion, which has assumed direct liaison. With the transfer, guarding and further construction in the camp, guarding by the police, as well as jurisprudence over the inmates are transferred to the commander of Serbia (and/or Chief of the Military Administration directly.).

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As far as a juridical interrogation of individual inmates allows important information for the conduct of war to be expected a military court martial proceedings will be ordered by the plenipotentiary commanding general in Serbia from case to case. For this the Oberkriegsgerichtarat with the Plenipotentiary Commanding General in Serbia is to maintain direct liaison with the Commanding

Officer of the concentration camp. Orders concerning interrogations by the troop in prisoner assembly points are to be issued through Ic.

The procuring and furnishing of rations to the concentration camp is to be carried out by the 342nd Division. Troop rations are to be provided for guard personnel and inmates.

Allocations:

- a) For guard personnel: Full troop ration,
- b) For inmates: Half troop ration (in any case only 200 grams of bread, and weekly 200 grams of meat).

The preparation of the food is an affair of the camp commander. The Commander Serbia is to report to the Plenipotentiary Commanding General in Serbia.

- a) The strength on the first, 10th and 20th of the month.
- b) Current special events and any commitments or new installations of concentration camps.

(signed) For the Plenipotentiary Commanding General in Serbia: Chief of the General Staff:

Pensel Our next document is [NOKW 1043](#) which becomes Prosecution Exhibit 67, page 124 of the English and page 96 of the German.

These are various activity reports of the 704 Infantry Division. Report of 22 September 1941.

At 1:05 o'clock we saw troops of the 125th Infantry Regiment (as I heard later from some of the officers, their home was Saarbruecken; they were not attached to any division, independent commitment in order to "clear up matters". All branches of arms are represented.

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While waiting I talked with officers of the 125th Infantry Regiment; one of them had his left arm in a sling - he had been wounded the day before in fighting with the Communists. The regiment had casualties of dead and wounded. Communists are being caught daily and shot to death immediately - for instance, 12 in one day.

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On page 125 of the English, the report of 704th Infantry Division continues. It is on page 96 of the German. This document is very revealing on how the Germans knew who a Communist was.

"Dragoljub Dragojlovic, Judge from Valjevo, Duzanova 41, reports as follows regarding an incident of 25 Sept. 41:

My brother Zivan Dragojlovic, 29 years of age from Radjevo Selo, 3,5 kilometers North of Valjevo, together with his uncle Radovan Dragojlovic was carrying bricks on their ox cart. Machine gun fire could be heard from the 300 meters distant forest belonging to family Dragojlovic. My younger brother Duzan Dragojlovic 19 years of age was just carrying nuts through the court yard into the room where the prune drying ovens stood. German soldiers entered the court, aimed their rifles on Duzan and called

him 'Communist', he answered 'no communist'. Duzan who knows a few words of German called 'My brother, my house!' Thereupon the soldiers asked for the identification paper. Both showed their identification papers in addition, Zivan showed his prisoner identification. Then, the soldiers searched all buildings and only found a saddle which was my property. The soldier asked whether it was a soldier's saddle. Duzan answered: "My brother is an officer, Sudja from Valjevo." Thereupon, both brothers were handcuffed and led 300 meters down the country road. There they met the above mentioned Radovan Dragojlovic and his brother Andrija Dragojlovic, both of them had been arrested by other soldiers. Zivan carried the saddle. An interpreter standing near Radovan asked him who owned the saddle. Zivan answered in Serbian that the saddle belonged to the reserve officer Dragoljub Dragojlovic. Question: 'Where is the horse?' 'By order of the German Wehrmacht the horse was turned in.' The interpreter said that you don't have to be afraid. You only have to come to Valjevo for an interrogation. Radovan and Andrejia were to remain there.

"They were asked what they were being there. Answer: 'Together with Zivan, we were carrying bricks for a building.' The soldiers themselves saw that the bricks and the sand were there.

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Androjia and Radovan is whose house nothing had been found, now could go home. Zivan and Duzan were taken in the direction of Valjevo, They only went as far as 400 meters.

Krstivoj Dragojlovic, also from Radjevo Selo reports that a group of German soldiers which had just arrived on the spot had brought along in manacles the son of Krstivoj, named Peter, 19 years of age and 2 nephews of Mihajela, 21 years old and Milan 18 years old. The three last named were put together with Zivan and Duzan, one spoke German, no one knows what was said. All five were led off the road to the front of the stable of Krstivoj about 200 meters away. A machine gun was in position, all five were shot to death, the stable was burned down.

The five belonged to a wealthy esteemed family, up to now, no one in the entire village has joined the Communists. All directives and orders of the German authorities have been fulfilled minutely. My reputation as judge is endangered in the fact of the entire populace, since it is assumed that my brothers were shot to death for Communist activities.

This gives Dr. Pantic a new means of propaganda."

The next page, page 127 of the English and page 98 of the German, is a report dated 3 October 1941, stamped "received" by the Infantry Regiment 724 on the 4th of October 1941. The document itself is a report on the Jaeger Kommando of the 2nd October 1941. The document itself will reveal how fiercely the war in Serbia was fought...The enemy fought fiercely, but note the indiscriminate way in which the Germans retaliated. The Commander is Lt. Voelker. "Strength:--" I think we do not need to read that, Your Honors. "The Mission", I think we can read into the record, "Reported were five fuming vehicles of a convoy coming from Belgrade about 25 kilometers outside of Kragujevac on the road Topola-Kragujevac. Some of the men dead beside the vehicles. Stragglers are to be guarded, the dead to be collected and the bandits to be found and annihilated. Departure: 14.30 hours with 2 passenger cars, 7 trucks, 4 motor cycles.

Return: 21.45 Hours. Course of Events, Success:

About two kilometers in front of the locality of the attack, a straggler of the convoy which had been attacked jumps into the road and gives a report on the course of the attack. All troops are scattered, some people killed, some fled East of the road in the direction of Kragujevac. At the place of attack five vehicles were found some of which were still on fire.

In the ditch next to them—dead: one officer, one Oberwachtmeister (Master Sergeant) and 5 men – parts of their equipment stolen. Security troops distributed immediately. The house on the ridge was set afire. Search Commando divided in strength of 2½ groups. The terrain was searched for stragglers and dead in a circumference of 1½ to two kilometers. East of the road behind the ridge, a low Oak forest and underbrush which is very difficult to enter due to creepers. In several places there were holes resembling nests. Nothing to be seen of the bandits. West of the road a gorge with thick deciduous forest and a rivulet with steep grades. Near this gorge, a heavily wounded man was found, who was dressed only in trousers and no boots. According to his statement a group of about 15 men some of which were wounded was driven by the bandits down into the bed of the rivulet and had been shot to death later beneath a white house which is visible from the road. After searching 25 more minutes we reached a little lea. a basin-like hollow with 14 dead German soldiers. All of them were more or less undressed. All boots, all tunics, almost all overcoats and all steel helmets except one are missing. Some of them even have been robbed of their linen and their trousers. A small heap of ashes shows that they burned all papers which seemed to be without value to them including some pay books, drivers licenses. Some of the corpses had been mutilated, skulls were bashed in, feet were cut to pieces, and faces were cut to pieces. The house situated 100 meters above this place was burned, the corpses were brought to the vehicles by Serbs arrested on my orders. The The Serbs were arrested as hostages.

When the column stopped, 19 farmers vehicles suddenly were behind our column, For security and to protect ourselves against surprise, the drivers had to be arrested. After withdrawing the guards and security troops, I had all Serbs except three minors shot to death. The column returned to Kragujevac without being fired on.

Loot: None.

Experiences; See other side!

Experiences: The position of the dead and the reports of the wounded men lead to the conclusion that the men of the convoy limited themselves to defensive measures. This caused the bandits to scatter them into smaller units and they were forced to surrender after having been driven into the bed of the rivulet. The only possibility to come out victorious (in a skirmish with) a numerically superior gang of bandits is the attack and the greatest possible fire attack. The fact that the corpses have been robbed of all their clothing proves that the enemy tries under all circumstances to acquire possession of German uniforms.

The distances of the vehicles in the attack convoy were normal and correct. The rest of the missing including a first lieutenant have apparently escaped; because further traces of blood could not be found." signed: Voelker, Lt.

THE PRESIDENT: Before you proceed further, it is now 4:25. The Tribunal has some matters which are personal to themselves which require their attention; and therefore the Tribunal will adjourn at this time. We will adjourn until 9:30 tomorrow morning.

(The Tribunal adjourned until 0930 hours, 18 July 1947)

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List, et al, defendants, sitting at Nuernberg, Germany, on 18 July 1947, Judge Wennerstrum presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal 5. Military Tribunal 5 is now in session. God save the United States of America and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: Marshal, will you ascertain if all defendants are present in the courtroom?

THE MARSHAL: May it please Your Honors, all defendants are present in the courtroom.

The persons in the courtroom will be seated.

DR. SAUTER: Mr. President, Honorable Judges, before we start the session this morning, I would like to ask you to let me make a personal declaration here. I am Dr. Sauter, for the defendants Lanz and von Geitner. I am not talking for the defendants but for myself as defense counsel. Mr. President, for months now we have waged battle which really seems ridiculous, but it is very important to us and it deals with the following. For a few months now it has been arranged that we defense counsels, when we leave and enter the courthouse, our possessions are searched; we are bodily searched. Repeatedly we have protested against this because, in our opinion, this does not comply with our station and with our manners. As spokesman for the defense, I have repeatedly had negotiations with several military and civilian authorities, and President Beals of Case No. 1, with whom I worked as defense counsel for the last month, has repeatedly tried to alter this situation. He did not succeed. We have been told repeatedly that this bodily search was done for security, police reasons, and we could have well understood that. However, we have been searched, as a rule, when we left the house -- that is, at a time and in a situation where reasons of security and police reasons could not really have mattered. As spokes man for the defense, I have then repeatedly tried to ascertain the real reasons why we are being thus controlled, and other people have told us again and again that a lot of things were stolen in the house and, therefore, also the defense counsels too, as well as everybody else, had to be searched.

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Once we were told a driving belt was stolen and we were all searched as though we had swiped the driving belt. And at another time in the room of an American \$18.00 was stolen during the day and consequently all German defense counsels were searched at the exit by the sentry as though they maybe had the \$18.00. The manner of the search is that which really offends us -- insults us and which makes the execution of our job very hard to us and makes our life in the Nuernberg trials seem rather low. This search is carried out in this way. The sentry, often in a very tactless manner, searches through our pockets - the outer pockets; if one wears a coat, one has to take the coat off or open it and the guard puts his hands into the inner pockets of our coat. He puts his hands into the trouser pockets, and it happened to me repeatedly that a guard turned up my trousers right up above the knee to ascertain whether maybe I had anything hidden under my underpants. The competent authorities here have repeatedly tried to alter this situation, especially after I had pointed out - that is repeatedly - that this bodily search is carried out in an impossible manner, in front of everybody present. I myself have experienced cases where 100 or 200 civilians were gathered in front of the exit and watched as one or the other of the defense counsel was searched in this undignified manner. Then we were given a stamp on our passes - courthouse passes. This stamp was supposed to relieve us of this bodily investigation. It was well-meant, but the guards did not pay any attention to that at all. The guards just said that won't do and continued to search in an even more insulting and offending manner. The only thing that we actually achieved was that I myself as spokesman for the defense was two or three times called so that I was in the presence of Mr. Wartena and he was present to avoid the worst circumstances. President Beals received the consent that such searches should only take place in special circumstances against defense counsels and only in closed rooms, so that one would not be let down in front of the whole public.

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That was carried out just once and then only half. Like a herd of cattle we were ushered into a cellar room and there we were searched again in the presence of hundreds of other civilians. The worst form happened last night. Last night with several of my colleagues I was in the adjoining school house where we have a mess and where we take our meals. When last night, with several of my colleagues, I left the house at the entrance, that is in the street right by the court, there was a Baltic guard. He knows us and he didn't say anything. In the street were two American soldiers. That is, in the street right on the sidewalk. One stepped up to me and without saying a word held me on both my sides and reached into my trouser pockets and went on to turn up my trousers.

THE PRESIDENT: May I interrupt? As I understood this, it happened outside the courthouse, outside the Palace of Justice. This last incident happened outside the Palace of Justice?

DR. SAUTER: Will you repeat, please?

THE PRESIDENT: This last incident happened outside the Palace of Justice?

DR. SAUTER: This case last night took place outside of the courthouse in an adjoining building of the courthouse where there is an American unit quartered - billeted. That is, quarters for American soldiers. And we were assigned these rooms for taking our meals, sir, but everything else which I described up to now happened in the entrance of the courthouse, the Palace of Justice. May I add something quite

shortly? I then told the American soldier, since I didn't know whether he was a post, a guard, or whether he was just walking around the street and took special pleasure in it to insult a German defense counsel, I told this man that was forbidden. I went up to the Baltic post, who had a gun, and opened my briefcase and showed it to him so that he could convince himself that there was nothing in it except documents. He convinced himself and was prepared to let me go.

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At that very moment the American soldier grabbed my jacket and started to shout – I don't know what – and dragged me, as though I were under arrest, up to the third floor. There he dragged me into a room, still holding my jacket, and let me stand there. In the room there were three sergeants who were just there playing cards. After about ten minutes one of them, one of these sergeants, asked what I wanted. I told him I didn't want anything, but I had to stay for another period and then a soldier came and took me down again to the ground floor and let me stand there. I then approached the German kitchen people and asked them whatever was the matter. And one of these kitchen people told me, "Well, there's a lieutenant over there who has ordered that everything has to be searched because so much was stolen in the kitchen and on other floors."

These are the facts of the case, Honorable Judges, I would like to submit to you, and...

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And I would like to say in this connection that I do not feel that I am in the position to undergo any longer such an undignified treatment by American authorities in addition if that takes place in full view of the public. When I was searched yesterday, there were about twenty to thirty civilians standing around in the street who all watched when the Post searched me, how I had to hold up my hands and stand there while he searched around in my pockets.

Honorable Judges, when about a year-and-a-half ago I was asked by American officers to take over a defense post here, I was assured then that I would be under the protection under the American courts under all circumstances.

The International Military Tribunal has also repeatedly declared in session that we German defense counsel here had all claims to the protection of the Tribunal and when the Tribunal was not sitting any more then were entitled to protection by the control court in Berlin. Honorable Judges, I have to request you that you on your part protect us against such encroachments. I don't believe that there will be anybody in the United States who would approve of such a treatment of German counsels who have to function in your courts, and help you in forming such judgment.

DR. LATERNSE: Mr. President, just very shortly I would like to add this, that to me, that is, in public, in front of the building where any amount of people could watch, something similar happened to me. I had in full view of the public to hold up my hands and I was badly searched at this time; in the closest neighborhood there were at least thirty persons. There were about twenty to twenty-five adolescents who were very pleased, apparently, over this exhibition.

THE PRESIDENT: Speaking on behalf of this Tribunal, I wish to state to counsel for the defense that the proceedings and incidents which have related to this court do not in any manner meet with the approval of this Tribunal. The men who have been asked to serve as defense counsel apparently have been accepted as men of character, men of standing in their profession, and men whose integrity cannot be questioned.

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We who are privileged to serve in a judicial capacity in the United States take a professional statement from counsel as being a correct statement and one upon which a court can depend. It is only after we find that a counsel has made an incorrect statement or an untrue statement to the court that we ever question a counsel.

On behalf of this Tribunal, I wish to state again that incidents of this character do not meet with the approval of this Tribunal, and I trust that counsel will not feel that these incidents are indicative of the attitude of the American people, generally, or of the American government. Incidents of this character are apparently the result of some individuals. I feel I should make this further statement, that this Fifth Tribunal has just been organized and has just started in the trial of this case. We have not been here in Nurnberg very long. We do not wish to be too officious in our attitude towards these matters or toward matters concerning the administration of the Palace of Justice too promptly, at least, but I can assure counsel for the defense that I shall take this matter up with the presiding judges of the other Tribunals and I personally will make a very sincere effort to see that incidents of this character do not happen again.

It is to be regretted that counsel for the defense are not placed not accepted in the same manner as counsel for the prosecution or the court. The court is not subjected to those indignities and I personally and I believe I speak for the members of this Tribunal when I say that there is no reason why the defense counsel should be subjected to it. It is to be regretted. We shall endeavor to see what can be done to correct it.

You may proceed with the further matters on behalf of the prosecution.

MR. FENSTERMACHER: If the Tribunal please, I should like to recapitulate very briefly the events of yesterday. The prosecution introduced -

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THE PRESIDENT: Pardon me just a minute. Earlier in these proceedings we were advised that there would be submitted to this Tribunal and to counsel for the defendants a summary of each day's proceedings as presented by the prosecution. Has that been prepared for the proceedings as presented by the prosecution. Has that been prepared for the preceding days?

MR. DENNEY: I believe, your Honor is referring to the documents which have been submitted?

THE PRESIDENT: Yes, sir.

MR. DENNEY: Yes, your Honor, I have them. I have copies here. It is being stenciled now and I will give counsel for the defense one copy and the court a copy and the stencils should be up this morning within the next hour, and then I will be able to distribute stencils to all of the counsel for defense and a stencil copy for each one of your Honors.

THE PRESIDENT: That is all right.

MR. FENSTERMACHER: Your Honors will recall that yesterday we introduced the request of Field Marshal List to OKW Headquarters in Berlin for unified command in Serbia under General Franz Boehme. We also introduced the Hitler order giving Field Marshal List full powers to suppress the insurrection movement in Serbia and authorizing the appointment of General Boehme and then we saw the List order which actually appointed General Boehme to be List's Plenipotentiary in suppressing the insurgent movement in Serbia. "We introduced several reports from subordinate units to 12th Army Headquarters, showing the execution of reprisal measures at ratios of ten to one to a hundred to one for each German soldier killed, before the issuance of the Keitel order of 16 September 1941 which was an OKW directive authorizing the execution of reprisal measures at ratios varying from fifty to hundred to one for each German soldier killed.

Before the court adjourned yesterday, we were reading from activity reports of the 704th Infantry Division which was subordinate to General Bader who was in turn subordinate to General Boehme who again in turn was Field Marshal List's representative in Serbia, We were on page 129 of the English document book, page 99 of the German document book, and I was reading from [NOKW 1043](#) which was prosecution's Exhibit No. 67.

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This is a report of the 724th Infantry Regiment dated 8 October 1941. It is a report on the commitment of a Jagerkommando on the 4th of October 1941. The strength of employment is listed and the mission of the unit, its departure and its return. Then under paragraph 5 of the document which is on page 130 of the English and on page 100 of the German, paragraph 3: Course of Events. I believe these next six lines were mistakenly omitted from the German document book. I will read the English text which is in the English document book and the interpreter will be able to translate these first six lines into German for the German defense counsel.

We have to pause a moment, your Honors, until the Secretary General gets the original document.

THE PRESIDENT: Let me supplement the statement that I made earlier following the comments made by defense counsel. This Tribunal desires counsel to know that they stand before this court on the same basis as counsel for the prosecution and I trust that we will by our actions and our demeanor show to you that you are accepted on that same basis.

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MR. FENSTERMACHER: Your Honors, we have another copy of the document in question which we are now submitting to the interpreters to read the six lines question.

5. Course of events:.....

On 4.10.41, 0200 hours, I left Aragujevac in the direction of Kraljevo with three groups of the battalion. At the city limits of Kragujevac I met the detachment led by Lt. Sickel which two hours previously had encountered enemy machine gun fire about two kilometers further on the road to Kraljevo and which had turned back. In the vicinity of the place on which Sickel's detachment had been attacked, I met a Jagdkommando of the II./749 which likewise consisted of three groups and like myself had been assigned to search the terrain for dispersed and wounded men and then to advance to the railway tunnel leading along the way from Kragujevac to Kraljevo and which was located about 11 kilometers from Kragujevac. Together with this Jagdkommando, I drove beyond the place of attack on which a derelict truck of Sickel detachment was standing, about 3 to 4 kilometers in the direction of Kraljevo until we hit the road block. After having removed the road block which consisted of a stone wall situated in oblique position to the road, we continued about 500 meters. There a ditch ran across the street about 3 to 4 meters broad and 1 meter deep which had not been quite finished. At this spot we left the vehicles in the protection of two groups and we walked ahead along side of the road. After an additional 500 meters we ran across a second similar ditch behind which some men were moving. After we opened fire these men took to flight. After that we searched some houses situated West of the road which had been abandoned by their residents with the exception of one man, he was taken to Kragujevac and hanged. Two houses were set on fire, two Serbs who were within these houses were shot to death and the truck which had been left there was towed away. The truck showed many bullet holes on the sides. About 0700 hours, I returned to Kragujevac with my Jagdkommando.

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Own losses: None.

(signed F. Barth Feldwebel and Deputy Battalion Adjutant Report on Jagdkommande of 10.

10.41.

Commander: 1st Lt. Jost Strength:

3/Infantry Regiment, 1 Officer, 4 Non-commissioned Officers, 36 men.

Mission: Search of the woods and of the houses situated to the right of the road Kragujevac - Kraljevo.

.....

Course of events: The houses north of the hayloft were searched for weapons and the woods combed through up to the Northern edge about 1.5 kilometers. No persons could be arrested since the residents had fled before our arrival. I issued an order to burn the abandoned houses (about 12 of them). Some of them I did not have burned down since the high voltage current Kragujevac-Kraljevo leads about these.

Loot: None Experiences:

None (signed) Jost 1st Lt. The next portion of the same exhibit which begins on page 132 of the English and on page 101 of the German is a report from Higher Headquarters for Special Corps 65, General Bader, Tactical Unit and it goes to the Commanding General Plenipotentiary in Serbia.

It is dated 10 October 1941 and it reads as follows:

Commanding General-Plenipotentiary in Serbia The Commanding General of Higher Headquarters for Special Missions LXV had sent me to Topola on Wednesday 8.10.

41 to have Captain Fiedler Commander of III. Company 749 Regiment account the fact he did not carry out the order: to burn down the village of Gr. Milanovac, to seize hostages and to bring them back.

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Captain Fiedler gave me the following explanation:

He had entered Gr. Milanovac on 5.10.41 about 17.30 hours and 120 hostages had been seized immediately. At sundown this mission had been carried out. Among these hostages there had been a Chetnik courier who stated during his interrogation that he had the order to report on that day to the local Chetnik leader. He had been unable to do so because this leader had not arrived as yet but probably would arrive on the following day. He, Captain Fiedler, was of the opinion he would be able with the help of this Chetnik courier and of the expected Chetnik leader whom he hoped to capture to ascertain where the Landesschuetzen Company was and then be able to effect their exchange against a corresponding number of hostages. He believed this to be the primary aim of his mission. Furthermore, he thought it would be senseless to burn down this village immediately on the same evening, because this would immediately destroy any hope of an exchange of the Landesschuetzen. He believed that it would have been absolutely all right to carry out that part of his mission on the following day in case the exchange would have been rejected.

On the morning of the following day, he received the surprising order to march off the the direction of Rudnik at 6 o'clock in the morning. The radiogram did not contain any reason for this. However, during the night, his radio station had monitored an S.O.S. from the direction of Rudnik. Consequently he believed that a detachment near Rudnik was in difficulties and that the order to go there was in connection with that. He clearly realized that it now had become his most important task to provide help for the detachment Rudnik and that the order to burn down the village would have to take second place. This assumption had been reinforced by the consideration that after having brought help to Rudnik, he no doubt would return via Gr. Milanovac. As such time he would be able to carry out the order to burn down the village even if the exchange of prisoners should at that time prove impossible. The hope to achieve that aim was a dim one however, particularly if the skirmishes around.

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Rudnik doubtlessly had involved the band which was in Gr. Milanovac too. He was now faced with the question of how to dispose of the hostages. He realized that the march on Rudnik would be difficult and would be impossible without fighting. He knew that road blocks would have to be removed. If he took

the hostages along guarding them would have decreased his combat strength. They would only be an impediment. Because of these considerations, he had sent a radio message as to what should be done with the hostages now. He did not receive an answer.

As a result of these considerations, he decided to release the hostages as he was convinced that he could seize them again on his march back via Gr. Milanovac. Then he could take them to his point of departure and thus carry out, the orders he had received.

It has been established that the radio mentioned was actually transmitted but it was addressed to his regiment was was stationed in Kraljevo instead of to his division. The regiment could not estimate the situation and consequently did not answer. If the radio message had been sent to the division, he would have received pertinent orders. I told Captain Fiedler that one could understand his considerations regarding the exchange of prisoners, the burning down of the village, and the carrying out of this part of the order on his march back. Captain Fiedler could not know that it was intended to send him toward the Norht, without touching Gr. Milanovac again. In my opinion, this is an excuse for his behavior and for his omission to burn down the village before marching off. He could easily think that great speed was indicated in order to assist a detachment which had gotten into trouble near Rudnik.

However I told him that I could not understand his considerations regarding the taking along of hostages. If obstruction would have to be removed during the march, hostages would have been the obvious labor forces, would have served as a means of sparing the strength of his own men. Furthermore according to general opinion, taking along a greater number of manacled hostages who were distributed through the march column represented the best protection against attacks.

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Hence I could not see any valid reason for his failure to carry out the order. Personally, Captain Fiedler makes a thoroughly soldierly impression, he wears the Iron Cross 1st Class, of World War I. He is Oberstudiendirektor (College Instructor) by profession. He was thoroughly aghast at my reproaches and told me that he not activated by any sentimentality. He was generally reproached for being too hard and ruthless against the residents of Kragujevac. He had tried to carry out his order as well as possible. He remarked on the fact that it was very difficult for him to co-ordinate the short radio message ordering him to march on without any reason or explanation with his mission he had received up to now. He had been completely under the impression that highest speed was required and he had behaved accordingly in order not to delay his advance and not to impede it in any way.

(signed) Krewisch Colonel and Chief of the General Staff For Corps Command 65, General Bader.

Continuing on page 135 of the English and 103 of the German we have the distribution by General Bader as Commander of the 65th Corps Command to his subordinate unit, the 704 Infantry Division of the well known 100 to one retaliation order. It is dated 13 October 1941:

"In the future 100 prisoners or hostages are to be shot to death for every soldier killed in action or murdered, and for each wounded man 50. For this purpose as many Communists, Nationalists,

Democrats and Jews are to be arrested from each garrison area as one can be guarded without imperiling combat strength. Certified True Copy. Unteroffizer."

This is a distribution to subordinate units in Serbia of the titled directive of the 16 September 1941.

DR. LATERNSE: The deduction which the prosecutor draws from this order is not correct if one looks at the original. The original shows quite clearly that this order was merely sent to the 704 Infantry Division

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MR. FENSTERMACHER: I was under the impression that all I had stated was that Higher Headquarters of the 65th Corps had distributed an order to the 704 Infantry Division subordinate to it for the execution of the 100 prisoners for each German soldier killed and for the execution of 50 prisoners or hostages for each German ' soldier wounded. I think you will be able to see in one or two documents later that the text is the same as the Keiter order of 16 September 1941.

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DR. LATERNSE: I have to object even against these comments. The prosecutor should not assert this. He should prove it.

THE PRESIDENT: I think the prosecutor should limit his remarks to that which is shown by the evidence and to await making any deductions from these documents until his argument.

MR. FENSTERMACHER: Yes, Your Honor.

Now, prosecution Document [NOKW-1341](#) which becomes prosecution exhibit 68. It is on page 137 of the English and page 105 of the German. This is the notification by the Armed Forces Commander Southeast to Task Forces Rosenberg of the Wehrmacht on economic and disciplinary matters to Commander Southeast who at this time was the defendant Felmy.

The document is dated 2 October 1941 and it has the receipt stamp of the 12th Army dated 3 October 1941.

"Effective 1 October 1941, Detachment Rosenberg is assigned for rations and quarters and for discipline to Commander South Greece. Lt Ritter von Ingram, the leader of the Detachment, is to make contact immediately with the Staff of the Commander Southern Greece. (signed) Foertsch. for Wehrmacht Commander Southeast, The Chief of the General Staff."

The Prosecution's next document is [NOKW-458](#) which becomes prosecution Exhibit 69. It is on page 139 of the German and page 106 -- rather, page 138 of the English and page 106 of the German.

This is a directive of Field Marshal Keitel at OKW Headquarters in Berlin dated 28 September 1941. It is to OKH and to the Wehrmacht Commander Southeast. There were five copies distributed of which this is the second.

"Subject: Taking of Hostages.

"Because of the attacks on members of the Wehrmacht which have taken place lately in the occupied territories it is pointed- out that it is opportune for the military commanders to have always at their disposal a number of hostages of the different political persuasions:

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that is, "1) Nationalists "2) Democratic Middle-Class and "3) Communists "It is of importance that among these are leading personalities or members of their families.

Their names are to be published. In case of an attack hostage of the group corresponding to that to which the culprit belongs are to be shot. It is requested that commanders be informed in this sense.

"(Signed) The Chief of the High Command of the Wehrmacht Keitel."

The second page of the document, on page 140 of the English and 107 of the German, shows the distribution of the Keitel directive by the Wehrmacht Commander Southeast. The distribution is to the Plenipotentiary Commanding General in Serbia, the Commander of Salonika Aegea, and the Commander of Southern Greece.

"Enclosed copy for further action in accordance with the political situation prevailing in the area. Please report action taken.

"For the Wehrmacht Commander Southeast, the Chief of the General Staff Foertsch."

Our next document is NOKW-203, which becomes Prosecution Exhibit No . 70, in an order of Field Marshal List dated 4 October to the Plenipotentiary Commanding General in Serbia, General Bader.

"The male population of the territories to be mopped up of bandits, is to be handled according to the following points of view:

"Men who take part in combat are to be judged by court martial.

"Men in the insurgent territories who were not encountered in battle, are to be examined and -

"If a former participation in combat can be proven of them to be judged by courts martial.

"If they are only suspected of having taken part in combat, of having offered the bandits support of any sort, or of having acted against the Wehrmacht in any way, to be held in a special collecting camp.

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They are to serve as hostages in the event that bandits appear, or anything against the Wehrmacht is undertaken in the territory mopped up or in their home localities, and in such cases they are to be shot.

"All other unsuspecting men are to be led under guard into their home towns. In the most simple form they are to be obliged to offer the bandits no support of any kind and not to undertake anything against the Wehrmacht. The mayors of the individual localities who are to be replaced, circumstances permitting, must testify as to the local residence of the individual.

"Men foreign to the region are to be held in the collective camps. The localities are to be searched for weapons first.

"This regulation is to be made known to all the men named under paragraph 2. It is to be explained to them furthermore that the most severe measures of punishment will be used without further investigation against localities. above all against the male population of such localities in which or in the proximity of which bandits appear, bandits are supported, surprise attacks take place, sabotage acts take place or anything is undertaken against the Wehrmacht.

"It is to be explained to them further that similar treatment will be meted out to the male population of localities and to localities themselves from which men join the bandits, surprise attacks and sabotage acts are practiced, or anything is undertaken against the Wehrmacht.

"Signed in the draft: List, General Field Marshal."

The next document is on page 143 of the English and page 110 of the German, Document [NOKW-262](#) which is offered as prosecution Exhibit 71. This is an order of the Plenipotentiary Commanding General in Serbia. General Boehme, dated 6 October 1941 and it relates to the erection of a concentration at Zasaviza. The order is distributed to the Commander Serbia, Chief of Military Administration to the 65th Corps under General Bader and to the 342 nd Infantry Division.

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- 1.) The current attacks on arrested Serbs makes necessary the erection of a concentration camp to be guarded by restricted forces and closed from the outer world. The terrain between the Save and Zasaviza west of Sremaka, Mitrovica is especially adapted.
 - 2.) In the proximity of the locality Grn-Zasaviza a camp sufficient for holding some 30,000 prisoners is to be created first of all in the open air, so that the transfer of the inmates in Sabac can take place by 20 October. In the course of further construction the locality is to be included into the same camp for winter quarters.
 - 3.) Construction, erection and leadership of the Zasaviza concentration camp is to be transferred to the Chief of Military Administration with the commander of Serbia. Suitable Serbian workers from the Sabac concentration camp are to be utilized for construction.
- Captain Kriess, 522nd Bridge Bn. is assigned as construction foreman. Organization Tedt is to supply the necessary technical personnel for leadership and construction in agreement with the chief of the military administration. The building equipment necessary for the construction will be furnished. Wood for construction is to be hewn on the spot. Herewith the aspects of the terrain are to be improved at the same time.
- 4.) The 342nd Inf. Div. is to evacuate the terrain between the south border of Mitrovica and the isthmus 1 km. Ne of Bavnje of the entire population by 8 Oct. The economic evacuation of this territory is to be carried on urgently. The population to be evacuated is to be distributed among the localities lying south of Zasaviza.

In addition four hundred workers (carpenters, cabinet makers, smiths, etc.) capable of working are to be brought to Zasaviza from the inmates of the Sabac concentration camp by the 342nd Inf. Div.

Rendezvous 8 Oct. 1200 Hours Grn. Zasaviza/church. The Chief of the Military Administration is to decide the time of transfer of the majority of the inmates from Sabac to Zasavica. The 64th Police Btln. is to be employed for guarding the Zasavica concentration camp.

It is intended to let the Sabac camp remain further as a reception camp. Taking over by Dulag 183 is being considered.

5.) 750th Inf. Rgt, is to furnish , until the taking over of the concentration by the 64th Police Res. Btln, the necessary troops for guarding the 400 prisoners, and takes over the supply for construction and guard forces as well as prisoners. Taking over of prisoners by the 342nd Inf. Div., 8 Oct., 1200 hours Grn. Zasaviza Church.

6.) The chief of the Military Administration is to decide the time of the transfer of the majority of the inmates from Sabac to Zasavica. The 342nd Police Patrol is to be employed for guard-4 ing the Zasaviza Concentration Camp. It is intended to let the Sabac camp remain further as a reception camp. Taking over by Dulag 183 is being considered."

I think we need not read the rest of the document at this time. It is signed: "For the Plenipotentiary Commanding General in Serbia, The Chief of the General Staff Pemsel."

MR. FENSTERMACHER: The next document is No. 3138, which becomes Prosecution Exhibit 72, on page 146 of the English and page 112 of the German. The document consists of extracts from the secret report issued by the Chief of the Security Police and SD in Berlin on 6 October 1941.

Most of the events involved concern the Union of Soviet Republics but there is an excerpt which relates to Serbia. The first page of the document simply lists the number and type of attacks which have occurred in Germany against the German Wehrmacht.

Page 2 of the document, which is on page 147 of the English and 112 German, and page 113 of the German, reads as follows:

"Enemy losses: 10074 dead, including 742 killed in the fighting during mopping up in the Save bend; prisoners, including the fighting in course of mopping up in the Save bend, 7280; 15 wounded. During mopping up in the Save bend an additional 190 men were shot by firing squads. Through executions approved by the Military Commander in Serbia, 150 were shot in Belgrade, 34 at Cuprija, and 14 at Uikinda (Banat). In Belgrade three police agents were shot and one poisoned. In course of screening of sections of the Vity 171 persons were arrested.

"Serbia.

"Telephone line sabotage at Belgrade; Danube traffic temporarily interrupted by bands at Gradiste.

"Mopping up in the Save bend proceeds according to plan. Near Lajkovac, northeast of Valjevo, an infantry regiment shot twelve insurgents.

DR. LATERNSEER: There is a mistake in the translation which changes the meaning, which I would like to correct. In the German text on the document, on page 113, towards the middle of the page, it reads:

"Mopping up in the Save bend, 190 were summarily shot."

The translation which has just been read will read, "...were shot by firing squads" does not seem to have the same meaning.

MR. FENSTERMACHER: Perhaps we can have the interpreter read the sentence in question.

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THE PRESIDENT: If that is agreeable with counsel, that procedure will be followed.

INTERPRETER: The translation should read:

"During mopping up operations in the Save bend an additional 190 men were shot summarily."

THE PRESIDENT: Will the interpreter refer to the page and line of it.

INTERPRETER: This sentence is on page 147 of the English, line 5, page 113 of the German towards the middle of the page. It was approximately the last but one sentence that Mr. Fenstermacher has read.

Shall I repeat the translation?

"During mopping up operations in the Save bend an additional 190 men were shot summarily."

DR. LATERNSEER: I do not know whether this expression just hits the meaning. What does "summarily" mean? Does that mean "standrechtlich"? "Standrechtlich" means according to court martial procedure.

THE PRESIDENT: The Court will keep in mind the fact that there is some question as to the translation of this particular phrase and counsel may be sure that we will have in mind that there is some question as to the translation of this particular phrase.

DR. LATERNSEER: But the discrepancies can be quite important, Mr. President, since, when it says here "standrechtlich", that means "according to court martial".

INTERPRETER: Dr. Laternseer wants it translated "standing court". There is no such word as "standing court". "Standrechtlich" is "court martial".

MR. FENSTERMACHER: In accordance with the reading of the document, page 147 in the English and 113 in the German:

"Through executions approved by the Military Commander in Serbia, 150 were shot in Belgrade, 34 in Cuprija, and 14 at Uikinda (Banat). In Belgrade three police agents were shot and one poisoned. In course of screening sections of the city 171 persons were arrested."

I think we need not read the rest of the document at this time.

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The next document appears on page 149 of the English, page 115 of the German. It is Document [NOKW 1388](#), which becomes Prosecution Exhibit 73. This is an order of the Plenipotentiary Commanding General in Serbia to subordinate units dated 7 October 1941, and it is particularly important because of the insignia references which are made.

The first page of the document simply gives the distribution list of the order, but on page 150 of the English and on page 115 of the German is this:

"In this area units of Cetniks and groups of partisans have appeared.

"a) Organization and strength:

"Cetniks: Fourteen companies, one machine gun company, one death platoon leader: Captain Racic. Strength about 1,000 to 1,500 men. Armament: rifles and machine guns. Insignia: Yugoslav eagle or "P".

"Partisans: Strength uncertain (1,000 to 4,000 men?) It is certain that there are four Macava and five Cer companies. The armament is not as good as that of Cetniks. The leader is the former teacher, Kebosja Jarkovic. Some are identified by red insignia."

In the next document, beginning on page 151 of the English, page 117 of the German, Document No. NQKW 1129, offered as Prosecution Exhibit 74. This is an order of the Plenipotentiary Commanding General in Serbia, General Boehme, dated 6 October 1941, and it prohibits negotiations by his subordinate units with the partisan enemy.

"Subject: Negotiations with Insurgents.

"On 29 September 41 a local defense company in Grn. Milanovac was attacked by insurgents; after a short skirmish the former was captured en masse and led off into the mountains.

"On 4 October 41 a guard commando of the Field Ordnance Battalion 1 and 18 with a strength of four NCO's and forty men was also captured by the insurgents, after an only short skirmish without any losses of our own.

"In both cases the same circumstance was responsible for the out come which was very unworthy of a German soldier.

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On our side the very serious mistake was made of negotiating with the insurgents. In both instances the troops let themselves be deceived by the promise of an "honorable withdrawal", instead of defending themselves to the last cartridge.

"On the basis of these events I order the following:

"1) No negotiations are to be held with the insurgents.

"3) Parlamentaires of the insurgents do not enjoy the protection which is due to parlementaires of a regular troops. In case negotiators appear before the opening of a combat action, they are to be arrested and sentenced by summary court martial as franc-tireurs. If negotiators appear during or after a skirmish, they are to be fired upon immediately.

"The Corps Command LXV and the Commander in Serbia are to see to it that this order is made known to all subordinate troop units and offices in the shortest time."

The distribution list is given.

The next document, page 154, Document No. [NOKW 263](#), which becomes Prosecution Exhibit 75. This is a ten day report dated 9 October 1941 of the 347th Infantry Division to higher headquarters, the Plenipotentiary Commander in Serbia. It is dated Belgrade.

"During the period from 24.9. to 9.10 at 1600 hours the enemy suffered the following losses:

"88 killed in action.

"1127 executed.

"17,420 prisoners.

"During the same period the following cattle was brought in as booty:

"1205 head of cattle.

"1861 sheep.

"940 hogs.

"of which "952 head of cattle "1811 sheep "809 pigs "were shipped to Belgrade by rail."

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Signed: "For Divisional HQ. The 2nd General Staff Officer, Schuler, Captain."

The prosecution's next document is on page 156 of the English, page 120 of the German, Document [NOKW-71](#), which becomes Prosecution's Exhibit 76, an order of the Plenipotentiary Commanding General in Serbia, General Boehme, dated 9 October 1941, and it relates to the operation of military courts in the suppression of the uprising in Serbia.

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"The suppression of the uprising in Serbia must be performed ruthlessly. Above all it has to be carried out by purely military means. Insofar as cooperation of the Military Courts appears to be required, it has to conform to the following principles:

"1) Only the most severe penalties promise a penetrating impact on the population. The death penalty is therefore generally essential in all cases of sabotage, acts of espionage and attempts to join a foreign army. Also in cases of illegal possession of arms at present the death penalty is the only adequate atonement.

"2) The judicial procedures are to be executed quickly and impressively. The execution, especially of death sentences, has to be carried through immediately.

"3) The troop sentences according to martial law insofar as the military situation permits such procedure, those persons who participate in combat personally, i.e. by direct assistance of any other support. The steps taken are to be reported to the competent chief of court.

"4) Sentence by Court Martial is to be applied only in cases where the evidence is absolutely clear; confession of the defendant or when the smallest and directly available evidence is sufficient. If it can be assumed that the defendant played a leading role in the uprising or if he gives credible statements as to the fact that he was compelled to support the action by irresistible pressure by the insurgents, but that he himself has undertaken nothing against German troops, the captured person is to be taken behind the front with an exact statement of the reason. Further treatment of this person is the task of the field gendarmery (military police), the collecting camp, or if need be the court martial.

"5) In cases when persons who generally are to be sent to collecting camps, are suspected of participation in the combat, its preparation or support, particularly of insubordination against the German Wehrmacht, its orders or against organs acting on behalf of German Domestic offices, the following procedure has to be observed:

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"a) if proof can be furnished for the participation in the military action or its support, the prisoners are, after effective Contact has been established between the camp commanders and the court of the military commander for Serbia, to be sent to court action.

"b) In all other cases they shall serve as hostages in the event that in the cleaned up territory or in their home localities any action is taken against the German army or administration.

"signed: Boehme "General of the Infantry"

MR. FENSTERMACHER: The final Prosecution document in Document Book II is on Page 158 of the English and Page 122 of the German. It is Document No. [NOKW-1386](#); which is offered as Prosecution Exhibit 77. This is an extract from the War Diary of the 704th Infantry Division, dated 9 October 1941, and it relates to the occupation of Monica by a band of two hundred men in uniform. It reads as follows: "Valjevo: Illrd Battalion 125th Infantry Regiment conducts reconnaissance with one company from Divci to Mionica. Monica is occupied by a band of 200 men in uniforms. Enemy losses: 12 dead. Own losses none."

THE PRESIDENT: We will take our morning recess at this time.

(Recess was taken)

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The prosecution may proceed.

MR. DENNEY: May it please your Honors, during the recess. I have placed on each of your Honor's desks a mimeographed copy of the list of the exhibits in document book I by document number, by exhibit number. The reference to the counts to which each exhibit has been offered, and the reference to the defendants against whom these exhibits have been offered. There has also been distributed to each of the defense counsel a copy of this and at this time -- I don't think it is necessary to read it into the record but I have given the Secretary General a copy of it. The interpreters have a copy and the stenographers and I suggest that it be marked Exhibit 78 in the record if that meets with your Honors' approval.

THE PRESIDENT: Very well, Mr. Denney. This refers to Document Book I only?

MR. DENNEY: Only to Document Book I, yes, Your Honor. It is a list of the exhibits numbered I to XXXVIII which are contained in that document book which have been received in evidence only. There is not there included one which has been marked for identification nor two others, one of which was passed and the other of which, if your Honors recall, was out of place and at the time the book was offered it was requested that the Tribunal disregard that one page.

THE PRESIDENT: In marking this as Exhibit 78, it is not to be considered as an exhibit but merely as explanatory?

MR. DENNEY: For the purposes of identification, yes, Your Honor. Perhaps it would be more convenient for your Honors if we, when we present those -- this idea just occurred -- if we mark this 38-A, which is the exhibit right after the last exhibit in the book.

THE PRESIDENT: I believe that would be better.

MR. DENNEY: And then if we did that in every case, it would be clear both for defense counsel and for the court and for anyone reading the record, so if we change this from 78 to 38-A and hereafter we will follow that procedure, when those are offered, we will give them an "A" number which follows the last exhibit in the book to which it refers, and of course as your Honor has stated this is only being received for purposes of identifying the offer of the evidence as against the defendants and as to counts.

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If your Honors please, we turn now to the early days of October in the Southeast, particularly Serbia. As Mr. Fenstermacher indicated this morning, we have seen the deceased Boehme placed as Plenipotentiary Commanding General in Serbia in addition to his duties with the XVIII the Corps at the request of the defendant List in September of 1941. The first document in Book III, which is at page one of that book, and also page one of the German is [NOKW-192](#) which we offer as Exhibit 78.

This is a copy of an order by General Boehme which was issued on 4 October 1941 to the Chief of the Military Administration, the Commander of Serbia of 342nd Infantry Division and a Corps Signal Battalion.

DR. LATERNER: Your honors, I object to the submission of this document because it is not signed.

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Actually it is only a typewritten sheet of paper which has been photostated.

MR. DENNEY: Your Honors will see as we proceed with the presentation of this matter to show that this order was issued again. It is necessary to state that we only can photostat what we find. This is the only copy of this order which we were able to get. The further proof will show that the order was passed down.

THE PRESIDENT: The court is conscious of the fact that this apparently is a copy but as has been indicated in previous rulings it will be taken for such probative value as the court may deem it is entitled to and if it is connected with other matters then the court can give such additional consideration to it as the court may deem proper. Objection will be over-ruled.

MR. DENNEY: 21 Soldiers were tortured to death in a bestial manner on the 2nd of October in a surprise attack on units of the signal regiment between Belgrade and Obrenovac. As reprisal and retaliation 100 Serbian prisoners are to be shot at once for each murdered German soldier. The Chief of the Military Administration is requested to pick out 2100 inmates in the concentration camps Sabac in Belgrade (primarily Jews and Communists) and to fix place and time as well as burial place. The shooting details are to be formed from the 342nd Division (for the Sabac concentration camp) and from the 449th Corps Signal Battalion (for the Belgrade concentration camp). They are to be furnished by the chief of the military administration through the Plenipotentiary Commanding General of Serbia.

The Chief of the Military Administration is requested to order the camp leaders to inform the prisoners of the reason for the shooting.

And, typed on the bottom is General of Infantry The German handwritten notes on the left reads only verbally ordered.

Returning to page 3 of the English document Book and page 2 of the German Document Book we have [NOKW 1211](#) which we offer as Prosecution Exhibit 79 in evidence.

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This, again, is a photostatic copy of an unsigned document and we are interested only in the part which appears under No. 3. It is a report from the Commanding General Plenipotentiary in Serbia to the Wehrmacht Commander Southeast dated 9 October 1941.

DR. LATERNER: Your Honor, I must also protest against this document. This is another typewritten sheet of paper.

MR. DENNEY: What applies to this applies to the previous document and it can be connected up later even as will the one Exhibit No. 78.

THE PRESIDENT: The court understands that these documents and this document in particular is one of many which were obtained at the close of the war and is a document which was eventually found in the effects of the Army. It will be taken for what value the court may consider it as an unsigned document.

MR. DENNEY: Paragraph 3 which is all we are concerned with here states:

"Execution by shooting of about 2000 Communists and Jews in reprisal for 22 murdered of the Second Battalion of the 521st Army Signal Communication Regiment in progress."

Then turning to page 4 in the English Book and page 3 in the German Book we come to Document [NOKW 497](#) which is offered as Prosecution Exhibit 80. If the Clerk would show this to the court I think Your Honors will be able to see the connection between this and the previous document. Excuse me, please, the Secretary-General. The first photostated page is dated 20 October 1941 and is a communication from the Plenipotentiary Commanding General in Serbia to the Senior Signal Officer, Serbia, and is signed For the Plenipotentiary Commanding General in Serbia, the deceased Boehme, by Pemsel, Chief of the General Staff. The document refers to a report of the second battalion 521st Signal. The word "Battalion" is here; it should be "Regiment" and Your Honors will recall that in the previous document, No. 79) that unit is mentioned. The subject of the report is Reprisals for 22 fallen members of the 2nd Battalion, 521st Signal - and again that should be Regiment instead of Battalion "It is requested that a final report concerning the execution of the reprisal measures be presented:

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That the 2nd Battalion, 521st Signal Regiment, be ordered to submit reports only through channels.

For the Plenipotentiary Commanding General in Serbia.

The Chief of the General Staff: (signed) Pemsel."

And, if Your Honors will note on the bottom there is a faint stamp indicating that it was received by the Military Commander Serbia and have entries for Diary Number and when they were entered in the Diary.

Then turning over to the second page this is part of the first page in the exhibit and just completes the bottom part below the stamp where it says, in the original.

(pencilled note) 21 October In the original To the Plenipotentiary Commanding General of Serbia Belgrad handed back after acknowledgment 17729.

9 and then there is another rubber stamp which says For the Plenipotentiary Commanding General in Serbia The Chief of the Administrative Staff and some handwritten initials which are illegible.

Then turning to the next page of the document, page 6 in the English, page 4 in the German, we see a report from a Major and Battalion Commander of the Second Battalion, 521st Signal Regiment. This is dated 15 October 1941, five days prior to the date contained on the previous document and is explanatory in part so far as that document is concerned. The subject of this communication from the Commanding officer of the Second Battalion of the 521st Signal Regiment is: Surprise attacks of Communist Bandits on Members of the Battalion, There is a big stamp on the right of the photostat which indicates that it was received by the XVIIIth Corps on the 15th of October; the 18th Corps was also commanded by Boehme who was also Plenipotentiary Commanding General in Serbia.

In addition, the distribution list 12th Army, the defendant List, the two positions held by Boehme are next listed, the Commander of Serbia, the IXVth Corps, and the Senior Signal Officers to whom the report of communication of 20 October signed for Boehme by his Chief of Staff was directed. This is a report from the Battalion Commander which recites an enclosure which we will come to in a moment.

The battalion represents as a supplement to the reports about Communist bandit surprise attack, a report concerning the shootings of Jews, which have been carried out.

Further shootings could not be carried out by the battalion, since an allocation of men was impossible on account of their being utilized for re-establishment of the telephone lines from Sabac to Loznica.

The Pongruber corps Signal Battalion was charged by Col. Wurster with the carrying out of further executions.

Then the supplement which is enclosed starts on the next page which is page 5 of the German and page 7 of the English. This is dated 13 October 1941 and is a report by a Lieutenant Liepe which is signed. He appears to have been the Lieutenant who was company Commander of the unit that carried out the executions. The report is headed:

Concerning the shooting of Jews on 9 and 10 October 1941.

1. Mission: On 8 October 1941, the shooting of 2,200 Jews, who were in the camp at Belgrade, was ordered.
2. Leadership and Participation: First Lieutenant Liepe and Comrades of field units 26557 and 06175, of which two officers and twenty men were killed, 16 were missing, and three were wounded.

3. Medical Care and Oberarzt Dr. Gasser, field Unit 39107 Mission: and Corporal Bente, MD, of Unit 26557.
4. Transport and Vehicles: Transport and guard of the prisoners furnished by the participating units. Vehicles were allocated by the motor pool of the Belgrade administrative sub-area Has. The transport of the soldiers taking part was furnished by army trucks.
5. Place of Action: 9 October 1941 - forest about 12 km. east of Kobin. 11 October 1941 - in the vicinity of the Belgrade shooting range, on the road to Nis.
6. Security and Concealment: Took place in close agreement with the command: security police in Belgrade and Pancevo.
7. Film and Pictures: "S" Propaganda Company.
8. Supervision: First Lieutenant Liepe, 2nd Lieutenant Vibrans, 2nd Lt. Luestraeten, SS-Oberscharfuehrer Enge, of the Security Police Belgrade.

"Execution" -- this is on page 7 of the German -- "after basic exploration of the place and preparation, the first shooting took place on 9 October 1941.

"The prisoners were picked up with their emergency baggage from the camp in Belgrade at 0530 hours. Through issuing of spades and other working tools a working party was simulated. Each truck was guarded only by three men so that from the strength of the guard no suspicion should arise concerning the true action.

"The transport took place without difficulties of any sort. The mood of the prisoners during the period of the transport and preparation was good. They were happy about the removal from the camp, since their accommodation there was allegedly not according to their desires. The prisoners were occupied eight km from the place of shooting and brought up later as required. The place was covered sufficiently as regards the preparation as well as the shooting. The shooting took place with rifles at a distance of 12 meters. Five shots were ordered for the shooting of each prisoner. In addition the doctor was allowed two shots which had to cause death by shots in the head according to instruction of the doctor.

"Articles of value and superfluous things were removed under supervision and were later sent to the Nazi People's Welfare and/ or the Security Police in Belgrade. The attitude of the prisoners at the shooting was calm. Two people tried to flee and were accordingly shot at once. Some expressed their feelings, in that they brought another hail to Stalin and Russia. 180 men were shot on 9 October 1941.

"The shooting was finished at 1830 hours. There were no special events worth mentioning. The units returned to their quarters satisfied. The second shooting could not take place until 11 October 1941 on account of construction work on the Danube ferry. As a result of the construction work the next shooting had to take place in the vicinity of Belgrade. For this, exploration of a new place was necessary and demanded a double precaution.

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"The next shooting took place on 11 October 1941 in the vicinity of the shooting range. It went according to plan. 269 men were shot. No prisoner escaped in either shooting and the unit had no special events and occurrences to report. A platoon of the unit of major Pon-gruber under command of 2nd Lt. Hau was employed for strengthening the security. Altogether 449 men were shot on the 9th and 11th of October 1941 by the units named. Unfortunately, an additional shooting by the units named had to be stopped on account of commitment and a transfer of the mission to the unit Pongruber resulted."

This is signed: "Liepe, 1st Lieutenant and Company Commander."

The report is thorough in its detail. I should like to call your Honors' attention to the fact that the Army and the SS were participating in the supervision, as is shown on page 7 of the English, in the source of the persons to be executed in the concentration camps and it suggests that this ties back to Exhibit No. 78, the unsigned copy of the order of Boehme to the Chief of the Chief of the Military Administration dated 4 October.

The next document, on page 11 of the English and page 9 of the German, is [NO-3156](#) which again is a report from the Chief of the Security Police and SD in Berlin. The portion of this document which we

are using is very short and I would appreciate it if the Secretary General would pass the exhibit to the Court so that they may see the manner in which reports of this sort have been furnished to defense counsel.

THE PRESIDENT: Will you identify it by exhibit number?

MR. DENNEY: It is offered as Exhibit No. 81, if your Honors, please.

THE PRESIDENT: And the German page number?

MR. DENNEY: The German page number is No. 9. We are only using a very brief part of this document from pages 1 and 2.

This report is dated 9 October 1941 which is prior to the date of the report of Lieutenant Liepe and, of course, prior to the date of the letter of the Major commanding the 521st--or the 2nd Battalion of the 521st Signal Regiment and as such the details carried here cannot be as they were in those later documents because your Honors will recall that the executions took place, the first on the 9th, and the second on the 11th, of October; and they were in Serbia and this is from Berlin.

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The report:

"Political Review. Foreign Countries. Serbia:

"The Chief of the Einstazgruppe of the Security Police and the SD in Belgrade reports. Mopping-up by the German Wehrmacht in the area of Sabac has resulted up to now in the arrest of 22,000 male persons. These are housed in a temporary camp and are at present being screened by a Detachment of the Security Police with the assistance of the Belgrade Police.

"In reprisal for the 21 German soldiers shot to death near Topola a few days ago 2,100 Jews and Gypsies are being executed. The execution is carried out by the German Wehrmacht. The task of the Security Police is merely to make available the required number. 805 Jews and Gypsies are taken from the camp in Sabac, the rest from the Jewish transit camp Belgrade.

"Collecting camps are installed by the German Wehrmacht in the Save river bend near Mitrovica for the persons arrested in the course of the mopping-up action by the Wehrmacht and also for other arrestees. This camp is being constructed by Organisation Todt. It will have an immediate capacity of 50,000 persons, and can be enlarged to hold 500,000 persons. The camp is constructed like the German concentration camps. The direction of the camp is in the hands of the Linsatzgruppe of the Security Police and of the SD."

Of course, at that time, on the 9th, when the executions were just taking place, the Linsatzgruppe --or, rather, the Security Police and the SD in Berlin -- had no way knowing the numbers who would actually be reported by Lieutenant Liepe in this later report.

The next document is 3404 which we offer as Exhibit 82 and this is the report of a day later to the Chief of the Security Police and the SD in Berlin, dated 20 October 1941.

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This again is a substantial report but we are only using a few pages of it. It appears on page 11 in the German document book, page 13 in the English document book. It is offered as Exhibit 82 in evidence.

There first is a report on page 1 on the band situation and shows attacks against German units and installations, post and telegraph offices, railroad stations and installations, etc., and then on the next page it tests the enemy losses and both in prisoners taken, people wounded and people killed.

The first entry on the top of page 14, which is page 12 in the German, recites the use of artillery for the first time by the insurgents. It also contains the note that the insurgents were well armed; and then comes a paragraph which has to do with compulsory recruitment by the insurgents in their area with which we are not concerned; and then at the bottom of the page appears No. "2) Arrests," and there is a recital for the period of this report, "101 persons were arrested mostly for Communistic activity; 12 of the persons arrested have already been convicted and shot to death. Investigations are under way to continue gathering information concerning the communist organisation. The assignment of a reliable interpreter guarantees supervision of the work of the Serbian Special Police (Communist Section). A special detachment has been assigned to the screening of the prisoner's camp in Sabac which had been organized by the Wehrmacht, Total number of prisoners approximately 22,000. Screened up to now, about 8,000; up to now 910 by the Wehrmacht.

"To prevent acts of sabotage a special detachment (Sonderkommando) has been assigned to the Engineer Battalion stationed at the Iron Bridge;" and I don't think we need to read the next four paragraphs.

At the bottom of the page they recite: "420 foreigners screened in Belgrade," and then that two German soldiers had been attached in Belgrade, both of them heavily wounded and as a reprisal measure there were killed a total of 200 Communists and Jews shot to death; and then they again refer to the matter which we have under discussion, the 2100 reprisal killings:

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"In reprisal for 21 dead German Wehrmacht Soldiers, 2100 Jews from the Jewish Camp were made available for execution by order of Corps Headquarters 18."

If your Honors, please, as the decreased is Boehme and it is submitted that the copy of the order which is offered as Exhibit 78 which directs in its terms that the Chief of the Military Administration through the Plenitentiary Commanding General -- excuse me -- that the shooting details will be formed and that they are to be furnished by the Chief of the Military Administration through the Plenitentiary Commanding General of Serbia. This refers back to Corps Headquarters 18 which is the same as the Plenitentiary Commanding General of Serbia so far as the persons occupying the positions are concerned.

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"The Wehrmacht is carrying out the execution. The seizure of all male Jews in Belgrade and their transfer to a camp completed. Preparations for the Belgrade Jewish Ghettos are completed. After the

liquidation of all remaining male Jews as already ordered by Commander Serbia, the Ghetto will receive about ten thousand Jewish women and children."

And then there is a recital that "Arrests prevented the intended flight of a group of 12 wealthy Jews, a great number of valuables and considerable amounts of money were secured. The intermediary who had procured forged Croatian papers for 86,000 Dinars was also arrested. The escape was to be made by Wehrmacht trucks."

Then there is one note at the bottom of page 16, on page 14 of the German, with reference to Greece. "Armed found in the area of Seloniki. Three Greeks shot to death, 12 houses burned."

Next we have the report of 21 October 1941 again from Berlin; Chief of the Security Police and the SD, and with reference again to Serbia.

"The Chief of the Operational Group (EINSATZGRUPPE) of the Security Police and SD in Belgrade reports:" This is document [NOKW 3482](#) and is offered as Exhibit 82. That appears in the English text on page 18 and page 15 in the German.

"The report of the Chief of the Operational Group of the Security Police and S.D. b) Special Events:

"On 14 October 1941 the Insurgent attack on the town of Kraljevo commenced and; with brief interruptions, continued for almost 3 days. For the first time, the Insurgents also employed artillery in the fighting for the town, and on 17 October, for instance, the town received over 100 artillery shells."

I would direct Your Honor's attention to the name of this town, Kraljevo, because there are separate reprisal killings that are intertwined through the next separate documents and this Kraljevo one will appear shortly and I would just like to call Your Honor's attention to that name at this time.

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Then under the title "Own Activities" -- that is the activities of the Einsatzgruppe -

Special Events:

After ruthless action by the troops was bound to fail up to the time of the employment of the Plenipotentiary Commanding General in Serbia because of the lack of corresponding clear orders, Lt. General Boehme's order, according to which 100 Serbs will be executed for every soldier killed and 50 for every soldier wounded, has established a completely clear-cut line for action. On the strength of this order, for instance, 2200 Serbs and Jews were shot in reply to an attack on a convoy near Topola, during which 22 members of the Wehrmacht perished, while in return for the soldiers killed in the fighting for Kraljevo so far 1736 inhabitants and 19 Communist women from Kraljevo have been executed.

If Your Honors will total the figures 1736 and 19, it will be seen that it comes to the figure 1755 which figure we shall find in somewhat later reports, but I would just like to call Your Honors' attention to that figure in connection with the town of Kraljevo, and again, above, there is the recital of the 2200 Serbs and Jews shot near Topola.

"However, it still appears necessary finally to open the eyes of the Serbian people, through corresponding propaganda, to the unpredictable consequences which will result from the ruthless execution of this order.

"It has also been shown again during the week covered in the report that for the speedy and complete suppression of the insurrection the combat troops available are not yet sufficient. Terrain difficulties which arise everywhere require the continual employment of major units if a lasting success is to be obtained, since the insurgents only rarely give battle and total destruction is always possible only through complete encirclement. This fact is also recognized by competent military authorities, and it can be expected that additional troops will soon be employed in Serbia.

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Summing up, it can be said that the slight improvement in the entire situation which occurred during the week covered in the report must in no way lead to exaggerated optimism. Until now it has only been possible to destroy small bands, while the large bands in part already completely organized on military lines, are still in the terrain. Only after dispersing and completely destroying them may a decisive improvement in the situation be expected.

Then the last entry, a note with reference to Greece on page 18 of the German and page 21 of the English, still reading from Exhibit No. 83, the report from the Einsatzgruppe to Berlin and released by Berlin on 21 October, 1941? "Greece: At the Strymon Estuary 2 villages were burned down which were found guilty of having supported bands. All male inhabitants (202) were shot. In course of the fire, ammunition, partly also explosive charges, blew up in every house."

Then turning to page 22 in the English, page 19 in the German, Document NOKW-560, which is offered as prosecution's exhibit 84 in the evidence, this is an order of General Boehme of 19 October and I would appreciate the Secretary General handing it to the Tribunal because this copy is signed by his chief of staff in order that they might see the signature on the photostat.

I would also direct Your Honors' attention to the material just below the heavy line which was typed under the words "In Serbia" in the upper left-hand corner where it says ABT. Qu. NR and then the number NO 301/14--that is the order number which is given and we will have occasion at a later time to refer back to this number and if Your Honors will note on the photostat it appears that the "O" was written in. Apparently it was originally mistyped. The "1" may still be seen under the "O" and to the left of the final "1" before the slash. This is from the Plenipotentiary Commanding General in Serbia by his chief of staff to the LXV Corps, the Belgrade Guard Regiment, and for the information of the Commander Serbia.

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It recites the order above named which appears under reference 2848/41. "In execution of the order named in above reference, 2200 arrested Serbs will be shot for 10 killed and 24 wounded German soldiers (members of the troop units besieged in Valjevo)."

This is still another order with reference to reprisal killings. We have had the one from Belgrade with reference to the concentration camp inmates, Belgrade and Sabac. We have had reference to Kraljevo and now we see for the first time the term Valjevo and if Your Honors will see that the number 2200, it is submitted, is computed on the 100 to one and 50 to one ratio. A hundred to one for the ten killed would be 1,000 and fifty to one for the 24 wounded would be 1200 and that adds up to 2200, the number which is indicated in the order.

"The execution of 1600 arrestees is to be carried out by the Belgrade Guard Regiment. The date and place of executions, the picking up and/or delivery of those arrested, as well as more exact details are to be agreed upon directly with the Pleni. CG in Serbia (Commander Serbia - Admin. Staff). Report of completion to Pleni. CG in Serbia."

That, of course, is Boehme. And it is signed for him by his chief of staff Pemsel.

On page 20 of the German and page 23 of the English, we come to Document NOKW 1362, which is offered as prosecution's exhibit 85 in evidence. This is a part from the war diary of the LXV Corps which was commanded by General Bader which was in Serbia and which by the order of Field Marshall List in September of 1941 was subordinated to the Plenipotentiary Commanding General in Serbia, General Boehme, who was sent there by Field Marshall List, and Boehme of course was under List. The Court might be interested in seeing the cover page of this war diary. I would request that the Secretary General hand it to them because in the writing itself it shows the chief to which this Corps Commander looked.

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For the dates on the second line or the third up from the bottom--the dates June 10, 1941 to 20, 1941, they were under the Second Army, Armeeoberkommando II and then from 21 June 1941 until 19-9-41 they were under Armeeoberkommando 12. 19-9 means September 19. Then from the 20th of September until the third of March, 1942, they were under the Plenipotentiary Commanding General for Serbia.

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MR. DENNEY: And there is a note below which shows that General Boehme held this position until the 3rd of December 1941, and also that he had the 18th Army Corps. The initials out to the right following the Roman numerals XVIII, and then below that, that Bader took over as Plenipotentiary Commanding General in Serbia on the 4th of December 1941 and remained so until the 3rd of March 1942. The excerpts with which we are here concerned begin with the 17th of October 1941, and therefore place the Corps under the Plenipotentiary Commanding General in Serbia. Became. There is a note for 17 October, "From the Plenipotentiary Commanding General in Serbia: Arrest of all relatives of Insurgents." Then, on the 18th of October there is a report from the 717th Infantry Division, a division which is part of the LXV Corps, "In return for losses incurred on 15 October so far 1736 men and 19 Communist women shot." Now, we referred in the earlier document, that is the report from the Chief of Security Police and SD, which was exhibit 83, Page 16 in the German and Page 19 in the English, to the numbers 1736 inhabitants and 19 Communist women, which recites Kraljevo, and it is

submitted that these numbers, with the date, it being a report from the Einsatz Gruppe for a week, as is shown in the text of the report, and that the report must have been submitted on the 20th October, and that this establishes this as being Kraljevo. Then, on the 19th there is a report from the 717th Infantry Division, which again is part of the LXV Corps, which indicates that the "IIIrd Battalion 749th Regiment returned to Kragujevac with 133 hostages." Now, I would like to direct Your Honors' attention to this name Kragujevac. We now have Kraljevo, Valjevo, and Kragujevac. It then recites that "D. Milanovac was burned down." And then there is a note to the 718th Infantry Division from the Plenipotentiary Commanding General in Serbia, "Retaliation measures ordered for Serbia are not compulsory for Croatia: forwarded to the 718th Infantry Division." And then a directive to the 704th and the 718th, two divisions, both part of the LXV Corps, "Teletype: Divisions report the number of arrested and shot for the period 11 - 19 October 1941."

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Now, you will note that there three divisions in this corps, and we have the report on an earlier page for the 717th Division; therefore, this present report, an order to report deaths for the period 11 to 19 October, is not made to the 717th, but only to the 704th and 718th. And then we have had the reference in the Boehme report to the 1600 arrestees who were to be executed by the Belgrade guard regiment, in Document [NOKW-560](#), Page 19 of the German and Page 22 of the English, which is Exhibit No. 84 in evidence. And now in this report of the LXV Corps, Document No. [NOKW-1326](#), Exhibit 85, we see a report from the Plenipotentiary Commanding General in Serbia to the Corps, ordering, "Retaliation measures, 1600 from Valjevo to be shot by 734th Infantry Regiment in return for 16 killed and 24 wounded." Then, dropping down to the entry of the 28 of October 1941, the Corps Diary recites that they received, "From the Plenipotentiary Commanding General in Serbia through LXV Corps Command to 704th Division, 718th Division, 220th Anti-Tank Battalion, and Guard Regiment, Registration No. 1026-41 secret. Arrest and shooting of hostages has to be carried out according to plan and according the point of view."

And then there is the handwritten note which appears below that, "The order to shoot hostages, No. 926/41 secret, paragraph 3, is materially curtailed through the directive by the Plenipotentiary Commanding General in Serbia." This is under date of October 28th. We will have an occasion to refer to that at a later time. On October 29, still in the same Exhibit 85, Page 21 of the German and Page 26 of the English, a report from the "220th Anti-Tank Battalion the LXV Corps Command to be forwarded to XVIIIth Infantry Corps: 50 hostages shot in retaliation for one wounded." And then again the XVIIIth Infantry Corps and the Plenipotentiary Commanding General Serbia are the same people. And then there is a recital that the 714th Infantry Division through the LXV Corps Command to the XVIII Infantry Corps, "Division requests reconnaissance plane and dive-bomber support for attack on band camp 500 men strong in the vicinity of Neresnica (30 km Southwest of Vr. Milanovac)."

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And then 30 October "Enemy Artillery firing at a water tower and a school in Kraljevo." And then a report, "From a Guard Regiment 734 to LXV Corps Command, registration No. 1048/secret:

Retaliation measures: Guard Regiment reports 101 persons shot. From Plenipotentiary General in Serbia to Corps Command. Wehrmacht Commander Southeast agrees with plans of Plenipotentiary Commanding General about employment of troops. The Organization of units subordinate to LXVth Corps Command can be carried out." And then, "From 610th Administrative Sub Area HQs to Corps Plenipotentiary Commanding General in Serbia: Report on Retaliations at Kragujevac." And then a directive to the 704th and the 717th to report, and this bears out the earlier contention, because here they now ask the 717th to report from the 20th to the 31st, which, if Your Honors recall, they did not ask them to report for the period up to the 20th, because it was submitted that they had already sent their report. And this explains the failure to include the 717th at that time. Now the note at the bottom of the page, which is Page 27 of the English and Page 22 in the German, the "LXV Corps Command to Plenipotentiary Commanding General in Serbia. An apparently expedient proposal by the 704th Infantry Division, concerning the question of hostages is presented to the Plenipotentiary Commanding General in Serbia. In this it is suggested to detain arrested hostages from all sections of the population, only for a certain time, so that as large a section of the population as possible will be seized." Here we see a suggestion going up from a division commander through Corps to the Plenipotentiary Commanding General in Serbia, with reference to changing the procedure so far as the time the hostages are being held is concerned. I don't believe we need to take any more of that order.

THE PRESIDENT: Well, just a minute. If I may interrupt, Mr. Denney, perhaps this would be an opportune time and place to adjourn. May I inquire of Dr. Laternser, representing the defense counsel, whether the arrangement for a noon lunch has worked out satisfactorily?

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DR. LATERNSER: Yes, thank you, Your Honor; there is sufficient time.

THE PRESIDENT: Very well. We will adjourn until 1330 (The Tribunal recessed until 1330)

AFTERNOON SESSION (The hearing reconvened at 1330 hours, 18 July 1947.)

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MR. DENNEY: If it please Your Honors, just before luncheon we were discussing the reprisal measures, the first of which was in Belgrade, with reference to the concentration Sabac in Belgrade, then the one with reference to Kraljevo, and the one with reference to Yaljevo, and then the one with reference to Kragujevac. Those towns all appear on maps A and B in the pamphlet which was submitted to the Tribunal as was the town of Topolje, which was mentioned in the earliest incident, and the town of Obrenovac is to the left of Belgrade on the small dotted line just east of the town of Skela.

Continuing now with the Document [NOKW 906](#), which is on page 24 in the German and page 29 in the English, it is offered as Exhibit 86. This, again, is a captured document with no signature on it. However, on the original there appears the rubber stamp of "704th Infantry Division" with the date 31 October 1941 on it.

If Your Honors will look at the original--

Will the Secretary General kindly hand the original photostat to the Court--

At the top of the document--

THE PRESIDENT: May I inquire, Mr. Denney, which page on the English document?

MR. DENNEY: 29, Your Honor, Document Book 3. Does Your Honor have it?

THE PRESIDENT: Yes.

MR. DENNEY: Thank you, sir.

On the photostat of the copy which we have the date at the upper right hand corner, which is typed, is 28 September 1941. It is submitted that that is obviously an error, because the first of the stamps of the 704th Infantry Division which recites 31 October, the lower stamp which is also a 704th Infantry Division stamp, which recites 1 November, and the contents of the letter itself, Your Honors can see in the first paragraph, the second paragraph, the first line of the German, that it recites the date 27/10/1941, and obviously a report could not be made on 28 Sept 1941 of events which occurred on the 27th of October 1941, and the reference which has been made at prior times to the affixation of these stamps of higher headquarters shows that it is a short time, normally, between the date of the writing and the date of the stamping by the superior unit, and in this connection, too, the Court's attention is directed to the fact that this is a report from regiment to division and normally the proximity of regimental command posts to division command posts is much closer than that, say, between the Plenipotentiary Commanding General in Serbia and the Armed Forces Commander Southeast.

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The reference here is the Commanding General Plenipotentiary in Serbia.

No. 3001 41, which Your Honors will recall was Exhibit 84, Document [NOKW 560](#), which is a telegram from the defendant Boehme of 19 October, and that is submitted as a further reason that the date 28 September is improper, because on the 28th of September they could not have had a diary reference to 3001 41, which did not come from the headquarters of General Boehme until 19 October 1941, and the subject which is recited here is reprisal measures which, of course, is the subject that was under discussion in the Boehme order signed by his chief of staff 3001/41, dated 19 October. The contents of this report:

"Subject: Reprisal Measures.

"Pursuant to the above reference 2200 arrested Serbs are being shot to death for ten German soldiers killed in action and 24 wounded." And then they again recite, "(members of the unit encircled in Valjevo)".

"The execution is to be carried out by Guard Regiment Belgrade and 1600 arrestees."

The first 1600, if Your Honors recall, is also apparent in the war diary of the 65th Corps, [NOKW 1362](#), which is Exhibit 85 in evidence, at page 24 of the English and page 21 of the German.

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Then there is a recital of an order from Boehme with reference to retaliation measures. The figure "1600" is given from Valjevo to be shot by the 734th Infantry Regiment, the unit which is here recording, in return for 16 killed and 24 wounded, the only difference being that in the regimental report to division the number given as killed is 10, whereas in the report of the corps, of the order from its superior commander, passed on to its lower regiment, or its lower echelon, in this case division, who would in turn pass it to the 734th Regiment, the figure for killed is "16".

Then this report contains a further reference to executions:

"The regiment reports that 101 men of the arrestees were shot to death on 27 October 1941. Further executions by shooting will be carried out after more arrestees have been turned in. Reports thereon by the regiment will be reported in each case."

And it is submitted that the data at the top should be 28, but the month should be October instead of September.

Turning to page 25 in the German and page 31 in the English, Document [NOKW-90](#), which is offered as Exhibit 87 in evidence, this is a report from the 724th Infantry Regiment to the 704th Infantry Division, the 724th being one of the other regiments in the division. The report which we have just seen, Exhibit 86, is a report from the 730th Infantry Regiment. This is dated 31 October 1941 and is from -- or rather the 724th Infantry Regiment to the division. The covering page bears the signature, illegible, of a captain and a regimental adjutant. It is stamped received by the 704th Infantry Division, 1 November 1941, and this covering letter states:

"Enclosed please find commitment report of the 1st Battalion of the 724th Infantry Regiment for the period 17 October to 25 October 1941."

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And on page 25 of the German, page 32 of the English, still on Exhibit 87 in evidence on the 18th of October the 724th reports to its division that some railroad lines had been blasted and some track had been removed and thrown down the embankment and that 66 Communists and Jews who were contained in lists were arrested in the evening and sent to the captured material depot. Then it states:

Pursuant to order by the Division, the 9 dead and 6 wounded of the III Battalion of Infantry Regiment 749 must be avenged. Consequently, the capture and shooting to death of the corresponding number of the male population will be carried out during the period from 19 October to 21 October.

19 Octo. 41, they recite, the 1st Battalion of the 724th Infantry Regiment carries out the operation in Grosnica with the 3rd Company and 50 men are shot to death and the villages burned down. Ammunition was found in several places including the church steeple. III Battalion of the 739th has shot to death 182 men in Mackovac. Oct. 20, 1941.

About 3,200 men aged 16 to 50 from Kragujevac are being arrested This is page 26 in the German. In the evening the Communists and Jews arrested on 18 Oct. and 53 penal prisoners from the local prison of Kragujevac were shot to death behind the captured material depot.

And, if your Honors please, it is submitted that the Communists and Jews referred to are those who are recited in the entry of 18 October, the 66 in addition to the 53 penal prisoners.

The next page has the recital for 21 Oct. 41, 0700 hours in the morning, the selection and shooting to death of the arrestees starts. This concludes the operation. A total of 2,300 Serbs of various ages and professions have been shot to death. The next few days of course showed greatest unrest in the population. Consequently security measures are being carried out.

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(Signature) Koenig Major and Battalion Commander, of the 274th Infantry Regiment, which in turn, is part of the 704th Infantry Div.

THE PRESIDENT: Pardon me, Mr. Denney, the rain is coming in the windows on the defendants. Will you kindly call the attention of the counsel so they may be closed. They don't need to be closed until you find it necessary, They don't need to close them unless they want to.

MR. DENNEY: Now the next document is Nokw 557 which is Exhibit 88. It is at page 27 of the German document Book and page 34 in the English. This is a signed original and is an order from Plenipotentiary Commanding General in Serbia Boehme dated 10 October 1941 and it has as its number 2848/41. Now in the subject it is to be noted that it speaks of "Putting down Communist insurgent movement. Supplements of the Plenipotentiary Command General in Serbie to 'The Chief of OKW, etc.' No. 00 2060/41 top secret of 16 September 1941" in which the 50 and 100 to one, actually it says, 100 Communists must be in general deemed appropriate retaliation for the life of a German soldier. This is a supplement to that order by Boehme.

1) In Serbia it is necessary, on the basis of the "Balkan mentality" and the great expansion .of insurgent movements both Communists and camouflaged as national to carry out the orders of the OKW in the most severe form. Speedy and ruthless suppression of the Serbian resistance is to consideration not to be underestimated for the German final victory.

2) In all commands in Serbia all Communists, male residents suspicious as such, all Jews, a certain number of nationalistic and demoratically inclined residents are to be arrested as hostages, by means of sudden actions. It is to be explained to these hostages and to the population that the hostages will be shot in case of attacks on Germans or on Volksdeutsche.

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LXVth Corps and the Chief of the Mil Adm. (for Belgrade and Banat) are to report on the 10th, 20th and last of each month (for the time, on the 20th Oct.) the number of hostages. Turning to page 38 in the German and continuing on page 34 in the English:

3) If losses of German soldiers or Volksdeutsche occur, the territorial competent commanders up to the regiment commanders are to decree the shooting of arrestees according to the following quotas:

(a) For each killed or wounded German soldier or Volksdeutsche (men, women, or children) one hundred prisoners or hostages.

(b) For each wounded German soldier or Volksdeutsche 50 prisoners or hostages.

The shootings are to be carried out by the troops.

If possible, the execution is to be carried out by the part of the unit suffering the loss.

In each individual case of losses a statement is to be made in the daily reports, whether and to what extent the reprisal measure is carried out or when this will be finished.

4) In the burying of those shot, care is to be taken that no Serbian memorials arise, Placing of crosses on the graves, decorations, etc.

is to be prevented. Burials are accordingly to be carried out best in distant localities.

5) The Communists captured by the troops in combat actions are to be hanged or shot as a matter of principle at the location in question as a frightening measure.

6) Localities which have to be taken in combat, are to be burned down, as well as farms from which troops were shot at.

(sgd.) Boehme Lt. Gen.

Inf. PM Distribution:

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Cmdr. of Serbia/HQs. Staff 2 Cmdr.

of Serbia/Mil. adm. 2 Cmdr.

of Serbia/for Administrative sub-area HQs 4 LXVth Corps at the same time for Divs.

342nd Inf. Div. 2 425th Inf.

Regt. 1 And I need not list the rest except at the bottom:

For Wehrmacht Cmdr. SD 1, Defendant List Germ.

Gen. in Zagreb 1 Reserve 2 This document is out of order in the book and I would like to call the attention of Your Honors to its date:

10 October 1941 the day between the first report we have of the killing with reference to the Sabac and Belgrad reference but clearly before the Valjevo, Kragjevo, and Krayujevac.

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MR. DENNEY: Turning now to page 30 in the German, page 37 in the English -

DR. DEUTSCHE (Counsel for defendant Foertsch): I think when naming the quota, the ratio, for reprisal, there is an error in translation. The German document which I have before me, page 28 of the German document book, under 3A, it is written, "for every killed or murdered German soldier or Volksdeutsche there are 100 prisoner hostages to be shot." However, when the English text was being

read I understood, "for every killed or wounded soldier the corresponding number of hostages or prisoners is to be shot."

JUDGE BURKE: I think the error came about from your using the word "wounded" in place of "murdered". The English volume is correct. The word "murdered" on the bottom of page 34 of the English translation in the last line.

THE PRESIDENT: Apparently, Mr. Denney misread the word. It was caught by the Court but we did not call your attention to it. It is fortunate that counsel did.

MR. DENNEY: I am sorry, Your Honor. The paragraph "a", the first line under "3" of [NOKW-557](#), Exhibit 88 in evidence, should read: "for each killed or murdered German soldier or Volksdeutsche, men women or children, 100 prisoners or hostages." Thank you.

This next document 1208 which is page 30 in the German text and page 37 in the English is offered as Exhibit 89 in evidence and is a report to the 342nd Infantry Division -- or, rather, an order to the 342nd Infantry Division -- from the Plenipotentiary Commanding General in Serbia, dated 12 October 1941.

The first paragraph concerns itself with mopping up operations and gives the division orders to be at the southeastern slope of the Cer Mountains on the evening of the 15th of October.

The second paragraph says that: "concurrent with the mopping up of the mountains two reinforced battalions will advance by surprise without vehicles in the direction of Krupanj from Krivajica across elevation 450 to elevation 543 north of Krupanj, and from Mojko vic on the south ridge of the Likodra to elevation 432 southeast of Krupanj.

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Krupanj is to be surrounded, everything met there will be shot, the village is to be burned down."

Then follows page 32 in the German and page 39 in the English, Document [NOKW-454](#) which is offered as Exhibit 90 in evidence. This is a report from the High Command, the 65th Corps of General Bader to the Plenipotentiary Commanding General in Serbia, Boehme, dated the 12th of October, 1941, and recites activities of various so-called pursuit detachments for the period beginning in mid-August and continuing to the 5th of October.

This is offered. I won't attempt to read it but by looking at Your Honors can see the way the German forces were operating their units. They were split. It is submitted because they didn't have enough troops and you can see various battalion designations, pursuit detachments, artillery detachments, companies of infantry, motorized columns, pioneer -- excuse me -- engineer units, small tank detachments, artillery platoons; and the character of the opposition which they were meeting is set forth in the columns concerning operations; and the results of the various acts are listed in the last column.

I don't believe any more need be said about the document.

Turning now to page 40 of the German text, page 49 of the English document [NOKW-1154](#), which is offered as Exhibit 91, this is a signed order by the Commanding General of the 342nd Infantry Division,

one of the units which was part of the 18th Corps which was under Boehme. The order is dated 13 October 41 and is entitled: "Orders for the Division for the 14 and 15 October. Then it recites the "General Remarks" which I don't think are necessary to read but the "Instructions for Combat":

"All uniformed persons, furthermore all civilians in the intermediate area who may also be considered Insurgents, are to be shot to death. The male population of the villages is to be deported via Lesnica or Varna to Sabac. The villages south of the Cer mountain range are to be burned down as a reprisal measure. Of the villages north of the Cer mountain range, only Bela Reka and for the time being Petkovica are to spared.

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For the rest the combat instructions issued by the Division are valid."

And then the note at the end, just before Major General Hingofer's signature: "Persons found without identification papers are to be removed to the concentration camp in Sabac."

Now, turning to page 41 in the German and 51 in the English, there is a teletype order from the 65th Corps to the 715th and 718th Infantry Divisions as well as to the 704th Infantry Division and I don't think we need to concern ourselves with the smaller unit numbers which appear.

The teletype is dated 12th of October and I believe there is an error on the German copy. It should be "12 October" on page 41 just after the word "Teletype" up at the top. I believe the date is wrong on the German translation.

"IN THE FUTURE ONE HUNDRED PRISONERS OR HOSTAGES ARE TO BE SHOT FOR EVERY SOLDIER KILLED OR MURDERED. FIFTY FOR EVERY WOUNDED. IN ADDITION TO THIS AS MANY COMMUNISTS NATIONALISTS DEMOCRATS AND JEWS ARE TO BE ARRESTED IN EACH LOCALITY AS CAN BE GUARDED WITHOUT CURTAILING THE COMBAT FORCES. REASON TO BE PUBLICLY ANNOUNCED TO THE ARRESTED AND THEIR FAMILIES EXECUTIONS AND ARRESTS TO BE PUBLISHED IN NEWSPAPERS." SIGNED 'CORPS' Signed by "IA of the 65th Corps."

This document is dated the 12th and can be compared with the contents of the Boehme order of the 10th, two days before. That the order got down to Division is clear from the fact that the 718th Infantry Division stamped it as being received on 13 October. In addition, there is also language which is reminiscent of the Keitel order of 28 September 1941 which is on page 138 in Document Book II, Exhibit 69 in evidence. Keitel mentions Communists, Democrats, Nationalists; he does not mention Jews in his order.

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On Page 42 of the German, and Page 53 of the English, there is an order, NOK" which is offered as Exhibit 93. This is a signed Boehma order, and was sent to the units of the 65th Corps, 342nd Division, the 125th Infantry Regiment, and other headquarters and officers. The subject is, "The arrest of relatives

of Franc-Tireurs" "In the course of the arresting of hostages, it is necessary to seize especially the relatives of the Franc-Tireurs.

Thereby, the liaison of the relatives to the Franc-Tireurs which is exploited many times for transmitting information is prevented.

The levying of these hostages includes the male relatives aged 15 and over, and the wives of the Franc-Tireurs. Those relatives are to be accommodated in the concentration camps. In case of German losses, the male relatives are to be shot according to the provisions of the order of the Plenipotentiary Commanding General of Serbia No. 284811.

And that, if your Honors please, is the Boehma order of 10 October 1941, Exhibit 88 in evidence.

Subject: Arrest of relatives of Franc-Tireurs SECRET In the course of the arresting of hostages, it is necessary to seize especially the relatives of the Franc-Tireurs.

Thereby, the liaison of the relatives to the Franc-Tireurs which is exploited many times for transmitting information is prevented.

The levying of these hostages includes the male relatives aged 15 and over and the wives of the Franc-Tireurs. These relatives are to be accommodated in the concentration camps. In case of German losses, the male relatives are to be shot according to the provisions of the order "Plenipotentiary Commanding General 1 in Serbia No. 2848/41. Secret of 10 October 1941. "In garrisons, the senior members are responsible for the arrest; outside of these, the leaders in combat actions.

It may be of value to make use of Serbian offices which have already worked together with us up to now. This must nevertheless take place in such a manner that a warning of those concerned is out of the question.

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Evidence from the card index of names of the SD special purposes unit provided the first clue. The LXVth corps is to place itself in direct liaison with the special purpose unit of the SD for this purpose. The 342nd Inf. Div. and the 125 Inf. Reg. are to receive evidence through the Plenipotentiary Commanding General in Serbia. It is important that this evidence be handed to the unit in good time in connection with the cleaning-up operations.

Details of these families, from which men have gone "into the forest" are to be forced from the population especially from these senior in the locality." I would just like to draw the Court's attention to the fact that the co-operation between the LXV Corps and the SD and the other units is quoted here by Boehem. (pencilled notes) Pn (Signed) by Gen.

Goenme General of Infantry Distribution:

Hqs. Staff Administrative Staff Special Purpose Unit, SD

LXV Corps 342nd Inf.

Division 125 Inf.

Regiment 17729/13 Ia Qu XVIII Inf.

corps To the 113th Infantry Regiment on 1 November 200 x 200 CERTIFICATE OF TRANSLATION 5 March 1947 I, Mary E. Carter, 2120728, Warrant Officer, WAAF, hereby certify that I am thoroughly conversant with the English and German languages, and that the above is a true and correct translation of the document No. [NOKW-225](#). Mary E. Carter, 2120728 Warrant Officer, WAAF.

On page 43 of the German text, page 55, of the English text, we have Document W 1070, which is offered as Exhibit 94, in evidence. This is orders from the 342nd Infantry Division to lower units of the Division.

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The orders are signed by General Hinghofer, the major general who commanded the Division. It is dated 13 October 1941. The first order is a radio message to the 698th Infantry Regiment.

"Shoot civilian prisoners as reprisal for German losses with indication of the reason".

and from the asterisks below, apparently it was on a radio message form, given over the telephone at 10:30 o'clock.

The next is a Division order for an action dated 13 October 1941, and recites a surprise attack against German troops in Krupanj by insurgents a few weeks before, and states that "the Division has the task of avenging this assault with all severity."

Then it recites the units which will be involved in the small task force which is going out to do this, and then gives the marching orders, and paragraph 3, the first sub-paragraph (a), being directions to the regiment, and paragraph (b) the only important part is the last two lines.

It say, at the bottom of page 43 of the German.

"All soldiers and civilians encountered on the way are to be shot".

Paragraph (f) appears at the top of page 44, in the German text "The village of Krupanj is to be surrounded, all men found there are to be shot, the village is to be burned.

German prisoners there are to be liberated."

I would just like to point out the fact that these people were taking prisoners, and apparently the Germans had reason to believe that they were alive, because they ordered their liberation.

The 5th paragraph is not important.

It is signed, "Hinghofer".

On the 15th of October to the 698th regiment, a communication from the 1 section, 342nd Infantry Division, "all taken prisoners are to be shot on the spot together with a repeated notification of the proclamation. The remaining population is to be gathered around during the action as far as possible."

Then a communication to the Infantry Regiment, 699, again from the 1 section, 342th Division 15 October 1941:

"All those captured in the Church at Prnjavor are to be shot, making the proclamation known beforehand. If possible, the rest of the population is to be gathered around during "this action."

Then we have a recital on 24th October with reference to Valjevo, "For a long time Valjevo has been threatened by the Communists and is partly surrounded. Exact position of the enemy is not known. German troops are in Valjevo."

Then, paragraph 4, orders to subordinate units. An Engineer Detachment, and we small combat groups to move on Valjevo on the 23 October 1941, and then artillery and armor instructions in paragraph 5: The advance detachment will march tomorrow without any vehicles at the spearhead of Group 698 to Biljeg (322). There it turns towards Southeast.

.....

(page 8 of original)

4) Continuation of march

a.) Group 698th Engineer Detachment, Groups 699 and 697 continue tomorrow their march on Valjevo as on 23 October 1941. Vehicles and escort troops on the route itself. Escort troops as on 23 October 1941 on the bordering heights on both sides of the route and in the vehicle convoys.

It is important tomorrow to show lively fighting activity. Valjevo itself and the localities nearby, up to 4 km from the edge of the town are to be spared from fire. All other places, especially near roads, are to be submitted to harassing Artillery fire if there are no definite enemy targets.

(page 9 of original)

In and near Valjevo no destructions:

a) The area outside of the 4 km Zone around Valjevo must be denied the enemy for use as quarters and supply area.

All village along the route of advance and in the area to be attacked are to be burned accordingly. The inhabitants will be spared in as far as they are not participants in the fighting, hide arms, or aid the enemy. It is signed, "Hinghofer".

Then comes, on page 46 of the German, page 61 of the English, Document [NOKW 1205](#), Exhibit 95, in evidence, which is an order of General Ainghofer, or a communication from General Hinghofer to the commander of the 342nd Infantry Division, which is under Boehma, which he sends to his chief, as Plenipotentiary Commanding General, and the receipt stamp is for the 18 Corps Headquarters on 16 October.

The report states:

During the mopping up of insurgents - mainly Communists - in the Macva area by the division the male population between 14 and 70 years was brought into a concentration camp as ordered. By this measure the rear of the advancing forces was kept open and thereby their advance was materially facilitated.

In the majority the insurgents wear farmer's clothing. When they lay down their arms they can in no way be distinguished from the village inhabitants. Insurgents remaining with the population could have appeared in the rear of the troops if evacuation had not been carried out - at least they could have interfered noticeably with communications to the rear by surprise attacks. That, indeed, many insurgents stayed with the population is proved by the fact that 233 communists could immediately be taken out of the Concentration Camp in Sabac during the first days of the mopping up operation, who had been named as such and as participants in bandit fighting by their fellow prisoners; they were shot.

In the villages where mopping up operations had been completed the returning male population between 15 and 60 years which was not present during the mopping up operations was requested by means of the enclosed proclamation by the division to report at once to the Mayor's Office in their villages for disposal by the German Army. By this order it would have been possible to take care of the villages without difficulty with only a patrol service (page 2 of original) and to keep them free from insurgents who wish to return.

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(handwritten: Because a large part of the population detained after police check) in Concentration Camps was released, the mopping up of the Cer Mountains became partly ineffective, because insurgents who had been forced out were able to mingle easily with the population, without being recognized, in the villages lying near the foot of the mountains to the North. In addition an effective control and supervision by the scanty units available for this purpose has been made extremely difficult.

As is evident from many reports, a number of insurgents not yet determined but certainly large, has returned again, partly armed, to their villages in the Macva. It is not to be expected that the other villagers, who were assumed to have peaceful intentions and were therefore again released from the Concentration Camp will denounce them, not only on account of national motives but - and primarily - out of fear of the insurgents' revenge. To find now these bandits who have returned is a task the accomplishment of which demands a major exertion of forces; but even then it is doubtful whether this task can be accomplished satisfactorily without a renewed complete evacuation of the male population concerned.

It is to be assumed with certainty that the Insurgent Movement in the Macva has been materially eased by the release of many people from the Concentration Camp and will spring up again after the departure of the Division into another area of employment.

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MR. DENNEY: On Page 49 of the German and page 64 of the English is Document No. [NOKW-1411](#), which is offered as the Prosecution's Exhibit 96. This is a statement by a subordinate unit-, to the 342nd Infantry Division, which contains the report on the execution of two Communists who were denounced by a third man. I don't think we need to read page 49 of the German, which is page 64 of the English. The account on page 65 of the English, which is page 50 of the German, the subject is "operation to Glusci", dated 16 October 1941, and is a report from 1st Lieutenant in 342nd Artillery Regiment, to the 342nd Infantry Division. ("I left.....Proske") Proske In the Field, 16 October 1941.

1st Lieutenant in 342 Artillery Regiment Subject:

Operation to Glusci To the 342nd Infantry Division - Branch Ia "I left Sabac at 0330, arrived at Glusci at 0445.

Of the 4 Communists named in the enclosed Division Ic report Svetomir Olympic and the barber Milovan were able to be surprised and arrested in their houses. They were shot dead on the spot. Both of them stated that they had been with the Communists in the Cer Plania for several weeks and having returned to Glusci only a few days ago. The barber Milovan further stated that he had thrown his rifle and ammunition in a brook about 6 kilometers from Glusci. He was unable to give the name of the brook. The 2 other Communists could not be found. Family and neighbors stated that they had not been home for three weeks. In addition they stated that these two had been with the Communists for a long time and that they would report immediately if the showed up.

Dragomir Brkic is alleged to be in the prison camp in Mitrovica. His leader is said to be the teacher who is still in the Cer Plania.

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His name is unknown.

Returned at 0845 hours.

(signature)

Proske" And then on page 51 of the German, page 67 of the English, is a report from the Plenipotentiary Commanding General in Serbia, signed by Boehme, to the Wehrmacht Commander Southeast.

He has received a communication, which is 1561/41 top secret, which makes inquiry of Boehme. The subject is "hostages". This is dated 19 October 1941. In his reply to List he says, "To the order referred to above the following is reported", and, of course, he is referring to List's communication to him, "1.) With the Commanding General - Plenipotentiary in Serbia III/Chief Military Administration/ Qu No. 2848/41 secret dated 10.10. paragraph 2, the subordinate Hqs. authorities and troop units were ordered;" And then he sets out a portion of his order of 10 October, which has been received in evidence as Exhibit No. 88. He quotes only a short portion of the order, and, if Your Honors will recall, that order was also sent for information to the Wehrmacht Commander Southeast to Defendant List. This is nine days subsequent to the date of that order. Continuing with the quotation, "In all garrisons in

Serbia, all communists, residents suspected of being communists, all Jews, a certain number of nationalists and democratic inhabitants are to be arrested as hostages by sudden operations. These hostages and the population are to be informed that in cases of attacks on German soldiers or Volksdeutsche, the hostages will be shot to death." And then he cites, "With the "Commanding General - Plenipotentiary in Serbia" Administrative Staff/Ic No. 9247/41 secret dated 14/10, it was further ordered that in order to stop the transmission of intelligence of the insurgents, the family members of the insurrectionists in particular are to be seized and this means the male relatives, as well as the wives of the insurgents.

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However, for shootings to death only male relatives are to be considered.

3) For Belgrade, large scale arrests of leading personalities are in preparation. The names of leading personalities arrested and of reprisal measures carried out will be published by posters and dropping of leaflets."

MR. DENNEY: It is for the Commanding General Plenipotentiary in Serbia, and is signed by his Chief of Staff, Pemsel. And, of course, this being a reply, the distribution is substantially different from what we have seen on the other documents, which are orders. In some cases the document, No. 88 for instance, where a copy was sent forward to the Defendant List for information, but here, of course, this went out to the Defendant List. On page 52 of the German and page 69 of the English, Document No. [NOKW 191a](#), which is offered as Prosecution's Exhibit No. 98. Is that right, Major Hatfield?

MAJOR HATFIELD: Yes, it is.

MR. DENNEY: And was No. [NOKW 197](#) marked Exhibit No. 97?

MAJOR HATFIELD: Yes, it was.

MR. DENNEY: Thank you. This is just a draft form. It is not signed but on the reference numbers appear the numbers 2848/41, and, if Your Honors recall, that is the number which is on the Boehme order of 10 October. And in addition the second paragraph, under Arabic numeral "2", which is on page 27 of the German Document Book III, page 34 of the English Document Book III, and is the first page of Exhibit 88, speaks of reports which are to be made on the 10th, 20th, and last of each month, with reference to the number of hostages. And this has the field numbers in the reference here and is just a blank form, apparently, which was made up, whether it was ever used or not. But it comes from Boehme's headquarters because it has the Commanding General Plenipotentiary in Serbia on the top of it and it is listed as a copy, and its subject is "Reprisal Measures". And it is obviously a form that can be sent out in order that actions may be reported back. It says, "Pursuant to the order for the suppression of the Communist insurrection movementhostages will be shot for and then there follows "The execution is to be conducted by" and then it states Commander Serbia, Admin.

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Staff, will provides hostages. The date and place of the execution, fetching and delivery of hostages as well as further details will be agreed upon directly between the troop units executing (reprisals) and Commander Serbia, Admin. Staff.

Reports of execution to be sent to the Commanding General Plenipotentiary in Serbia.

For the Commanding General - Plenipotentiary in Serbia The Chief of the General Staff".

MR. DENNEY: The next document appeals on page 53 of the German, page 71 of the English, and it is offered as Exhibit 99 in evidence. This again is a draft.

THE PRESIDENT: Did you give the number of the document?

MR. DENNEY: The document is No. [NOKW 387](#), if Your Honors please, Exhibit No. 99.

THE PRESIDENT: Thank you.

MR. DENNEY: Thank you, Sir. I may not have stated it. This is, as I have stated, just a draft; however, there is a stamp on the top of it, and it's entitled, "Negotiations with Insurgents", and at the bottom, under Distribution, it says, "In the draft", and "Taken care of immediately."

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Subject: Negotiations with insurgents.

On 29 Sept. 41, an anti-aircraft defense company in Grn. Milanovac was attacked by insurgents, and after s short battle, the majority were taken, and carried off to the mountains.

On 4 Oct. 41, a guard detachment of the 1st and 18th Ordnance battalions, 4 NCOs and 40 men strong was likewise captured by the insurgents after a short fight without any losses. In both cases, the same circumstances led to a result unworthy of a German soldier. The serious error was made on our own side, of negotiating with the insurgents. In both cases, the unit let itself be deceived by the promise of a "honorable agreement", instead of defending themselves to the last cartridge.

On basis of these events I command:

1. No negotiations of any sort are to be made with insurgents.
2. Negotiators of the insurgents do not enjoy the protection which negotiators of a regular unit must be allowed. If negotiators appear before the start of a combat action they are to be arrested and tried by courts martial as franc-tireurs. If negotiators appear during or after a fight, fire is to be opened on them at once.

Care is to be taken by the LXVth Corps and the Commander of Serbia that this order is forwarded for the information of all subordinated troops units and offices in the shortest possible time.

Then on page 53 of the German and page 72 of the English, the document continues. This is a report that was submitted to the 610th Administrative Subarea Headquarters and simultaneously for the information of the Commander Serbia and is written by a Captain von Bischofshausen and is directed to

the events which took place at Kragujevac on the 20th and 21st of October with which the court is already familiar from the earlier report made by the unit involved. It starts:

In the days from the 14th to the 17th Oct. 41 the 3rd Battalion, 749th regiment stationed in this area carried out an operation to Milanovac where the 6th Company, 920 regiment was kidnapped. The unit was accompanied by two interpreters in German uniform of the district headquarters who informed me about details.

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The unit, marching on the highway was allegedly shot at numerous times from the surrounding heights whereby they had losses of 9 dead and 27 wounded (of the latter one more died later). The interpreter, who knew the country, called the attention of the battalion CO numerous times to the fact that a different tactic was necessary in this terrain in order to be able to combat the bandits, otherwise he would have unpreventable losses, without being able to do anything himself.

That happened. 87 of the enemy fell.

The battalion found Milanovac rather empty. About 40 male inhabitants who had concealed themselves, according to information of the battalion CO and had waited for the return of the German Wehrmacht were arrested and brought back with them as hostages.

Milanovac was completely destroyed likewise on the way back, the villages lying on the highway.

After the return from there, the battalion of the 749 regt. received the order to shoot for each dead 100, for each wounded 50 Serbs from Kragujevac.

Accordingly in the later evening hours on 18 Oct. 1941 all male Jews and a number of Communists, altogether about 70 men were arrested according to lists.

Since this number was not sufficient by far for the 2300 to be shot, it was proposed to collect the number lacking through arrests on the streets, squares and dwellings in a unified action in the town of Kragujevac by both the third battalion of the 749th Regiment and the first battalion 724th regt, stationed in Kragujevac.

Since the planned measure was in contradiction to the orders of the Plenipotentiary Commanding General - file notice 73/41 Secret of 9 Oct. 41 and file notes; 2848/41 Secret of 10 Oct. 41 as well as the Commander of Serbia - Admin. Staff Diary 10 Oct. 41, I attempted to inform the local senior officer, Major Koenig of the execution, in the sense of the order cited, in that I suggested, that the villages in the near and far vicinity of Kragujevac known to the district Hq for a long time as completely strewn with Communists, be surrounded and the necessary number to be shot be obtained there.

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He accepted my suggestion voluntarily at once, and it was proposed to mop-up the villages Grosnica and Belosovac on Sunday by the first battalion, 724th regt. On Monday both battalions were to mop-up

by a joint action the villages Mackovac, Marzic, Korman, Botunje and Komavice in the middle of which, the ill famed Parlog mountain lies, where the bandits allegedly have their forest quarters.

If then the number of those arrested would not have been sufficient, I suggested the combing through of villages further infested with Communists according to my information. I emphasize expressly that in the whole time of the existence of the district headquarters, not a single German Wehrmacht member or Volksdeutscher was wounded or shot in the city.

The citizens, of the city, numbering about 42,000 souls, always showed themselves loyal and inclined to co-operation of the Wehrmacht, whereby it should not be disregarded, that a part of these citizens were inclined always to the bandits; nothing happened.

In the evening of 19th Oct. 41 I was invited to a re-newed conference with Major Koenig, where I learned to my astonishment that the whole plan had been thrown over: During the 19th of October 1941 the villages Grosnica and Milatovac were mopped-up by the first battalion 724 Regt. and burned down, and Meckvoc and Marsic by the third Battalion 749th Regt. At the same time 422 men were immediately shot on the spot in the villages without any losses on our side, among them a priest of the Greek Church in whose church tower ammunition had been found concealed.

In order to obtain the number of the 2300 lacking, a combing of the town Kragujevac was ordered again for the 20th of Oct.

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1941. The arrests on the streets, squares, shops, dwellings, stores, etc., took place accordingly to day without regard for the persons involved, taking men between 16 and 60.

According to a statement of Major Koenig of the captives in German hands, those were to be taken who

- a. were in possession of a special pass of the district headquarters or another troop unit stationed here.

- b. members of a vital profession or trade (doctors, druggists, bakers, butchers, grocers, technicians, workers of the light and water plants, etc.)

- c.- could prove themselves members of the Ljotic movement.

In this case, no consideration was taken in any way for the points stated under number 2 in the order 2848/41. Furthermore, the last sentence of the second paragraph in the order made, Diary 4224 ("in order to prevent the annihilation of completely innocent peopleetc.,") was observed in no way.

Even this order of Staatsrat Turner which I brought expressly to the attention of Major Koenig, he did not even wish to read saying that he had to act exclusively according to the order of the regimental commander of the 749th Inf. Regt. which set him to task of bringing together the necessary number of those to be shot from the men of the town of Kragujevac.

By radio, I urgently requested at 600 hours, 20 Oct. 41 an airplane from the Ic Branch, Commander of Serbia in order to attain through personal conference in Belgrade, that the orders issued would be carried out according to their sense. Unfortunately, the airplane was not sent, so that an interference of

the superior office is no longer possible because the shootings were set for 7 o'clock early on the 21st Oct. 1941. I should like to state that the losses of the third Battalion 749th Regt occurred in an operation against the guilty locality Milanovac and not in the city of Kragujevac.

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If 2300 bandits and those sympathizing with them had been captured and shot the order issued would have been taken care of completely enough.

According to my standpoint, a shooting partly of completely innocent persons from this city can have directly harmful effects. It is to be expected that embittered relatives of those shot will now practice acts of revenge on members of the German Wehrmacht.

Sabotage acts on drinking water and on the current temporary light supply, as well as a large attack of the bandits against the city, in which the units could suffer more losses than before, are not out of the realm of possibility. Above all, the psychological effect will be catastrophic. The residents of Kragujevac have expected of the German Wehrmacht, the elimination of the Communistic danger and the aligning into the new construction of Europe. With the methods used here, we shall not attain in any case the winning again of the favorably-inclined elements.

(Sgd.) v. Bischofshausen Captain and Commandant And then there appears that he reported personally in the above affair on the 26th of October, 1941 to the Chief of Staff, Commander in Serbia, and on the next day, the 29th, with the Plenipotentiary Commanding General in Serbia through Major Jais.

Certified a true copy by a captain.

THE PRESIDENT: Perhaps we'd better take a recess. The Tribunal will be in recess.

(There was a short recess.)

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THE MARSHAL: All persons in the courtroom will please find their seats.

The Tribunal is again in session.

MR. DENNEY: At this time we come to a document which is not in the document book and which will have to be inserted. It is [NOKW-1638](#) and it is offered as Exhibit 100. I will hand three copies for the Court, one for the interpreters and reporters, each two copies, and two copies in English to be given to the Secretary General. I will come to the page enumeration in just a moment, your Honors. It is the document, the original of which is in Jugoslavian. We have German translations and English translations. I haven't come to the German copies yet, 11 copies for defense counsel in German, a copy in German for the interpreters and the reporters, and two copies in German for the Secretary General. I suggest that you give all 11 copies, the balance of the copies, to Dr. Laternser, after having given out one each to the counsel present, in order that he may make sure that they are properly distributed: (and finally the original copies that I read, the original in the Jugoslavian language are the three portions of the documents which are being offered at this time which will be handed to Major Hatfield.

DR. LATERNSEER: Before the submission of the original document may I see it? After what I have seen, what has been presented to the defense counsel is not the complete copy of what has just been handed to the Tribunal.

MR. DENNEY: If your Honors, please, the portion which the defense has is the complete portion which is being offered in English. As to the Yugoslavian, I am told that is the original from which this is taken and there is a certificate there. I did notice Dr. Laternser as he went through it -- that there were some lists which were compiled which are not here? but the German translation and the English translation are identical and contain the same material.

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Perhaps, if I could see the original from the Secretary General in Yugoslavian -

If your Honors, please, the same practice has been followed here. We have neglected to use all portions of the document; for instance, long lists of numbers have been left out and we will be very glad to have the balance of the document translated and given to Dr. Laternser. The practice, as I say, that we are following - we have have only translated a portion of the documents and these various pages; but we will get the balance of them translated in the German and furnish them tomorrow before -

I am informed by Mr. Varic that he can translate the balance from Yugoslavian into German by Monday evening.

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DR. LATERNSEER: Mr. President, I would like to protest against the introduction of the document for the following reasons. So far as I can see from the original document, this report is a combination of testimonies by witnesses, certainly several hundred persons. The committee in Yugoslavia has compiled these testimonies. In other words, acted as judges, and did not leave judicial action to the courts as I can see from a very short glance at this document, this is a combination of testimonies by witnesses, several hundred persons, and this established committee has taken judicial action with regard to this compilation which should be left to Judges.

The defense, therefore, has the disadvantage that the incriminating testimonies of the witnesses which can be used here against them, without the defense on their side having the right to cross examine these people, and to find out, through this cross examination, whether the testimonies are true.

Thus it can be seen that this report is completely subjective. If one takes into consideration that they are testimonies from former enemies -- Former enemies speak subjectively, - and I do not blame them but they must be put at the disposal of the defense for cross-examination.

These compilations, through the committee, cannot be checked. Rather, it is a protest, and I therefore protest against the introduction of this document if it is allowed, and I would ask that some of these persons should be placed at the disposal of the defense for cross-examination.

DR. STEFAN FRITSCH (Counsel for defendant Rendulic): I would like to add that these reports which I read here are extracts, presumably; I don't know, from documents from committees from

which my colleague Dr. Laternser, has already said, probably hundreds, perhaps thousands of people were interrogated and then the extracts and reports were based on this.

From these documents, I cannot see what sort of a committee this was.

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Who appointed it. Whether former soldiers or present soldiers, whether judges, whether they were people who fought on the side of these partisan bonds, or insurgents, or whatever one can call them.

In addition the defense has not ever the theoretical possibility to cross-examine the people who compiled these extracts, because under the report it says, "signature illegible", - that is the signature of the consultant. That is one of the most important people, and this note, "signature illegible" bears quite frequently on the individual reports or excerpts, and I therefore protest against the introduction of these documents.

MR. DENNEY: If your Honors please, it is submitted that these documents are admissible for such value as the Court chooses to give them. Article 9 of Ordinance No. 7, states that the Tribunal shall not require proof of facts of common knowledge, but shall take judicial notice thereof; they shall also take judicial notice of official government documents and reports of the United Nations, including the acts and documents of committees set up in the various allied countries.

The investigation is of war crimes, and it is the function also of military or other Tribunals of any of the United Nations.

The report of the United States with reference to concentration camps was submitted and received in evidence before the International Military Tribunals. Other reports of other countries, Military Tribunal 2, of the present Military Tribunal has received in evidence a report compiled by the Dutch Government, with reference to forced labor conditions in Holland.

JUDGE BURKE: What is this report?

MR. DENNEY: This is a report by the National Commission for the investigation of crimes committed by the occupied forces set up by the Yugoslavian government. The reports that we are submitting today, that we are offering today, are dated 24th of January, 1946; the 19th of November, 1943, and the 15th of August, 1945, and they have to do with events concerning the town of Kraljevo in October, 1941, the Grosnica and Kragujevac and surrounding villages on the same dates.

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In addition, the happenings with reference to Sabac on the 18 to the 24 of October, 1941.

THE PRESIDENT: Isn't this report, Mr. Denney, of a nature somewhat similar to the proceedings before this court? They made certain findings, and in the course of time we will be required to make certain findings?

MR. DENNEY: If your Honor please, it is submitted that this is not a finding in the meaning that this court will make a finding. It is just a compilation of evidence with reference to what happened at that

time from eye witnesses, taken by the official Commission which was set up for that purpose and which commission has been recognized both by the International Tribunal and other Tribunals here. The court, of course, can give it such value as it sees fit.

THE PRESIDENT: The request of counsel for the Prosecution for the admission of this document seems to be asking for a ruling that is far and beyond what members of this Tribunal are accustomed to consider as evidentiary. We appreciate the fact that there have been certain rules submitted, and established in these Tribunals, which, upon later consideration may require this court to be bound by their acts, but for the time being, the objection will be sustained, subject to the right of counsel for the prosecution to present this matter further, if you care to do so.

MR. DENNEY: If your Honors please, in that event we will have the exhibit marked 100A for identification.

THE PRESIDENT: It may be so marked.

MR. DENNEY: I suggest in the event there is any further reference to this document, that it be assigned page numbers at this time. The numbers which I have in mind, unless your Honors have a different view, is that it be inserted following page 76, and that the pages be numbered consecutively "a" through "o" each preceded by a "76", if that is agreeable with the Tribunal.

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THE PRESIDENT: They may be so inserted, keeping in mind, however, the prior rulings of the court.

MR. DENNEY: We turn then to page 77 of the English document book and page 57 of the German book, to [NOKW 1047](#), which is offered as Exhibit 100 in evidence.

If the Secretary General will please pass the exhibit to the court, the photostatic copy which we have, the top part of the defendant Boehme's signature appears on it. It is submitted that it can be identified as such from prior signatures which the court has seen. The bottom part has been cut off, and there are reference which will connect this with prior events.

This is an order of the day for 20 October 1941 from the Plenipotentiary Commanding General in Serbia. It recites:

"Further successes gained recently by the units contribute to strengthening considerably the appearance of the German Wehrmacht in Serbia.

"The enemy was attacked in the Cor Mountain Range by the 342nd Infantry Division after cleaning up Macva. The insurgents lost about 1700 dead and 4500 prisoners. 2 guns, a number of machine guns, rifles and munitions were liberated. The 125th Inf. Regt. cleaned up the regions Ub and SW of Obrenovac. The losses of the enemy in those regions comprised about 300 dead.

"Some freedom of motion was created for the command post by parts of the 704th Inf. Div. through several pushes into the region of Valjevo.

"On 5 October, the attack of the insurgents on Kraljevo which had been prepared for days was beaten off by the unit in the locality with the cooperation of the 1st Battalion of the 737th Infantry Regiment returning there from Krusevac. The enemy lost at least 80 dead. 1755 hostages were shot in reprisal for our own losses.

In order to carry out a former reprisal measure, the 3rd Battalion of the 749th Infantry Regiment fought its way from Kragjevac to upper Milanova and back – in several scrimmages and in the face of numerous blockades.

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133 hostages were brought in.

"I express my special recognition to all officers, non-commissioned officer, and men participating in these successful operations."

Onward to now deals! Pm (Sgd.) Boehme"

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MR. DENNEY: And below that appears "onward to new deeds", signed by Boehme.

THE PRESIDENT: Mr. Denney, does your copy show "deeds" or "deads"?

MR. DENNEY: Mine says, Your Honor, "deads". I don't know what it says in the German. If I could see it, we could have the copy translated.

(Mr. Denney obtains German copy from Secretary General and takes it to the interpreter for a translation.)

THE PRESIDENT: The translator will give us a translation of the word.

MISS EVAND: Onward to new deeds, d-e-e-d-s.

MR. DENNEY: Now, the figure 1755 has been called to Your Honors' attention in Document [NOKW-1363](#), which is in evidence as Prosecution's Exhibit Number 85, and it appears on page 23 of the English book and on page 20 of the German book, and there is the same figure of 1755. In addition, the next page, page 24 of the English and page 21 of the German, the 3rd Battalion of the 749th Infantry is cited in the corps order, that is in the Corps War Diary, as returning to Kragujevac with 133 hostages, the same number that appears here in the second last paragraph of the Boehme order of the day. The next document which appears on page 79 of the English and page 58 of the German is Document No. NOKW1046, which is offered as Prosecution's Exhibit No. 101 in evidence, and it's an interrogation of two German officers, following their escape from Cetnik bands, those who were opposing the occupiers in this area. It's dated Belgrade, 22 October 1941, and the signature is that of a captain of cavalry, and the heading is "Commanding General Plenipotentiary in Serbia, Commander Serbia Section Ia/F Command Staff".

"On 22.10.41 Cavalry Captain Prinz zu Holstein, Chief of Section Ia/F interrogated two non-commissioned officers who had escaped from captivity by the Chetnik bands of Colonel Mihailovic.

"Franz Egger, 6th Company Landeschützen Battalion 920 and "Franz Kleinod, 3rd Company Quartermaster Battalion 18.

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"Both Unteroffiziere agreed in their statements that they had been surprised by ruses of the insurgent Chetniks. At the time they were taken prisoners, all they knew was that they were Chetniks loyal to the government. In both cases near Grn. Milanovac and near Stragari, the insurgents by maintaining that they wanted to support the unit against the Communists managed to get possession of the arms of the German troops. In both cases the capture of entire units which up to the moment of their capture had suffered only minor losses can be explained by the fact that the troop leaders in question have negotiated with the Chetniks "In Grn.

Milanovac the case was as follows:

"Chetniks camouflaged as Communists executed a fire attack. After a combat lasting 2 1/2 hours, negotiators bearing a flag of truce were sent over asking surrender. The offer was rejected and the battle continued. After renewed negotiations, the troops withdrew honorably with all arms, allegedly under the protection of the Chetniks. Because of new threats the company commander, assured of unmolested passage, surrendered his arms to the Chetniks, who allegedly wanted to fight the Communists with them. After the arms were surrendered, the German soldiers were taken prisoners and the Chetniks sent them to a prison camp.

"According to the statements of the non-commissioned officers concerned the company commander has asked his people to surrender their arms in order to avoid bloodshed. Almost all the non-commissioned officers were against it, but they obeyed orders. The troops, partly of Slovenian origin and particularly from the older age groups, seemed to agree with this solution, since they did not count on the possibility of a dishonorable captivity when they delivered up their arms.

"It is the opinion of the Unteroffizier that if the battle had been resumed before surrendering arms even though our people would have suffered many losses, it would have contributed to heavy enemy losses and perhaps to the rescue of the remainder of the company. Similar methods were applied by the enemy in Stragari. On 4.10. unexpected attack of fire by the enemy.

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The unit in no way experienced, in combat – they were two detachments of the quartermaster battalions 1 and 18 about 20 men strong – let itself be deceived by the enemy. Here too the Chetniks alleged that they wanted to fight against the Communists but they could do so only if the German unit withdrew. Assured of free passage, the Chetniks penetrated the villages as friends and surrounded the unit. Suddenly they demanded the surrender of arms and thus surprised the troops. Resistance was impossible. Here the guilt doubtless fell on the leading Feldwebel of the Quartermaster Battalion 1, who instead of fighting his way through with 40 men, who had sufficient ammunition with them anyway, entered into negotiations with the insurgents. Even though the Feldwebel of a quartermaster battalion is not trained for combat, it must be clear to every German soldier that the enemy cannot be our friend if at first he

shoots at us and then suddenly he wants to negotiate in a friendly manner. In both cases the reputation of the German Wehrmacht has suffered enormously due to hesitation and unreflected action.

"The statements of both non-commissioned officers confirmed the rumors that the entire population participated in the insurrection, since all of them from the child to the man were armed and supported the roving bands. Band leaders were mostly Yugoslav officers. These were for the most part wearing old Yugoslav uniforms.

"It is reported for the first time that the German soldiers were not deprived of their uniforms. The soldiers were also left in possession of their property. Colonel Mihailovic had been pointed out personally as the leader of the units in this area to the two non-commissioned officers. He was surrounded by many uniformed officers. The insurgents in this territory designated themselves as the National Free Serbian Army, whose sole and only aim was to drive the Germans from the country. They considered themselves soldiers and consequently recognized as valid the laws of war, hence probably the strikingly good treatment of prisoners.

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"During combat action and later in the area of the prison camp, nothing was recognized as Communistic elements by the two non-commissioned officers.

"(signature illegible) "Captain Cav."

And the signature, it is believed, is that of Captain zu Holstein. Then, on page 60 of the German and page 83 of the English, appears Document [NOKW-562](#), which is offered as Prosecution's Exhibit No. 102 in evidence. This is a signed order of General Boehme and refers again to his order, which by now I believe the Court is familiar with, Exhibit No. 88, which was the 2848/41 Order, dated 10 October 1941. The subject of this communication is the "Suppression of Insurgent Movements in Serbia", and the reference is "Commanding General Plenipotentiary in Serbia, III/Chief Military Administration, Qu No. 3208/41 secret", a number which has already been referred to. There is an enclosure.

"Observations and reports show that the units have taken the measures required for the suppression of insurgent movements to a large extent in an exemplary manner and with the desired severity.

"However, in individual cases the pertinent order - a directive applicable for the entire territory of Serbia which is to be executed according to the local situation with divisional and regimental commanders bearing the responsibility - has not been interpreted correctly.

"In order that the taking and shooting to death of hostages is coordinated according to plan, attention is directed to the following points:

"1) Arbitrary arrests and shootings to death of Serbs are driving to the insurrectionists circles of the population which up to now did not participate in the insurrection. They strengthen the power of resistance of communism. They diminish chances for speedy suppression and they are harmful to the political goal of the commitment.

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The shooting to death of confidential agents, Croats and entire personnel of German armament factories constitute irreparable errors. In case of doubt, the decision of the superior authority is to be requested prior to executions.

2.) Evidence for the taking of hostages, according to para. 2 of the pertinent order, is in the first instance to be procured through the Administrative Subarea Hqs. and the district Hqs. The pertinent order was issued to the administrative offices by the commander Serbia administrative staff under No. 4224/41 V dated 10.10.41.

Beyond and above, the units are to take hostages by well planned operations in the insurgent districts. These hostages are to be chosen according to the directive above and in required numbers from such villages as are known to be focal points of the insurgent movements. Here it must be avoided that such parts of the population be taken and executed as hostages who, being non-participants in the insurrection, did not flee before a German penal expedition.

In such cases, the family members of those who fled (including women) are to be taken as hostages in the first place. The houses of those who fled are to be burned down.

3.) Women, who actively participated in the flight - with or without arms - are to be treated like the male insurrectionists.

Women who are suspected of having supported the flight are to come before court martial.

Women who are taken as hostages only may not be shot.

4.) Persons already involved in court martial procedure are not permitted to be shot to death before the conclusion of the procedure and not within the framework of reprisal measures. Their sentence is of a demonstrative character and is to be executed according to this point of view.

5.) Generally, those insurgents probably killed in combat are credited to the number of those to be shot to death in reprisal.

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6.) You are reminded to include in the daily report a notation as to whether and to what extent reprisal measures have been executed, or when and how much later those will be executed. (Paragraph 3 of the pertinent directive.) If an insufficient number of hostages is not available or cannot be procured the commanding general - plenipotentiary is to be informed and he will order an adjustment.

It is submitted that this should read "If an insufficient number of hostages is available or cannot be procured," or that it should read "If a sufficient number of hostages is not available or cannot be procured."

7.) The reprisal measures which have been ordered charge the unit commanders with a heavy responsibility and they are to be executed in accordance with military customs. For detailed directives see enclosure. (Signed) Boehme, General of Infantry."

And the enclosure which is recited there and also on the first page, prior to the first paragraph of the directive "Detailed directives for the execution of shootings:

- a) The execution detachments are to be headed by officers.
- b) Execution is to be performed by rifle aimed simultaneously on head and heart at a distance of from 8 to 10 meters.
- c) In order to avoid touching the corpses unnecessarily, those to be shot to death are to stand immediately at the edge of the grave. If mass executions take place it is practical to have the hostages kneel facing the grave.
- d) A unit physician is to be attached to the execution detachment. He will order the delivery of "coups de grace".
- e) In no case is it permitted to use clothing (or shoes) for the good of the population. They are to be delivered against receipts to the local competent office of the Military Administration.

The next document is on page 64 of the German text and page 87 of the English text. It is Document No. [NOKW-907](#) and is offered as prosecution's exhibit 103 in evidence. This is another copy of what we have just seen but, whereas the copy which we had before merely went to his own immediate circle, we now see that this copy has various stamps on it which indicate that the order has been passed down.

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The stamp in the upper right-hand corner, the 704th Infantry Division and the stamp down below the 704th, 31 October 1941. This is dated 25 October 1941, the same date that the other communication had and it again recites the handwritten enclosure which we have read with reference to the details. The numbers 764th Infantry Division which appear on this are in error. They should be 704th and the three stamps throughout are those of the 704th and not as two of them appear to be—the 764th.

If Your Honors will bear with me for just a moment, the distribution list here says "Distribution as reference instructions." In that appears the reference instructions referring back to Order No. 2848/41 which is secret to October 1941 and the document number is NOKW-557. It is Exhibit 88 in evidence and, of course, they turn back to this in order that the distribution will be the same as that of the original order because this is a supplement to it, and the distribution list on that, as the Court will recall, includes the 65th Corps, the separate division, the separate Infantry Regiment, various other offices and staffs, and then information copies to the Wehrmacht Commander Southeast, the German General in Zagreb, and two copies in reserve. That appears on pages 35 and 36 of the English document book III and the distribution list is completely on page 29 in the German document book.

There is no need to read this document again. It has just been read. The contents are the same down to the instructions which the Court can see at their leisure. On page 68 of the German and page 91 of the English, Document 561 which is a report on the number and category of persons in the concentration camp at Sabac, this is dated 25 October 1941, Belgrade, and is addressed to the commander of Serbia, Administrative Staff for the Plenipotentiary Commanding General in Serbia and it is sent by the Chief

of the Administrative Staff to the Plenipotentiary Commanding General in Serbia, and says "I transmit in the appendix a tabulation concerning the state of the camp in Sabac for the time from 18th to 24th October 1941."

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There is a receipt stamp of the 18th Corps which the Court will remember is commanded by the same man who is the Plenipotentiary Commanding General in Serbia, dated 26 October 1941, and on page two of the original, the camp in Sabac during the period mentioned 18 to 24 October, there were on 17 October, 15,724 inmates; one week later there were 16,445; an increase of 721. Then it shows that 891 had been examined, 727 discharged, 90 had been shot and the total shot up to now is a thousand.

Major Hatfield, would you please tell me whether or not I gave that last document an Exhibit number?

THE SECRETARY GENERAL: 104.

MR. DENNEY: 104--thank you.

We may pass the next document and we come now to [NOKW-802](#) which is on page 71 of the German text and page 96 of the English text. This is offered as prosecution's Exhibit 105 in evidence. This is a directive of 26 October 1941 from General Boehme through his chief of staff Turner to all administrative subareas and all district headquarters.

DR. LATERNER: I must protest against the introduction of this document. The whole document is again a document merely covered typing. It starts with the word "copy". That is the copy of a document, copying of a document. I would like to draw the attention of the Tribunal that what follows next is top secret. A top secret document can never be allowed to be copied. On the document there is no certification. This certification is also only typewritten and the name is also typewritten. Since there is nothing written with handwriting on the document except that which the prosecution has written itself, this is not a document but just a piece of paper covered with typing.

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Since this piece of paper lacks documentary character it has to be rejected as a document.

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MR. DENNEY: The answer to the objection is the same as before. This is a captured document. The document is certainly submitted as being just what it purports to be, a typewritten copy which is unsigned, but it bears in type writing also at the bottom, signed Turner, and it is offered for such probative value as the court deems fit to give it in conjunction with all of these other documents which we have seen, many of which are signed, and some of which are unsigned.

THE PRESIDENT: The Tribunal is of the opinion that inasmuch as this purports to be a captured document that even though it does not bear a written signature, it will be accepted for such value as the court feels should be given to it and that is in line with the other exhibits.

MR. DENNEY: It is dated Belgrade 26 October 1941, 20 copies, 16th copy.

To: All Administrative Sub-Areas and all District Headquarters.

In that connection, in the way Serbia was organized, this goes to all Administrative sub-areas and all District Headquarters so it is certainly conceivable a good many copies had been made. It is shown on its face there were twenty.

For certain reasons the administrative sub-area and district headquarters are to be informed of the following:

The Plenipotentiary Commanding General in Serbia is charged with carrying out the affairs of the Commander of Serbia. Headquarters Staff and Administrative Staff remain in the same composition as before. If orders of the Plenipotentiary Commanding General refer to the Chief of the Administrative Staff with the Commander in Serbia, who co-operates closely with a Staff of the Plenipotentiary Commanding General.

The situation in Serbia makes it impossible at the present time to have an administration in certain districts.

That is why it is the more important that the Administrative sub-area.

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and district headquarters see to it that a Serbian administration under German supervision is recognized in the territories cleaned up by our units or by Serbian Gendarmerie and Police Organs respectively. This is the exclusive task of the Administrative sub-area and district headquarters.

In carrying out the order dated 10.10.41 Diary No. 2848/41 Secret.

If I might interrupt to call the court's attention again, there is the reference to the basic order, which Exhibit 88 in evidence [NOKW 557](#) and appears at page 34 in Document book 3.

Returning now to the text after the word "Secret".

the units have carried out shootings in some localities which have resulted in serious consequences. The order of 25.10.41 No. 3208/41 Secret which is sent to the Administrative Sub-Area and District Headquarters for information concerning certain directives issued by the Commanding General Plenipotentiary.

If I may interrupt again please, that is the order which appears on page 83, the order of 25 October 1941 which had the details enclosed with reference to the directives for executions and I believe the court will recall that we just read it.

THE PRESIDENT: With reference to matters which were presented in the court this morning, arrangements have been made for a conference with certain individuals and that has been set for 4:20. That hour has been reached. We will adjourn at this time until 0930 Monday morning.

THE TRIBUNAL WILL RECESS UNTIL 0930 O'CLOCK MONDAY MORNING, 21 JULY 1947, Official Transcript of Military Tribunal V, Case 7, in the matter of the United States of America

against Wilhelm List et al, defendants, sitting at Nurnberg, Germany, on 21 July 1947, 0930, Justice Wennerstrum presiding.

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THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal 5.

Military Tribunal 5 is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Marshal, you will ascertain if all the defendants are in the court room.

THE MARSHAL: May it please your Honors, all defendants are present in the Courtroom.

THE PRESIDENT: Before we proceed with the regular Tribunal matters, the Court wants to make a statement in connection with the information that was brought to your attention Friday morning by counsel for the defendants relative to the matter of searching the defense counsel.

This Tribunal is conscious of the fact that we do not have any particular control over the administration of the matters which pertain to security, but we are desirous of cooperating with defense counsel and making it possible for them to present their case in a manner which will be helpful to them. Because of that interest, we had a conference with the officials Friday afternoon and the information was brought to us that the incident that happened at the mess hall was a result of a misunderstanding on the part of one of the officers there, and the men concerned.

We were assured that it would not happen again. In that connection, however, I want to make this statement; that as I understand it, as the Tribunal understands it, there was an arrangement made some several weeks or months ago which was agreeable to the security officers and defense counsel relative to these cards. Now there have been some incidents where some of defense counsel have rather hastily pushed the cards at the guards and have indicated that--that is, an attitude that they didn't have to show the cards.

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If defense counsel will cooperate in the previous arrangements which have been made relative to the showing of these cards and show the proper attitude--I mean a courteous attitude-- which I know all of them will, I am quite certain that the incident that happened Friday will not occur again.

The Court was willing to take this and to go to this trouble. We were interested in bringing this matter to the attention of the authorities in the desire to be helpful to all concerned and we ask the cooperation now on the part of defense counsel and all other parties who may be concerned. That is all I have to say.

You may proceed.

MR. DENNEY: May it please your Honors, the prosecution has twelve additional copies of the document which was marked Exhibit 38-A for identification, which is the list of documents containing the references to the courts on which each of the documents in Document Book I is offered, and the defendants against whom these counts are offered. And will you hand these to the defense counsel at this time?

Further, in connection with Exhibit 38-A, the list to which reference has just been made, there have been some five omissions which we would like at this time to add to the list 38-A with reference to Document [NOKW-1151](#) which is Exhibit 7, in addition to the defendant Weiche, it is also offered against the defendants List and Foertsch. Exhibit No. 9, which is Document [NOKW-1522](#); in addition to the defendants List and Foertsch, it is also offered as against the defendants Felmy and Kuntze. Exhibit No. 10, which is Document [NOKW-1382](#), in addition to the defendants List and Foertsch; it is also offered against the defendants Felmy and Kuntze; and then the last two--Document No. 454-PS, which is Exhibit No. 15 in evidence, in addition to the defendants List and Foertsch it is also offered against the defendants Felmy and Kuntze. And Document [NOKW-1432](#), which is Exhibit 16, in evidence, in addition to the defendants List and Foertsch, it is also offered against the defendants Felmy and Kuntze.

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With reference to Document Book II, the last document which was offered in that document book was Document 77 and we now ask that a list of the counts on which the documents in Document Book II are offered and the defendants against whom they are offered be marked Exhibit 77-A and inserted at the end of Document Book II. I hand three copies of 77-A to the Tribunal, 24 copies for the defense counsel, two copies for the Secretary General and a copy for the interpreters and the court reporters, one each.

THE PRESIDENT: The marking of this document as Exhibit 77-A is as I understand it to be accepted into the record under the same conditions that the like document was received relative to Document Book II?

MR. DENNEY: One.

THE PRESIDENT: Or one, and is so marked as an exhibit solely for the purpose of identification and is not to be received as an exhibit proper for the benefit of the court and interested counsel in their study of the case.

MR. DENNEY: That is our understanding, if your Honor pleases, in conformity with your Honor's ruling of last week.

On Friday when we adjourned, we had reached Document [NOKW-802](#) which is Exhibit 105, in evidence, appearing at page 96 of the English text and 71 of the German text; and we had reached the end of the first page of the exhibit. I should like to direct your Honors' attention to the fact that this copy which is from the Commanding Plenipotentiary in Serbia, Gen. Boehme, dated 26 October, 1941, to all administrative subareas and all district headquarters, the last page which we had just finished--the

last paragraph of the first page which we had just finished reading; there is a reference to diary No. 2848/41 of the 10th of October. That is a reference.

THE PRESIDENT: Pardon me, for my information may I make inquiry as to from what page you are reading?

MR. DENNEY: Page 96 of the English.

THE PRESIDENT: Ninety-six?

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DR. DENNEY: Yes, sir. The last page, the page which we had concluded on Friday, and it is the last paragraph on that page. It is page 96 of Document Book III, the reference in the first line of the last paragraph of that page is to Exhibit 88 in evidence, which is page 34 of the English document Book III and page 27 of the German Document Book III and it refers to the order of Boehme which referred, if your Honors will recall, to the OKW order of Keitel which was the OKW order put in as the Exhibit 53. Then the reference on the third line from the bottom to the order of 25 October 1941 refers to NOKW562 which is at page 83 in Document Book III, and as your Honors will recall the No. 3208/41, it is the order from Boehme which he signed which had to do again with the suppression of the insurgent movement in Serbia.

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Continuing then with the paragraph starting at the top of page 97:

This order shows clearly in paragraph 2 the cooperation, and there again he is referring to his order of 25 October, Exhibit 83, I The coo-eration of the Administrative Sub-area and District Headquarters. According to this order not only are the units to be advised in the seizure of hostages but - if my order dated 10.10.41 was carried out as directed - the Administrative Sub-Area and District Headquarters must be able to put at the disposal of the units a number of hostages without any difficulties. The ratio being 1:100 in case of a dead and 1:50 in case of a wounded German soldier it will frequently happen that the Administrative Sub-area and District Headquarters will not be in a position to furnish the required number of hostages, if a certain concept of guilt should be taken into consideration to some extent, even if only on the basis of the general behavior of those to be arrested. In such cases I am to be informed by the speediest possible means.

As a matter of principle it must be said that Jews and Gypsies in general represent an element of insecurity and thus a danger to public order and safety. It is the Jewish intellect which has brought about this war and which must be annihilated. The gypsy, because of his internal and external make-up cannot be a useful member of a peoples' community. It has been found that the Jewish element participates considerably in the leadership of the bands and that Gypsies in particular are responsible for special atrocities and for the communication systems. That is why it is a matter of principle in each case to put all Jewish men and all male Gypsies at the disposal of the units for hostages. Moreover it is intended to transfer the women and children of Jews and Gypsies in a collection camp in the near future and to remove this disquieting element from Serbian territory by way of resettlement.

Proper preparations for this are to be made.

Per se it is against the concept of the German Soldier and civil servant to seize women for hostages. Nevertheless arrests are to be made if it is a matter of wives or family members respectively of insurgents who are in the mountains.

In such case greater severity means at the same time greater clemency. In this way the bandit suffers the consequences of his own actions. The sense of justice of the decent part of the population is appealed to, while the belief in the feeling for justice of the German Wehrmacht must be destroyed if not only people who are completely innocent are shot to death but - as occurred in one case, just those men of the village were executed who had remained at their place of work waiting for the German Troops, because of their confidence in their own innocence and because of their obedience to the German Arms.

These ideas are to be propagated by the Administrative subArea and District Headquarters. A Commanding Officer of a District Headquarters reports that a Regimental Commander forced him to sign an order which was against his own opinion. The Commanding Officers of the Administrative Sub-Area and District Headquarters are in no case subordinate to the unit commander in administrative affairs except by virtue of a Special Order.

In the present situation the Commanding Officers of the Administrative Sub-Area and District Headquarters are carrying a heavy responsibility. Essentially it is their part to bring about a co-ordination of Military needs, which in view of the situation must have priority, with the needs of a well planned administration.

For the Commanding General-Plenipotentiary in Serbia The Chief of the Military Staff (signed) Turner Certified True Copy The next document is [NOKW 1202](#) which is offered as Prosecution Exhibit 106 and is a proclamation by the German Commandant to the Serbian population with reference to retaliation measures.

It was issued sometime in 1941 as may be seen from the dates, that is October 1941, as may be seen from the dates at the close of 21 October to 31 October----12 October and 31 October. Excuse me, Your Honor.

The German Army does not want to take your freedom and to prevent you from working peacefully,. But just like your Belgrade Government it demands, peace, order, and security in the country.

Insurgent Communists, Jews, and plunderers have united. They force you to join their ranks, endanger your property and life.

Repeatedly German soldiers have been murdered cruelly. Also individual national organizations of your country have made alliance with these insurgents in order to harm the German Wehrmacht.

The German Wehrmacht has looked on at this activity for a long time, to give you time to think it over. Instead of acknowledging gratefully the generous attitude of the German Wehrmacht you in many cases have believed more in the lies and provocative whispers of communistic and ambitious leaders. So it happened, that many of you not only did not resist the insurgents but even supported the insurgents. Thereby you have become accomplices to the criminal acts of the insurgents.

Lately raids on vital installations of economy and traffic have increased as well as organized attacks on German forces. Here again many German soldiers were murdered in brutality.

The German Wehrmacht must and shall put an end to this activity with all means and unyielding severity to restore peace and security also for you.

The following directives become effective immediately:

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1) He who even supports the insurgents or their accomplices:

by means of arms and ammunition by erecting road blocks, by destroying bridges, by giving food, by transmitting information, by providing transportation, or by any other manner, will be shot.

2) He who even carries fire arms, pointed weapons, hand grenades or other weapons, will be shot.

4) The communities in whose area arms and ammunition are found, in whose area road blocks or destroyed bridges are found without being prevented or immediately averted on by you, in whose area other hostile acts occur, will be severely punished by the burning down of houses and shooting of inhabitants.

For every German soldier killed 100 inhabitants will be shot. (handwritten) 2 Don't permit yourself to be deceived by Communist leaders or other ambitious leaders.

The German Wehrmacht is strong and victorious. Armies of millions of your alleged friends in Russia have been destroyed with their entire equipment.

The rest is being destroyed.

Petersburg and Moscow are about to fall.

The German Wehrmacht is also in a position to break all resistance in Serbia.

Beware of heavy penalties. Keep peace.

The German Commandant And then the stamps which appear below are self-explanatory.

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The note to the 342nd Infantry Division, Tactical Group of the General Staff.

DR. LATERNER: Your Honor, I object to the proclamation to the Serbian population which has just been read. First of all this proclamation isn't signed. These again are three typewritten sheets of paper,

without a heading, or a signature, from which no one could see who issued this proclamation. Attached to this document-

I object to the introduction of this document. This again is a document which is neither signed nor has a heading from which one can see who issued it. Attached to it is the photostat copy, of the back side of a cover originating from the Commanding General (KdB) of the 342nd Infantry Division but there are two other proclamations attached to it which are different from what the Prosecutor has just read. Whether these things belong to each other, I do not know it and also the certificate which is attached to these documents does not state any connection for this certificate only speaks about one "Proclamation to Serbians."

MR. DENNEY: The certificate recites 6 photostatic pages which is the number of pages here and again as has been the practice before, we are offering only so much of it as we think is relevant. The cover of which he speaks is a photostatic copy of the back, the binding, of the diary, from which the papers were taken, the diary of the 342nd Infantry Division; the date is 12 October, to 31 October, covered by this period of the diary from which these parts are taken, the captured documents. Perhaps Your Honor would like to see the photostats which we have here.

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DR. LATERNER: I would like to state again the attitude of the defense that from each document it must be seen whether it has ever been signed and who signed it. Since this isn't the case I must protest against it.

THE PRESIDENT: This Exhibit comes within the category of similar exhibits which have been found as captured documents, a portion of which is a printed proclamation and under the rules of procedure by which these Tribunals were set up, documents of this character, as this Tribunal understands it, are to be accepted in evidence. We appreciate that it is not shown who signed it but it will be accepted for such probative value as the court considers that it merits. The objection will be over-ruled.

MR. DENNEY: The next document which appears at page 78 of the German text and page 103 of the English text is [NOKW 226](#) and is offered as Prosecution Exhibit 107. In this document I would appreciate if Your Honors would first turn to page 105 which is the third page of the document.

May I see the document for a moment, Dr. Laterner?

If Your Honors will look at page 105 which is page 77 in the German. This is a communication from the defendant List, Wehrmacht Commander, Southeast and Commander in Chief of the 12th Army and one enclosure is recited which recites one incident. It is dated 6 October 1941 and the enclosure will follow. The letter is addressed to the Commanding General-Plenipotentiary in Serbia, Bohme, and the letter is signed by Field Marshal List.

It says:

The enclosed incident is to be investigated.

I am under the impression that the procedure in this case is a mistaken one. The dismissal of the farmer (page 2) , and that, if Your Honor pleases refers to the original German, was wrong. What reprisal measures have been ordered against the inhabitants of Grabovac for the sawing through of the telegraph poles?

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Then turning to page 156, page 76 in the German. This is the report which Field Marshal List enclosed with his letter to General Boehme. This report is dated 27 September 1941 and it is made by Oberwachtmeister (Master Sergeant) Below. The subject is: Sabotage on telephone Lines Obrenovac-Valjevo during the night of the 25 and 26 of September 1941. The report states:

On 21.9.41 I received the order to repair the destroyed telephone lines Obrenovac in the direction of M1. Borak with 2 telephone construction detachments and 1 Infantry Platoon as construction security.

According to the reconnaissance of the 6th Company about 60 poles were sawed through, about 28 fields were cut and the telephone wire or most of it had been taken away.

On 25 September 1941 the line was ready for operation again up to Brgule. South of it 10 poles had already been laid out for further construction.

When I went to the construction area in the morning of 26 September 1941 I found a new place of sabotage 3 km. south of Obrenovac. 10 poles were sawn through, 1 pole had been 4/5 sawn through, the wires were cut and the insulators were broken. The railroad tracks with their sleepers had been torn from the railroad bed. Since I had along with me railroad workers for switch work at the railroad station of Brgule I employed these to repair the tracks.

After the detachments had been employed for repairs on the new scenes of disturbance and the tracks were made usable for traffic I reconnoitered the line in the direction of the railroad station of Brgule. There I found the second new scene of disturbance, 3 1/2 kilometers south of the railroad station of Stubline. Here 40 poles were sawn through, the lines were cut and the insulators were broken. Here also the tracks were torn out for 2 x 50 meters and were lying next to the railroad bed. At this place on 25 September 1941 I, with my construction detachments, had newly wired 22 fields and had put in again 3 poles.

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According to statements of farmers working in the fields the sabotage actions taken place in the morning hours of 26 September 41 between 2:00 and 5:00 o'clock. It seems that the bandits destroyed the lines simultaneously in both places where from it may be deduced that the actions were undertaken through a central office.

The places of sabotage were 9 km. removed from each other.

During the repair work 3½ km. south of Obrenovac a farmer came forward who made the enclosed statements. On my orders the farmer was brought to the police station of Obrenovac.

(signed) Below Then follows the short statement of the farmer made to Sergeant Below which was enclosed with the Sergeant's report which came to the attention of the Field Marshal and which he, in turn, forwarded with his communication to General Boehme.

The report continues:

27 September 1941, Statement of the farmer from Stubline:

The farmer, a native of Stubline, taken alone from the place of sabotage to Obrenovac states as follows:

Communists forced farmers from Grabovac to saw off the wooden bars and 10 poles on the first place of sabotage. The fellow was unable to make any further statements. Thereupon he was dismissed by the police Lieutenant Heinrich.

And, that dismissal, it is submitted, was being complained of in the basic communication forwarding the reports.

Then turning to page 78 of the German, which is page 104 of the English, is the reply of General Boehme to his Commander, Commander List, and the subject contains Ic/Army High Command No. 1807/41 dated 6.10.41 which Your Honors will see is the number the communication received in the diary of the Wehrmacht Commander Southeast by looking at page 105 where the same figures appeared. And, also, it says, dated 6 October 1941 and that is the date of the original communication.

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This is directed to the Wehrmacht Commander in the Southeast and Commander in Chief of the 12th Army.

Referring to the incident above regarding sabotage on the telephone line Obrenovac-Valjevo, report is made as follows:

1. The Commanding General-Plenipotentiary in Serbia was not informed that farmers from Grabovac executed the sabotage of the telephone line on 21 September, since this report, by the senior signal communication officer was sent erroneously to the Corps Signal Communication section.
2. The 125th Infantry Regiment was ordered, during the combing of the area south of Obrenovac, to burn down each 5th house in the village of Grabovac as a result of the sabotage.

(initial) B (signature) Boehme General of the Infantry 17729/13 (illegible initial) Turning to page 78 of the German and 103 of the English text, the first page of Exhibit 107 is offered; this is a further communication from the Plenipotentiary Commanding General in Serbia to the defendant List dated 20 October 1941 and the same basic number appears in the reference, 1807/41 and the date again referring to the original communication from Field Marshal List and this time a subject has been added and it states:

"Reprisal Measures Grabovac." The communication is again addressed, as was the communication of one week earlier, to the Wehrmacht Commander in the Southeast and the Commander in Chief of the 12th Army.

In addition to the report here, dated 6.10.41 it is reported that the village of Grabovac was burned down entirely and 73 inhabitants were shot to death by the 125th Infantry Regiment (handwritten) since shots were fired on the unit from this village.

Again turning to page 79 of the German text and page 109 of the English text, Documents Nos.

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[NOKW 1074](#) and it is offered as Prosecution Exhibit 109 in evidence. This is extracts of the war diary of the 717 Infantry Division and the period with which we are concerned is that from July to December in the year 1941. During this period the cover page of the diary recites that the unit was subordinate to the 65th Corps which was under the command of one Bader, and was in Serbia and which in turn was subordinate to the defendant List through the deceased General Boehme. The entry for 7 July 1941 During this period the cover page of the diary recites that the unit was subordinate to the 65th Corps which was under the command of one Bader, Bader, and was in Serbia and which in turn was subordinate to the defendant List through the deceased General Boehme.

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The entry for 7 July 41: "The 9th and 11th Companies, 737th Regiment under the leadership of Captain Rinkloben reached Borcane after 5 hours of climbing at 0430 hours, without contact with the enemy. In Borcane, 2 dead Serbs, some ammunition, and a few women and children were found. The Battalion is resting up there, will march back and will be transported at 1600 hours in Slatina. Borcane was set on fire, as the male population proved by its flight that it had participated in the combat."

The Daily Report: There is a note about the Honor company, of the 737th Regiment, which is to be ready for the reception of the Field Marshall, --and it is submitted that that refers to the General Field Marshall --- as well as the band of the 749th Infantry Regiment, and both of these units had arrived in Nish.

Then on the date of 21 July -- this is a report to the --partial extraction of the report to the 65th Corps -- on this date we note that the visit of General Field Marshal -- and here his name is recited -- List is progressing according to plan.

"On 20 July at 1000 hours, 11 men and 1 woman arrested by the 2nd Company of the 1st Battalion on 18 July 1941, were shot to death in Cacak by the Serbian gendarmerie under the supervision of the SS. Four men are from Caca; all the others from the neighborhood. Among the 11 men there was allegedly a top leader of the Communists in Serbia."

Then the next page is one that I don't think we need to do any more than note in passing that they report on the 6th of July that 10 houses were set on fire at Borcane and the note at the bottom of the page is self-explanatory.

Then on the following page, the Daily Report of 20 August 1941:

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"One platoon of the 2nd Company of the 749th Regiment was transferred to upper Milanovac:" and then the recital about the 8th Company of the 737th Regiment being transferred, and under d "according to report of the Kragujevac District Headquarters, 8 Serbian gendarmes engaged in combat at about 0800 hours with a Serbian band at Knic (about 20 kilometers Southwest of Kragujevac). The "Jagdkommando" of the 3rd Battalion, 749 Regiment immediately went to their aid."

And the next entry: "The 'Jagdkommando' of the 1st Battaion, mentioned in yesterday's Daily Report, reached the Kablar-Height, Point 875 under the leadership of an agent towards midnight. The band was not found; however, on the heights North of the hiding place, machine gun emplacements were found. In one of them, half a box of ammunition was still left. Three persons who wanted to flee were forced by fire to stop; one of them was shot in the lungs and several suspicious persons were arrested. In one of the houses uniforms, shoes , saddles, saddle bags, belts, first aid kits, underwear, and a cap were found. In addition, uniform sleeping accommodation for 20 persons were found in the house. The house was burned down. The arrested were set free after exact identification except for one woman."

The the report of the 23rd of August, excerpt 5, states that: "The 749th Infantry Regiment reports that on 22 August at 1400 hours, 2 Serbian Communists who were arrested on 21 August by police bearing arms were then shot to death by a detachment of the 3rd Battalion and then hanged by Serbs before the Garrison Headquarters. The order for the shooting to death was issued by the competent Administrative Subarea Headquarters."

Then on the 25th: "The Higher Command orders close cooperation with the Administrative Sub-area Headquarters and the District Headquarters as well as the Serbian Authorities and the Serbian Gendarmarie so as to prevent innocent people from being subjected to measures of revenge."

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Then the next page: "The 749th Infantry Regiment has carried out Operation Pohevac. Three persons suspected of being Communists were arrested and will probably be shot to death. Two houses set on fire; report follows."

And the portion for 27 August recites that: "The 3rd Battalion, 749th Regiment with two companies has set abandoned houses on fire in Bukurevac (8 kilometers west of Kragujovac) also in Dronak,"it recites "The place of yesterday's attack by bands in which one 2nd Lieutenant and three men of the "Jagdkommando", 3rd Battalion, 749th Regiment were killed. One Technical Sergeant was severely wounded and one sergeant and one private were slightly wounded. It is on march to Marsic (6 kilometers northeast of Kragujovac) where parts of the band are allegedly."

And then the report of the 28th recites "two houses of Communists burned down" and that on the 27th of August: "The Kraljevo gendarmarie arrested a man with a box of hand grenades; he will be shot to death. One Kilometer west of Kraljeveo, two haystacks burned down by unknown perpetrators. The Communist leader Petrovic shot to death, his house set on fire, three inhabitants of the house on 27 August in Rigjage (5 kilometers west of Cacak) arrested and one sniper taken care of by "Jagdkommando", 3rd Battalion, 749th Regiment. The teacher's house (Communist) burned down."

And then it recites: "Telephone line Uzice (50 kilometers West of Cacak) out. Ovcarska railway bridge destroyed. One sergeant and a private shot to death on tour of guard on 28 August by the local headquarters security at Krusovac, as he did not answer the challenge. In Vrdil 4 men with arms arrested. One of them is the brother of of the band leader Vilotovic. Three will be shot to death and their houses burned down."

And then the 4th of September: "the "Jagdkommando" of the 1st Battalion, 749th Regiment, at Zagreb (yesterday's report) 3 September at 1600 hours; traces picked up, two Communists shot to death, one of our own wounded.

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Final result not yet received."

And under the Daily Report of that date: "Communists shot at salvage truck with one light machine gun in the morning of 5 September" and then they give the location. They give the German casualties: "1 sergeant dead, 6 men dead, 2 wounded, civilian assistant driver dead, interpreter wounded. Operation of the 1st Battalion, 749th Regiment on 6 September found no trace in 15 kilometer area; village destroyed at place of attack by artillery fire."

In the Daily Report of 9 September 1941 749th Infantry Regiment combed through various towns which are there set forth; on the 8th, 6 Communists shot to death and a truck of the National Guard Milanovac Landesschuetzen shot on 8 September at Rogojevac (10 kilometers west of Kragujevac) and that was set on fire by bands, "Jagdkommando" of the 3rd Battalion, 749th Regiment; a mayor and one Communist shot to death during the firing. The "Fighting discontinued on account of darkness; one soldier wounded."

The report of the 11th: "8 Communist dwellings destroyed by 1st Battalion, 749th Regiment."

The report of the 18th recites the Communist unit burning the the community archives of Vrba on the 17th; telephone apparatus was plundered there and further plunder on the night of the 18th. "The 6th and 7th companies, 737th Regiment combed through ammunition area around Mrsac and they shot at Communists' houses and then set them on fire."

The report of the 20th: "Guard of the 4th Company, 737 Regiment at the Morava Bridge arrested a man with two Serbian hand grenades and loaded pistol on 19 September and shot him in attempted flight."

The report of the 24th gives a supplement to a prior report: "A road bridge was blown up and 22 houses of known Communists at Ljubic were burned down."

And the report of the 25th I don't think needs to be read and the matter appearing on page 119 is also on the end of 118.

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I might mention the last part of the report for the 25th that speaks of Krusevac, recites their own losses: 2 Captains, a Second Lieutenant and three men not belonging to the Division and some wounded; and then on the 24th, the prior day to the day of the report: "14 bandits were shot by courts martial and during operations(reconnaissance in town and terrain) 50 to 60 bandits were shot to death. Last night quiet."

The next pages, I believe, are self explanatory and we had considerable material from dates in September so I don't think they need to be commented on. That goes through pages 124 in the English text and page 87 of the German text.

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Then turning to the matter contained on page 83 of the German text, and page 125, the entry for 4 October, is similar to those we have seen before, However, I would like to call the Court's attention to the last entry under that date which says:

"Assignment of 1000 workers at Kragujevac Arsenal or delivery to concentration camp requested."

And the report for the 5th:

"Two bandits, (having on them fuse and detonator) near Bogutovac, gasoline dump (10 kilometers Southwest of Kredjevo) shot dead. Kraljevo is carrying out raid on airplane factory, and arresting for the present 600 workers in the hall of the booty dump".

Further report for the 6th:

14 suspected Serbs delivered at concentration camp.

Soldier of 7th Company, 737th Regiment shot on way back, NCO of 2nd Battalion, 737th Regiment Staff missing. 3rd Battalion, 749th Regiment reached Milanovac on 1700 hours, 5 Oct. under continuous enemy fire, found blockades (12 tree -- 4 trench and 3 stone) as well as all bridges blown up. Own losses: 4 dead, 3 wounded, 170 male inhabitants at hand arrested and exchange for National Guard attempted. Intend to burn down town before marching off.

The entry of 9 October 1941 refers to a, work detachment and guard being shot at by strong enemy forces, and further that the 737th Regiment burned down several houses and 70 suspicious communists were shot to death. Then on 11 October the High Command orders repetition of the attack on upper Milanovac on 4 Oct., with the mission of taking hostages and burning down the town.

12 Oct. 1941..... and the further report of that date recites that "enemy menace from Ratine Southeast of Kraljevo averted localities from which shots came were set on fire".

Then re order of 13: The High Command orders revenge measures to be carried out for troop losses, 100 prisoners or hostages for every soldier or Volksdeutsche killed in combat or murdered and 50 for each man wounded.

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This refers to the order of October 13, Which is Exhibit 88 in evidence, which appears in this Document Book at page 34, and is at page 27 in the German text.

DR. LATERNSEER: Mr. President, however, I have to object to a translation so that there will be no mistake. I found out that "Hoheres Kommando" is translated here as the "High Command".

THE PRESIDENT: What page and date do you refer to?

MR. DENNEY: 127 of the English, page 89 of the German, and the entry to which Dr. Laternser makes reference is the first three words under the entry of 13 October, 1941, which appears, if Your Honors please, in the middle of the page.

DR. LATERNSEER: The agency "Hoheres Kommando" is in my opinion wrongly translated with the word "High Command" because High Command could be understood as also the High Command (Oberkommando) of the 12th Army, while this concerns a definite agency, "Hoheres Kommando", which is a name, "Higher Command".

In this case, because this is a name, I would like the German term to be used, not the translation, the "High Command", because this translation means many things and the German text only means one thing.

MR. DENNEY: I assume that Your Honors will want some sort of a translation of this and not use the German word. We can hand it to the interpreter.

THE PRESIDENT: That has been the procedure followed before this Tribunal heretofore. Unless there is objection on behalf of counsel which this Tribunal feels has merit, we will follow the procedure that we have heretofore taken, and the document will be handed to the interpreter for interpretation, and the Tribunal will be guided by the benefit of the information given.

MR. DENNEY: I submit, if Your Honors please, that we believe that these words apply to the 65th special corps, which, of course, is the Unit above this, which appears in the basic information text which Your Honors have, and it is on Chart 8 of that Text.

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THE PRESIDENT: The interpreter will give the interpretation.

MISS EVAND: This has so far been translated as corps, "65th Corps" special corps.

MR. DENNEY: That refers to General Bader's Corps which is the Command Echelon next above the division, the 717th from whose book these extracts are made, and the basic information chart being showed of that, shows that division as being under the command of the 65th Corps.

THE PRESIDENT: May I make this inquiry? The interpreter said that, "heretofore this has been so interpreted". Do I understand that this is also so interpreted at this time?

MISS EVAND: This is how it has been translated so far in all of the translations which came from the translation section.

THE PRESIDENT: What is your translation?

MISS EVAND: Our translation is the same. You can translate it "Higher Command" , but in this case it definitely means the "Corps" , the "Special Corps".

MR. DENNEY: It it will be of any help to the Court and defense counsel, we are willing to concede that the reference here is to the next higher command, which is the 65th corps; that will take care of the matter for everyone.

Of course, we do not say that it stops there, it goes on up, but that this reference here is just one step from Division up to Corps, and of course the Corps is below the Plenipotentiary General in Serbia who in his turn is subordinate to the defendant List, but this entry on the 17th of October, in the Diary of the 717th Division, refers in this record book to the next higher Echelon of Command.

DR. LATERNER: Your Honor, it ought be changed so that there can be no mistake in this place, at least it ought to be changed into the "higher Command", because the high Command here, probably means the Army; while the Higher Command gleans the next higher agency.

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This is important because the German text is quite clear, while the English translation, if it remains like this, is ambiguous.

I do not know what sort of a part this could play in the future.

MR. DENNEY: The English text, to Higher Command, we will agree that this reference is to the 65th Corps, the next unit above, commanded by General Bader.

THE PRESIDENT: It seems to me in the light of the statements made by Prosecutor and the comments made by not only the defense counsel but also by the interpreter, that the court is fully advised as to the meaning of this statement here. However, it being agreed upon that it should read "Higher Command", it may be changed. The record may be changed to show so.

MR. DENNEY: Your Honors, it is submitted that this order refers to the order of 19 October 1941. This is Exhibit 88 in evidence. Document [NOKW 557](#), which appears at page 34 of the English text, and page 27 of the German text, in Document Book 3. Reference has been made to this on prior occasions.

On the 14th, the day following receipt the diary contains the note that the division issues Top Secret order No. 24: Arrest of Communists, Nationalists, Democrats and Jews - so far as guarding is possible - no hostages.

And there, that order of the prior date is being passed on to the lower troop units.

The daily report for the same date - bears the information that "On information about approach of troops, Milenkovic left Vrnjacka Banja with his men at 0930 hours. They bore the Soviet Star. At 1545 hours head of the column on march was 5 kilometers east of Vrba, advance march delayed by numerous blockades.

And then on the:

"16 October 1941 Division Orders: carrying out of revenge reprisal measures only on orders of the regimental commander. Report about number of hostages arrested and number of persons shot to death is to be rendered On the 5th, 15th and 25th.

"Daily Report:

"Kraljevo: 1900 to 1930 hours, 14 October, enemy artillery fire on agricultural school and air field. Attack mainly on agricultural school, with strong forces from 0500 hours, 15 October, on warded off. Enemy losses rose to about 100 dead. 0920 hours, state of emergency decreed. From 1000 hours on, situation clear. Second Lieutenant Loechl shot to death, 5 communists, 2 of those in German uniform at the Morava Bridge (4 kilometers east of Kraljevo). 1100 to 1200 hours, Stuka and reconnaissance plane activity. Shuttle tank for Wildermuth slightly damaged by three mines but repaired again. Towards 1800 hours shots from houses, 300 Serbs shot to death. 34 Volksdeutsche transferred to Krusevac. Our own losses - 14 dead, 20 wounded; among the dead, two officers.

"3rd Battalion, 749th Regiment reached Milanovac at 1815 hours on 15 October after overcoming six trench blockades, five blown-up bridges and three stone blockades; further losses of our own: wounded. Report of enemy losses not yet available. Milanovac on fire, hostages are being collected, marching off apparently last night."

And then on the next page, under date of 17 October, when they have a report for the 16th for Kraljevo:

"16 Oct: Enemy artillery fire 1615 hours: ten shots on air field; 1230 hours, 20 shots on air field and Morava Bridge (3 kilometers east of Kraljevo). 1000 hours to 1830 hours, 70 shots on agricultural school with about 30 hits, light damages to vehicles, houses searched in Kraljevo. For losses of 15 October up to the present all together 1736 men and 19 Communist women shot to death."

And, if Your Honors will recall, that's the same figure to which we referred on numerous occasions before -- the total figure of 1755, which we had first in the report with reference to the Kraljevo incident, and it was then later carried in General Boehme's report of "Onward to New Deeds". It appeared in the 21 October report, Chief of Police and SD, which is Exhibit 83, page 19 in the English and page 16 in the German.

And then I believe that's sufficient reference to it.

"1300 hours to 1800 hours electric current cut off. Own losses in Kraljevo: two dead, one wounded. Last night quiet. 3rd Battalion, 749th Regiment reached Donja Drnuca at 1515 hours, stayed there all night. Return march hindered by several concentrations of fire. (Own losses: two dead, two wounded, five horses) Ascertained enemy losses: 25 dead, among them one Serbian 1st lieutenant. Request continuous air reconnaissance, Direction Cacak and Raske, as well as repetition of use of Stukas against artillery

ammunition dump (Bogutovac) 15 kilometers south of Kraljevo," And then in the daily report of 18 October:

"Daily Report.

"Report of Agents:

"At Kraljevo withdrawal of insurgents into the mountains. 202nd Armored Train guarding stretch shot at, Wildermuth group combing through Kovaci, Tresnjaci, Krusevica. Light resistance. Artillery fire from the north on Morava Bridge and airfield, from west on agricultural school and south part of Kraljevo. 3rd Battalion, 749th Regiment, back in Kragujevac at 1900 hours, 16 October. Milanovic burned down, 133 hostages taken along."

If Your Honors please, that refers to the same entry which appears in the Corps Diary of the 65th Corps, for the 19th of October, one day later, which is Prosecution's Exhibit 85 in evidence. It appears on page 23 of the English and on page 20 of the German, and in that same document, Exhibit 85 in evidence, on the first page, one page earlier, page 22 of the English, page 19 of the German, there's a reference of 18 October note - 717th Division - which refers to the losses which are listed here in the report of the 16th with reference to Kraljevo here, being the Prosecution's Exhibit 88, the report of the 717th Division, and the same total figures, 1736 men and 19 Communist women shot.

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And in the next several pages, which are again similar to some of these we had before and cover the same dates --- that is the period during August. However, there are some notes. Passing first to page 93 of the German and page 133 of the English, being under the column "Prisoners Shot". On that page, under date of 12 October to 21 October, there appears 1 and 2000, and after the 2000 the word "hostages". And then, turning over to the entry for 14 to 17 October, which appears at the top of the next page, the same column, the fifth column over from the left, recital for the 3rd Battalion of the 749th Regiment at Milanovac, "Prisoners Shot" -- 2300 hostages. And then, down at the end of that page, page 134 of the English and page 93 of the German, they have totals for the division. Of the total for October 1941, under the same column there are 36 prisoners and 4300 hostages. That's under the entry "Prisoners Shot". And to the left of that is the entry under "Prisoners" -- 30 "enemy losses", and to the left of that, the "Enemy Wounded" --- "one and many more" -- and next to that the "Enemy Dead" for the month --- "498 and many more". And the German losses appear over on the right, total for the month, "58 to 59" dead, 135 wounded, and two missing. And the column 6, which is the last column just before the German losses, is headed, "Measures of Reprisal and the Like", and the total for October 1941 recites "31 houses and three villages and many more". And it is submitted that that refers to burnings, if the earlier portions of the report are examined. The date above the 30th has the notes in the same column, "Measures of Reprisal and the Like", to the effect that "all houses burned down". And above that "Milanovac burned down". And so on, back up to the first entry on page 130 in the English and page 91 of the German, which starts with 3 October, "three houses set on fire". Page 136 of the English and page 94 of the German--

THE PRESIDENT: Mr. Denney, may I interrupt please? I think we will take our morning recess at this time.

(A recess was taken.)

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THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

THE PRESIDENT: You may proceed, Mr. Denney.

MR. DENNEY: If it please your Honors, the next document is [NOKW-1014](#), which is at page 94 in the German text, page 136 in the English text. These are extracts from the War Diary of the 717th Infantry Division in the cover page of the Diary.

May I see the original exhibit, please? If your Honors please, this is the 718th Infantry Division and not the 717th. However, it is still a division which is under the 65th Corps of General Bader; and for the period which is indicated on the cover sheet after 17 June 1941 before 31 December 1941. And the note on the cover sheet indicates that during this time this unit, this 718th Infantry Division, was under the 65th Corps.

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The first entry is one for 3 August:

"During the night 28 to 29 July thirty hostages from Ilijas were shot to death for an attack on the military guard in Ilijas (about 18 kilometers northwest of Sarajevo) and for a fire attack on a Ustasa patrol. Order and execution by Ustasa.

"For sabotage during the night of 29 to 30 July in the heating plant of the state railroad in Sarajevo (some infernal machines had been put there) 20 Jews and Serbs were shot to death in Sarajevo."

Then 27 October 1941:

"The 823 Homeguard Riflemen Battalion reports that the insurgents have attacked Slatina - Ilidze. The Croatian guards have withdrawn Klasnica. A platoon of the 823 Homeguard Riflemen Battalion was sent marching towards Slatina, another platoon temporarily transferred to reinforce the guard in the munition depot of Kromarice to clarify the situation. The radio signal detachment attached to the platoon arrived in the munition depot at 2145 and has installed radio communications. Schiff (shipping) bridge in Mitrovica destroyed partially by flood and floating wood. Repairs are underway."

This is entry of 28 October 1941:

"The platoon of the 823rd Homeguard Riflemen Battalion has reached Slatina and removed the numerous Abatis on the roads. Thirty-six Jews and Communists were brought in from Slatina."

Then the notes of the 30th; there is one as of 11 minutes after one in the afternoon:

"Panzers had not been loaded since a road bridge in Tuzla has been dynamited."

Then 6th of November 1941, that is, 1709 hours:

"Result of mopping up operation 63 insurgents shot to death, 187 prisoners captured."

Then the entry for the 6th of November:

"Result of mopping up operations on 5 November; four insurgents shot to death, seven prisoners brought in."

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That concludes Exhibit 109.

We now have an insert which is NQKW-1219. It is one page and we ask that it be marked page 139a in the English Book and 95a in the German. If Your Honor please, we would like to mark this for identification. Apparently we don't have the German copies here, so we mark it and pass it at this time. This will be Exhibit 110a for identification and we will not make any further reference to it other than to indicate that it is [NOKW-1219](#) to be inserted as page 139a in the English Document Book III and 95a in German Document Book III and perhaps we can have the copy for this afternoon. In returning to the original pages of the book, on page 96 of the German Book III and page 140 of the English Book III is [NOKW 1073](#), which becomes Prosecution Exhibit 111 in evidence. These are extracts from the reports of the 154 Infantry Division for various dates in October and November 1941; one of the reports - the first one of 8 October - refers to activities in the month of September. This division, as will be seen from the contents of this report, is in Greece. The first entry is of 8 October 1941:

"Activity Report of the operations branch from 16 September to 30 September 1941.

"With the daily report of 21 September the Commanding General of XVIII Army Corps, Lieutenant General (Infantry) Boehme released the 154 Division from the unit of the Corps..." And that reference to the Corps Headquarters, of course, refers to the Headquarters and Staff of General Boehme, which Your Honors will recall following the Hitler order to List and the List order to Boehme. Boehme was transferred, with his staff, to Belgrade as Plenipotentiary Commanding General in Serbia. And then the third paragraph entitled:

"Visits to the Troops:

"The visits of the Commander-in-Chief of the Twelfth Army (General Field Marshal List), announced for 17 November to Lemnos and Lesbos, were cancelled at the last minute and postponed to a later date."

And then the reference under:

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"Combatting of Unrest.

"On 22 September two German soldiers fell in an armed attack of a Greek band on the road Evangelistria-Saloniki.

"The units are again advised as to the necessity for security measures. A search for weapons on 23 September carried out in the vicinity of the surprise attack had no great result; on the contrary, in an operation carried out on 29 September by the 382nd Infantry Regiment in the farther vicinity of the place of the surprise attack, 27 Greeks were shot, weapons collected and 11 houses burned down.

"The assumption appears justified that unrest has been avoided to a great extent by energetic counter-measures. Nevertheless the continuing Communist propaganda, as well as the difficult social and economic situation of the civilian population in the billeting area of the division, make a further increase in unrest seem probable."

And it is signed by an illegible signature, "Major, General Staff Corps". And there is a note to the effect that it has been seen by "Foltmann, Major General and Division Commander, 14 October 41".

Then the next entry is for 7 October, same division heading, and the Situation Report No. 1 recites activities of the 382nd Infantry Regiment and the 220th Engineering Battalion. on 12 September 1941 in the various localities listed, in which four Greeks, among them two bandit members, were shot, two others wounded, and seven civilians were arrested. Then it recites that:

"Even if the band could not be destroyed by this operation as a result of the great difficulties of terrain and the limited number of troops, nevertheless it appears to have been restricted in its activity by this operation. The other bands were seized in the area north of Evangelistria and consist obviously of unsettled, criminal elements, which are terrorizing the civilian population also. An armed attack in the vicinity of Evangelistria on a truck of the 521st Signal Regiment in which two soldiers were killed and the Greek telegraph worker was wounded may be attributed to it.

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"These incidents led to a cleaning up action of the 382nd Infantry Regiment in the area of the localities Strymonikon, Dakriotisa, Zavgolato, Ginatos, sand Korforwuni (west of the Strymon) on 29 September. Twentyseven Greeks were shot in this, partly in flight, partly in attempting to offer resistance, and a few houses and shelters were burned down. A few days earlier during a search for weapons a Greek was shot in flight in the same area, in the locality Nesada."

And the distribution goes down to the three infantry regiments in the division, the artillery regiment, the signal battalion, and the Division Supply Officer for the 220th Regiment.

Then under date of 5 November, giving activity report for the last half of October, the same division:

"On the 18th of October Lieutenant General Kuntze takes over temporarily for General Field Marshal List. (General Kuntze) is well known to the division as the Commanding General in the Ardennes area during the fall of 1940."

Just so there is no lack of clarity on what the prosecution is referring to, that does not refer to the well known Ardennes offensive of 1944. This is the Ardennes area in 1940.

"Beginning with the 30th of October Guard Company Southeast, organized by the division, is immediately under the orders of the Twelfth Army."

Then it recites:

"The 125th Infantry Regiment and 1st Battalion of the 220th Artillery Regiment are no longer subordinated to High Command LXV, that is again 65th Corps, but directly subordinate to the Commanding General Plenipotentiary in Serbia."

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And then on the same report for the last half of October, under the heading, "Combatting of Unrest. The villages Ano Kerzilion and Kato Kerzilion (5 kilometers northwest of the mouth of the Strimon)" - this is on page 98 of the German book and page 8 of the original - "(5 kilometers northwest of the mouth of the Strimon) which according to proof had supported bands, were levelled by units of the Division on 17 October. The male inhabitants between 16 and 60 years (207 people) were shot, women and children were resettled. During a search for weapons in Mesouvunos (35 kilometers northeast west of Kozani) German soldiers were shot at from this village and from the neighboring settlement of Selli with rifle and machine gun fire. In accordance with an order of the Division these villages were handled more energetically on 23 October than was the case on 15 October. Both localities were burned down. The male inhabitants between 16 and 60 years of age (142 persons) were shot, women and children resettled. In the burning down of the villages Ano Kerzilion and Kato Kerzilion, as well as the villages Mesovunos and Selli munition still concealed blew up, although there has been another search for weapons and munitions, and although the inhabitants had repeatedly stated that they possessed no weapons or ammunition whatsoever.

"On 17 October one more of the Russian parachutists was rendered harmless by energetic action of the guard on the Strimon bridge in the direction of the Saloniki, Seres highway into Zilofon (20 kilometers northwest of the Strimon bridge named Sabone.) On 19 October one troop carrier of the Navy was shot at by bandits on the Seres Saloniki highway about 8 kilometers south of the Strimon crossing, in which 2 sailors fell, and the third was wounded.

As direct revenge measure 13 Communists were hanged on 20 October beside the highway. It can be assumed with safety concerning the villages Kizonia, Kliston, and Anbelofito (10 kilometers northwest of Evangelistria) that they likewise served as retreat for bandits. The 3 villages were levelled on 25 October. The male inhabitants between 16 and 60 years (60 persons) were shot, women and children were resettled farther away."

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"The energetic assault of the units of the Division against the bandits doubtless makes a considerable impression the population. In some villages defense units armed with axes are organized which prevent the presence of foreign and suspicious elements and are supposed to report them. On 20 October two men suspected of being members of Communists bands, were delivered over to troops of the Division

from the village of Efkarpia from the vicinity of the devastated localities Ano Kerzilion and Kato Kerzilion."

Then the report is again signed by a Major and General Staff Officer and it is indicated that it has been seen by the Major General and Division Commander.

And then there is a Situation Report No. 3. This is dated 21 October 1941 and concerns the inner political situation in the Divisional area and the neighboring territories for the week 13th to 20th of October 1941.

"Neighboring Territories," under the heading, "Old Serbia":

"The losses of the insurgents amounted to about 4300 men in the report period. Furthermore, 1736 men and 19 women were shot as reprisal measure for the attack on Kraljev. Total losses of the enemy up to now: 9605 dead."

And I would just like to direct the Court's attention to the figure "1755" which we have seen in the report of the 717th Division, the report of the 65th Corps, and also in the Boehme order.

Then the report with reference to the operation of bands, the operations against the bands. "The operations against the bands in the area West of the Strimon estuary mentioned in Situation Report No. 2 were carried out on the 12th of October and on a larger scale on the 16th and 17th of October. The bandit camps were found empty."

And then they again recite the operations with reference to the villages of Ano Kerzilion and Kato Kerzilion and the shooting of one Greek and the houses of band members who were not present in the village being burned; and then down farther "12 houses of absent band members were burned" in the villages of Zenvohori and Dafni and "the 220nd Engineer Battalion concluded the operation on 17 October.

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The villages Ano and Kato Karzilion which had been proven to serve as a support point for the bands were levelled"; and we have again a reference to the people who were killed in the prior report, the same figure, "a total of 207 persons were shot to death, the male inhabitants between the ages of 16 and 60."

And then the Division Commander recites again the acts with reference to the attack on the 19th: "a passenger car of the Navy Commandant Saloniki was attacked by a band. A Naval Sergeant and Corporal were shot to death thereby and a sailor was wounded. In reprisal 13 Communists were hanged at the locality of the attack on 20 October."

And then the next report is one for the 28th, again giving the inner political situation in the Division area and the neighboring territories from 21 to 28 October, is a continuation of the prior report. It's somewhat more in detail. It takes up the activities of the Serbian insurgents. They were "still strong in the period of the report."

"Of special note in the way of sabotage acts are explosions of road bridges, power works, and rail installations among them the main railway Belgrade-Nis twice. The cleaning up actions in the area around Zajecar, Krusevac - Kraljevo - Cacak - Kragujevac, at Pozarovac, south of Belgrade and in the southern part of the bend of the Sava were continued partly under employment of Stukas and parts of the Hungarian Danube flotilla. In these the insurgents lost 1354 dead. In addition to this a blockade zone for the civilian population was created on both sides of the highway Krusevac - Kraljevo in a width of 3 kilometers. The transfer of the population situated within this blockaded zone is being carried out. To safeguard the main line Belgrade Nisch at 11 important objects a company each will be on permanent duty. At these points blockhouses, wire and other barricades will be constructed.

"The lasting impression of these operations on the resistance groups is characterized by the fact that for the first time an insurgent detachment"--if your Honors will bear with me a moment, I want to refer to the original; I don't seem to find it -- "insurgent detachment of 50 men presented themselves with their weapons to the Serbian Gendarmerie with out fighting.

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It remains to be seen whether this was only an isolated occurrence or whether this was the beginning of the decline of the insurgent movement."

Then with reference to bands: "The villages, serving as bandit strongholds, Mesovunos and Selli, were levelled to the ground on 23 October 41"; and then it again recites: "The male population of these villages between the age of 16 and 60 years," and the number of persons shot and the Resettlement of the balance.

Then the next paragraph again recites the same figures with reference to 67 persons between the same ages and the resettling of women and children.

Turning then to the report of 10 November, the last page of Document [NOKW-1043](#), which is page 102 in the German and 150 in the English, this is a report of the period 29 October to 10 November:

"In cooperation with the Secret Field Police the 382nd Infantry Regiment carried out raids on 31 October and 1 November in the area of Nigrita. 97 persons were arrested who have been active as Communists. Among the arrested there were also two bandits who after having been interrogated were shot to death on 1 November 41. The other 95 Communists were brought to the concentration camp Saloniki. Besides there was arrested on 2 November 41 in Nigrita a leader of bandits who was used by the 382nd Infantry Regiment as leader for the raid in the area of Kastanohori on 3 November. After the raid was over he was hanged to death on 4 November 41."

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MR. DENNEY: And then turning to the last document which is in this book, page 103 of the German and page 151 of the English, Document [NOKW-1017](#), offered as Prosecution's Exhibit 112. These are excerpts from activity reports of the 704th Division, which was one of the divisions under the command of the 65th Corps and, as the note on the cover sheet indicates, from the beginning of October to the

end of December 1941 it remained under that command. The 704th here reports for the 2nd of October 1941, with reference to Valjevo:

"Jagdkommando 1st Battalion, 724th Infantry Regiment, 3rd Battalion 749th Regiment, ride to the relief of the raided convoy, 23 kilometers before Kragujevac on the road Belgrade, Topola, Kragujevac. 1 person blown to bits, severely wounded, 21 mutilated load found."

MR. DENNEY: If your Honors recall, this is the earlier report that we had at the beginning of this book. "1 house set on fire, all Serbs arrested in surroundings shot to death." And then they cite a Corps Command order of 13 October, which is Ia No. 908/41 in the Corps Order Book. This is exhibit 92; in this book it appears on page 152 in the English and on page 41 in the German. That, if your Honors recall, was the teletype order from the 65th Corps to the various units, and I believe it will be recalled that in the English every line was printed twice. It was an order from the 65th Corps to its subordinate units, and the Division made this entry about the order. They were stationed at Valjevo on the 13th of October 1941:

"Corps Commando orders: From now on for every soldier fallen in combat or murdered, 100 prisoners or hostages are to be shot to death. For the purpose there are to be arrested immediately in every Headquarters area as many Communists, Nationalists, Democrats and Jews as can be guarded without endangering the fighting efficiency. The purpose is to be made known publicly as well as to those who are to be arrested and their relatives. Reports about the shootings and arrests are to be made in the Daily Reports."

And then the Division passing the order down. Their order No. is 517/41, and they sent it down on the 20th.

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"The Division orders: in the future wounded German soldier or German National 50, and for every killed or murdered German soldier or German National 100 Serbs are to be shot to death.

(signature)

Borowski" "And then of the entry of the 22nd, two days later 50 Jews and Communists shot to death as reprisal for the soldier wounded during the raid on the armored train near Iverac on 20 October.

The Division reports number of arrested and shot to death during the period from 18 to 27 Oct. 41: 18 Oct 41 - 88 arrested 22 Oct 41 - 50 shot as reprisal for a wounded German soldier. It is submitted as the report of the entry for five days prior. 27 Oct 41 - 38 arrested. 9th Company of 433rd Infantry Regiment shoots to death Jews and gypsies in Belgrade as reprisal for German soldiers killed and wounded."

"The Division reports for the period from 27 October 41 to 7 November 41 that on account of replacement by the 342nd Infantry Division and ordered transfer no exercises were held outside the Headquarters and that arrests in Valjevo, as well as in Belgrade were carried out by (handwritten) troop

units, not subordinated to the Division. The number of those shot to death by the 734th Infantry Regiment in Belgrade is 101.

" 29 Nov 41 Posarevac. The Division reports to Corps Command LXV that 50 were shot to death as reprisal measure, there remained therefore 38 of 88 hostages.

" 8 Dec 41. Staff of the 19 Bitol Cetnik Group reports: on 15 Nov skirmish between 250 Cetniks with 9 machine guns near Salakovac 7 kilometers southeast of Pozarevac, and 30 Communists. Enemy 8 dead, 2 severely wounded.

"On 16 Nov near Sapina, 15 kilometers southeast of Pozarevac a Communist band of 50 to 70 men dispersed. Enemy losses: 4 dead, 4 Communists taken prisoner.

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"On 17 Nov 41 march to Gesljeva Bara, 23 kilometers east of Pozarevac, during march in small combats 12 Communists shot to death, a courier taken prisoner. The house of the mayor who cooperated with Communists set on fire. 1 Communist in Makei arrested and killed.

"On 18 Nov march to Srednjevo, 23 kilometers west of Pozarevac.

"On 21 Nov march to Vel. Gradiste, 21 Communists shot to death, 4 light machine guns, 1 heavy machine gun, 100 rounds ammunition, 50 hand grenades captured. And still further down, 20 Communists arrested, slaughtered and thrown into the Danube.

"On 25 March to Golubac, on the way 45 Communists shot to death, 10 wounded and killed. On 29 Nov in the village of Dobra, 28 kilometers east of Golubac on the Danube, 4 Communists leaders arrested who were sent to Belgrade."

MR. DENNEY: I now have the document which was marked as 110-a for identification, and I will ask that the Court turn back to page 139-a of the record. I hand the Counsel for Defense eleven copies of the document, and three for your Honors, one English and one German copy each for the translators and the reporters. This is the document to which reference was made earlier, The original bears the stamp of the 65th Corps, and the original is signed. It is a report from the 717th Infantry Division to its higher command, the 65th Corps. The report is dated 7 November 1941 and recites the subject as being "Results of the Operations of the 749th Infantry Regiment in October 1941". At the time, the 749th Infantry Regiment, as the Court has seen from Exhibit 109, was part of the 717th Division. And it was received on the 8th of November by the 65th Corps. The letter is addressed to "Corps Command for special assignment LXV."

"Infantry Regiment 749 reports the following results of the operations in October 1941:

1. Enemy losses: Dead 5073, among those 4300 as reprisal for soldiers wounded and killed in action. Prisoners 797 also shot, 5 hanged.

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2. Own losses: dead 50 missing 4 wounded 92 For the Division Command:

signed: Hosterbath"

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DR. LATERNSEER: Mr. President, I must object to the manner in which this document is used. This order consists of one page of three numbers, not two, as the Prosecution implies. He read only a part of the document. Just the third part, which gives the document a special significance, shows the extent and nature of the partisan warfare, and it would give the Court a special picture. It was omitted by the Prosecution. I think there is a limit to how one can use documents. In my opinion the limit was reached when the defense has to protest against the partly using of a document. In such cases in order not to give a false impression, the full document must be made available to the Tribunal. Mr. President, where is the limit to be? One would omit sentences in case the Prosecution's standpoint should be approved. One could omit words. For instance, if the point of view of the Prosecution is correct, one could omit a "not", which would completely change the meaning of the document. The limit is there when the Defense objects to parts of the document, the Prosecution must be obliged to submit the whole document. In this case it is a very short order, and so this demand is not unreasonable. In No. 3, the booty captured comprises a whole list of items which indicate the nature of the fighting between the German troops and the insurgents.

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MR. DENNEY: Dr. Laternser may read in the balance of the order. It just lists what they captured. Our good faith is shown by the fact we gave them the whole document. We have no objection to his reading it into the record at this time.

THE PRESIDENT: It being agreed by the prosecution that the matter to which Dr. Laternser objected may be read into the record, Dr. Laternser may so read it at this time if he so desires.

DR. LATERNSEER: Very well.

MR. DENNEY: Unless it is desired that the interpreter read it.

THE PRESIDENT: Very well.

INTERPRETER von SCHOEN: Very well.

MR. DENNEY: I would like to state for the record, at this time that any time there is any part of a document which we have not read into the record, if the defense counsel will just indicate that he wants it read in, we have no objection. The court being, that, as the court knows, and I believe defense counsel, the translation facilities are somewhat pressed, and we do not try to have translated any more than is necessary. However, we always furnish defense with the complete document from which we translate an excerpt, and if they will just indicate what they would like to go into the record, I am sure that we will make every effort to comply with it.

THE PRESIDENT: The interpreter may read that portion of the document which has been commented upon.

INTERPRETER von SCHOEN: "67 mines; 3 machine guns; 48 rifles; one sub-machine gun; 8 pistols; 3 artillery carriers, with over 300 rounds of ammunition; over 30,000 rounds of infantry ammunition; 200 grenades; 31 bicycles; one typewriter; 31 blankets; 2 saddles; one field kitchen; 2 native vehicles; 3 muskets; telephone cable with 5 telephones; explosives; many hand grenades, food; 95 cattle; 116 pigs; 38 calves and 23 sheep."

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THE PRESIDENT: Does that complete the portion that is claimed is not included in the translation furnished in the document book?

I am making the inquiry of the interpreter.

INTERPRETER von SCHOEN: Yes, your Honor.

MR. DENNEY: In order that the record may be clear, if your Honors please, that is all of the document. That is all there is to it.

Now we have some additional documents to be inserted at the end of this document book. The first one is, -

Before we continue, I might ask of the representative of the Secretary General's office to make sure that the letter "a" has been stricken from Exhibit 110 in evidence. The last document which is offered. It was marked 110a, for identification, and now, if your Honors please, I believe it is 110 in evidence.

THE PRESIDENT: The record may so show.

MR. DENNEY: We now hand to the Secretary General's representative, the first document which we offer as Exhibit 113 in evidence, it being document [NOKW 1665](#), and three copies in English to your Honors, 11 copies in German to counsel for the defendants, English and German copies for each of the Court Reporters and the Translators. We ask that this be inserted in Document Book 3a, at the end of the book, and in the English that it bear the page numbers, 157;

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for page 1; which goes through to the one line; under the entry of October 3, page 158 for page 2; 159 for the third page and 160 for the fourth, the certificate of the translator.

If Dr. Laternser will be kind enough to indicate the last page in the German book 3, we can assign page numbers to that.

DR. LATERNSE: 106 is the last page.

MR. DENNEY: The first page in the German copy will be 107, second 108, third page 109. This is an extract from the war diary of the 18th Mountain Corps which was under the Command of the Wehrmacht Commander southeast, as is recited on the cover page, and also the 12th Army Headquarters for the 18th Mountain Corps, which was commanded by the deceased Boehma, and he also was the officer who held the post of Plenipotentiary Commanding General Serbia.

There is an entry of 19 Oct. 1941, which states, "Order to shoot 50 hostages in retaliation for the wounding of a soldier of 220th Anti-Tank Battalion, and then report to Wehrmacht Commander Southeast, 12th Army Headquarters on arrest of hostages.

Then under the date of 19 October, your Honors will recall that we have been concerned in the earlier pages of this book with the incident at Valjevo, and here it recites an order to the Corps Commander No. 65th concerning the execution by shooting of 2200 serbs in retaliation for 10 German soldiers killed, and 24 wounded from units encircled at Valjevo.

On the date of the 33rd, the Corps'diary recites the report by the 2nd Battalion of the 521st Army Signal Regiment on execution by shooting, and your Honors will recall that report which was from the Major who was the signal officer, and enclosed the report of the Lt. who recited the shootings which took place on the 9th and 11th of October 1941.

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DR. LATERNER: Mr. President, I should like to point out that what the prosecution has just submitted is merely an assertion which has to be proved. What this report referred to is the document of the 2nd Signal Regiment; what the prosecution has just said is merely an assertion.

MR. DENNEY: If your Honors please, I was especially careful in this reference to it, to just direct the Court's attention to the earlier documents, just in connection with the entry from this diary where they recite those instances. I especially directed the court's attention to the earlier documents which the court has seen were in similar numbers, with reference to people involved and similar units by regiment and battalion number were offered and received in evidence.

THE PRESIDENT: You are now referring to the entry of October 23, 1941.

MR. DENNEY: Yes, your Honor.

THE PRESIDENT: And this statement as here incorporated, is so incorporated in the original document?

MR. DENNEY: If your Honor pleases, I can examine-

THE PRESIDENT: I mean in this diary we are referring to here?

MR. DENNEY: I do not know the exact words are incorporated, but the substance, it is submitted, your Honor, is the same. I have not checked them for a verbatim reference, but I see it is now approaching the time for adjournment.

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Perhaps if the Court sees fit to adjourn at this time, I can check them during the noon hour and advise the court when we reconvene.

THE PRESIDENT: Very well, the court will recess at this time until one-thirty.

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AFTERNOON SESSION (The Tribunal reconvened at 1330 hours, 21 July 1947)

THE MARSHAL: The Tribunal is again in session.

DR. MENZEL: (Counsel for the defendant Kuntze): Your Honor, before the session begins, I would like to report the following: Dr. Marx for the defendant General Dehner is sick. He has asked me, during the session, to represent him. I would like to ask if this is an order.

THE PRESIDENT: There is no objection on behalf of the prosecution, is there?

MR. DENNEY: No, if Your Honors please.

THE PRESIDENT: Inasmuch as the defendant will be represented by counsel through this counsel now appearing, the Tribunal has no objection and you may do so.

DR. MENZL: The German translation didn't come through. Thank you.

THE PRESIDENT: You may proceed, Mr. Denney.

MR. DENNEY: If Your Honors, please, just before the recess we were, at the request of Dr. Laternser, endeavoring to connect the extracts from the 18th Mountain Corps War Diary with the prior exhibits. Your Honors will recall the 18th corps was Boehme and the Plenipotentiary Commanding General in Serbia was also Boehme. The entry under 19 October, the second portion which is contained on page 157 of the English is in substance the same as the order which is Prosecution Exhibit 84 in evidence at page 22 in Document Book III. Your Honors will note that the numbers 2200 arrested Serbs will be shot for 10 killed and 24 wounded German soldiers. That appears in Exhibit 84, the order; and the Diary entry bears the same notation.

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The order to Corps Commander Number 65, concerning execution by shooting of 2200 Serbs in retaliation for 10 German soldiers killed and 24 wounded. In Diary entry, exhibit 113, it says "from units encircled at Valjevo", and the order, Exhibit 84, "members of troop units besieged in Valjevo." The entry of 23 October '41, which appears on page 157 of Exhibit 113 in evidence; Your Honors' attention is directed to Exhibit 80 in evidence which is the report of the lieutenant of a company of the 521st Signal Regiment, the Second Battalion, and the commanding officer of the Second Battalion then reports to the Senior Signal Officer, and in addition to the Plenipotentiary Commanding General in Belgrade. An at page 6, the distribution list of the Major's report, the commanding officer of the second Battalion, 521st Regiment. And the Distribution list as was pointed out to Your Honors at the time contains the 12th Army, Plenipotentiary Commanding General, 18th Corps which is Boehme; and also the 65th corps. And the entry of 23 October 1941 in the exhibit under discussion, the unit recited there, Second Battalion, 521 Army Signal Regiment, appears.

Turning then to page 158 in English, still in Exhibit 113 in evidence, still under the date of 23 October, conference with the Chief of Military Administration about the shootings at Kraljevo and Krajojevac. And the next day another conference; this time the State Councilor Turner on the 24th about occurrences at Krajojevac and Kraljevo. The 31st October recits an order to the Town Commandant of

Belgrade to shoot 200 hostages. The date of 3 November, a Lt. Krambacher saw the Counsel for War Administration Dr. Kiesel, about supposed arbitrary shootings by units at Kraljevo, and then it says that the 822 District Headquarters did not participate in the selection.

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And I don't think we need to pay any attention to the next notation.

27th of November of '41, order to list by name hostages to be shot; and then the 29th -- or 28th, a call from Captain Schuster: "What is to be done with Mihailovic Checkneks, a reception camp at Belgrade, a transfer to concentration camp to Sabac ordered. The 30th, an order about reporting a discussion of retaliation measures. The first discussions between 1st Lt. Krambacher and Inspector Belderman concerning reports on hostages by the Administrative Staff in addition to the ten day reports. May I see the original, please?

These next pages were taken out of order when the document was translated and the next entry should have appeared earlier.

4 October, verbal request to the Chief of the Military Administration in Serbia, an order that 342 Corps, Signal Battalion 449 by shooting prisoners in Sabac and Belgrade in retaliation for murders of 21 German soldiers at Krajojevac on 2 October, and that, it is submitted, refers to the prosecution's exhibit 78 in evidence; and it is to be noted in this connection, page 1 and 2 of the English text, that the penciled note which is on the original, which has been offered, that is on the copy which has been offered, states only "verbally ordered" and also here, under 4 October 1941, it says "verbal request", and the units again are the same 449. And the shooting details from the 342th.

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and here again the 342 appears in Exhibit 113 as it does in Exhibit 78, and the town Brenolvac is mentioned here as it is in the first sentence of Exhibit 78.

Turning then to Exhibit 113, the last comment under 30th October, "ordered the town commandant of Belgrade to shoot 200 hostages." That is with reference to this last order, it is apparent that in the entry for 31 of October, are the same; and from the original it appears that the reservation is for the 30th. Therefore, the prosecution withdraws that section of this document which appears under date of 31 October on page 158. There is only one order to the town commandant of Belgrade to shoot 200 hostages, not two.

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Then we ask that the next document which is NOKW1662 be inserted at the end of the record as Exhibit 114. In the original there are two pages which will be pages, English 161 and 162, and if Dr. Laternser would indicate the last page of Exhibit 113 in the German, it will become 110 and 111. Three copies to the court, one each in German and English for the reporters and the translators, eleven copies in German for the defense counsel, and the original for the Secretary General. Will you get the original back for me a minute?

DR. LATERNER: Your Honor, I object to the introduction of this document. It is not signed. It has no proper heading from which I can see where the document comes from. I would also like to point out to the Tribunal that the pages -- at the bottom page 42 and the next page is number 43. It seems to be completely taken out of its proper connection and I object to the introduction of this document.

MR. DENNEY: I would like to point out, with reference to the numbers that are at the bottom, these are just numbers that are put on in Washington when the documents are sent over so that they can identify them. The 42 and 43 which appear at the bottom here.

It is conceded that the document is not signed. There is some sort of a mark at the end of it but again it is offered for what it is worth and it does recite a communication to someone whoever drafted the document, an inquiry by the Commanding General Southeast, and it gives the diary number of that communication in the heading.

THE PRESIDENT: It is apparent that this is one of the documents which was taken at the close of the war and is a war document or at least found in the effects of the Germans.

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It will be taken for such probative value as the court cares to give to it, and the objection is overruled.

MR. DENNEY: At the top, "The department of National Defense, 21 December 1942. Subject: Use of troops of Allied states for security of Serbia." Then it says "Answer to the teletype of Wehrmacht Commander Southeast of 20 December 1941," and of course at this time the defendant Kuntze had taken over as Wehrmacht Commander Southeast. "Department National Defense" -- then it gives the number "2219/41 Top Secret."

The proposal of the Wehrmacht Commander Southeast is based on the instructions of the Department for National Defense that industrial areas important for German war supplies shall not be occupied by alien troops. In the opinion of the Dept. for National Defense/IV this principle ought to be adhered to, if we want to continue to extract badly needed raw materials and food supplies from Serbia.

Experience up to now shows that from the areas occupied by allies in essential economical advantage does not result for Germany. A separation of the administration and economical exploitation from the security does not appear expedient as the German administration in Serbia, small in numbers relies almost exclusively on troops and indigenous police for its executive. A German administration in an area occupied by foreign troops would lead to troubles in the Balkans still greater than those in the Ukraine.

In order to continue to exploit for Germany, the Serbian areas important for the war effort, we propose to follow in general the proposal of the Wehrmacht Commander Southeast, concerning the limits of the areas of Serbia to be handed over to foreign troops.

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In modification of the pre-requisite required in Para. 1b, it is to be settled, that the areas occupied by the Bulgarians are also to be administered by the, reserving the final fixing of the borders.

And then the last document which we wish to append to this book is [NOKW-1661](#) which will become Exhibit No. 115. I beg your pardon, that is withdrawn. I was in error; that seems to be one that goes in the next book. There was one document which we passed on Friday to which I would like to call the Court's attention. It is NOKW1378 and appears on page 69 of the German and page 93 of the English. This is your report which was, I believe, the Secretary General has the original copy of that. We didn't receive it. It is not in Court?

Well, perhaps we'd better wait until a later time to refer to it. That concludes the Third Document Book, your Honors. We will now proceed with Number Four.

MR. FENSTERMACHER: If your Honors please, before proceeding with the presentation of the documents in Document Book IV, we should like to insert one document in Book II. I have eleven copies in German for the defense counsel of [NOKW-1661](#) which we ask to be marked Exhibit 40-A, three copies in English for your Honors -

THE PRESIDENT: What was the exhibit number given it?

MR. FENSTERMACHER: Exhibit 40--A, your Honor. One copy in English and German, each, for the stenographers and court interpreters, and the original document for the Secretary General.

Your Honors will recall that Exhibit No. 40 in Document Book No. II, page 20 of the English and on page 18 of the German, referred, to the execution of twenty Communists in retaliation for three German soldiers killed in a surprise attack on the mine of Rtanj.

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Exhibit 40 was an extract from the War Diary of the Commanding General in Serbia. The exhibit which we are now concerned with, Exhibit 40-A, ties in with that earlier exhibit. We ask that it be given the page numbers 20-A, 20-B, and 20-C in the English and 18-A, B and C in the German. This is a report from the Military Commander in Serbia, Administrative Staff, dated Belgrade, August 9, 1941, to the OKW Department National Defense Wolfsschanze via Wehrmacht Commander Southeast. Its subject is a telephone call from Lt. Col. von Trippelskirch to Ia Major Fentz.

Colonel von Stockhausen, Commander of the Administrative Sub-area Headquarters in Uzice, had ordered the shooting of a great number of Serbs in reprisal for an attack on German police drivers, during which one man was killed and one man was kidnapped, near the locality of the incident. A police company collected 81 Serbs from the surrounding villages and from the fields and forced Serbian Gendarmerie to shoot them. The consequence of this incident was a temporary Governmental crisis and an effect of shock on the population. This affair could, be straightened out almost immediately so that peace was achieved through this local incident. Contrary to the report of the Foreign Office the situation is very tense. Sutable measures are under way.

(signed) Dr. K i e s s e l The next page, 20 b in the English and 18 b in the German, is a communication from the Commandant of the Administrative Sub-Area Headquarters, from Freiherr von Bothmer, to the Commander Servia, Command Staff, and it is dated Nis 27 August 1941 and the receipt stamp of the 28 August 1941 of the Military Commander in Serbia.

It appears in the upper right hand corner of the document. The subject is: Attack in Rtanj.

Belgrade Enclosed please find report of the 3rd Company of the 920th Local Defense Battalion concerning the attack in Rtanj.

At the same time Administrative Sub-Area Headquarters requests orders for 15 to 20 Communists who are in jail as hostages here in Nis to be shot dead and hanged in Rtanj in answer to the shooting of German soldiers. The application has been delayed up to now because the deputy of the Security Police has recently been absent almost constantly. Therefore the investigation could not be concluded as to whether the people who were turned over to us, actually are Communists. Caution is indicated since again and again people who had nothing to do with the matter are brought in because of denunciations based on vengeance and the like.

The Commandant of Administrative Headquarters In the lower left-hand corner of the document there is written in hand this notation:

Hostages may be shot anyhow. Why this inquiry?

On page 20 c of the English and page 18 c of the German, we have another communication referring to the same matters. It is from the Commander Serbia, Command Staff, dated Belgrade 2 September 1941. Again the subject is: Attack on Rtanj, and the reference is to the preceding document. The communication is to the 809th Administrative Sub-Area Headquarters, Nis:

"Under proper conditions, hostages may be shot or hanged without further ado.

"Consequently, this also applies to the 15-20 hostages detained there as a reprisal measure for the shooting of German soldiers during the attack in Rtanj.

"For the Commander Serbia, The Chief of the General Staff, signed Granvenherst, Lt. Colonel, General Staff Corps."

This document, if Your Honors please, is offered in reference to particularly 5 b of Count I of the indictment.

Passing now to Document Book 17. Document Book 17 is a collection of orders and reports from various subordinate units to higher headquarters. There are, for example, reports from the Division Subordinate to General Boehme to Wehrmacht Commander Southeast, as well as reports from various units subordinate to General Bader as the Commander in Serbia. In general these reports are of an operational or tactical nature. We have extracted from those reports only those portions which concern matters in the indictment and even as to those extracts which we have translated I think it is not necessary to read in their entirety all of those references but simply to point out to Your Honors that those from a Prosecution standpoint seem to need particular attention.

The first document is on page 1 of the English and page 1 of the German, Document [NOKW which](#) becomes Prosecution Exhibit 115. This is a series of daily reports from the 342nd Infantry Division to General Boehme as Plenipotentiary General in Serbia. The reports, in all cases, are signed Ia, 342nd Division and are addressed to the Plenipotentiary Commanding General in Belgrade. They reported 24 September 1941, and concerns the mopping up of Sabac. The participating units are listed and then the report continues:

The mopping up operation was connected with the occupation of the Chemical Works and the settlement there which were outside of the former security line.

The complete operation is not yet concluded.

The selection of the men, which has happened until now without friction, about 4000 men up to 1700 hours who are being kept temporarily in the collection camp west of the bridge Sabac.

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Searching for arms and ammunition has started, but up to now has been without results.

Neither during the occupation of the Chemical Works we encountered no enemy, nor at first during the searching of the adjacent settlement. At 1600 hours the enemy opened violent rifle fire from covered terrain south and southwest of the settlement on the troops in the settlement and were answered by heavy artillery-, anti-tank-, machine gun and rifle fire.

At present we hold Sabac, the Chemical Works and the settlement, the operation will be continued tomorrow.

Own losses are not reported from the mopping up and combat operations up to now.

This morning 2 civilians shot dead who had been encountered in the fields with weapons in their hands.

The daily report of from 24 to 25 September 41. Course of the operations was given. I direct Your Honors' attention only to the fifth line of paragraph a :

"During the night 4 enemy reconnaissance groups were pushed back on the South and West fronts of Sabac."

Under the paragraph beginning "Impression":

"Focal point of enemy forces in difficult terrain to survey to the south of Sabac. The strength can not be estimated. Up to now only rifle fire. The population is composed, without any considerable insubordination."

Continuing on page 3 of the English and page 3 of the German: The daily report of 24 to 25 September under "Prisoners and Booty":

"3500 - 4000 male inhabitants of Sabac arrested. Delivery of arms up to now considerable. Exact enumerations in progress.

"Losses: Own losses of the unit up to now 5 wounded. In addition 1 racial German dead.

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On the enemy side: 4 dead. 39 Inhabitants shot dead."

The daily report of 25 to 26 September 41: I call Your Honors' attention only to paragraph e on page 4 of the English which is also on page 4 of the German:

"Prisoners and Booty: Arrested 4410 men.

"Arms found 1 Machine Gun model 34, found in a cornfield.

1 Rifle an indefinite amount of ammunition.

Wounded of the Division: the Commander of the 9th Company of the 698th Infantry Regiment and 1 man also 1 man of the II. Battalion of the 750 Infantry Regiment. Losses on the enemy side not established.

6 more inhabitants shot dead."

The daily report of 29 to 30 September 41: I think here again I need only call Your Honors' attention to the paragraph under "Prisoners and Booty " which appears on page 5 of the English and on page 5 of the English and on page 5 of the German:

"The unit reported 1870 prisoners, 1 Machine Gun and several rifles with ammunition. A vehicle belonging to the baggage column was captured in the area of Pricinovic.

"Of the prisoners 190 men could be selected by interrogation as forming a communist group at the village of Uzveco.

"These men will be shot today.

"Losses:

"Own unit 2 dead by own fire during the night.

Of the enemy 84 men shot dead."

Turning next to page 6 of the English and page 8 of the German the report of the Major General and Commander of the Division, Dr. Hinghofer, to the Plenipotentiary Commanding General in Serbia.

Subject: 10 day reports and monthly reports. This report of the 29th of September 1941:

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In compliance with order of 23 September 41, during the period from 24 to 27 September the male population of Sabac between the ages of 14 and 70 years was evacuated by the division.

During the evacuation of Sabac and the mopping up of the Save/Drina river bend the division suffered 3 dead and 20 wounded.

On the enemy side 830 men were shot dead and 8400 were arrested and taken away.

I direct Your Honors' attention only to the comparison of the German losses and the enemy losses.

The daily report of 3 to 4 October 1941. Again I think the only paragraph important is that under "Losses" which is on page 7 of the English and page 8 of the German:

"Losses: Own unit: none. Of the enemy 10 men shot dead."

Continuing with the report of the Division of 9 October 1941, on page 7 of the English and page 8 of the German. Subject: 10 day report concerning Prisoner and Booty.

"To the Plenipotentiary Commanding General in Serbia Quartermaster Branch. Belgrade.

"During the period from 24 September to 9 October at 1600 hours the enemy suffered the following losses:

"83 Fallen in Combat; 1127 Shot dead; 17420 Prisoners."

Signed For the Headquarters of the Division, Second General Staff Officer Captain.

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On page 9 of the English and page 9 of the German is a table showing the losses of the division, the losses of the enemy, and booty for the period from 24 September to 9 October inclusive. Under "Own losses", you will note number "23 wounded", and "2 dead". Under "Enemy losses", no wounded listed, 20 fallen, 1126 shot to death, 20,575 captured. The table continues on page 10 of the English, which is page 9 of the German; and the totals at the bottom of the page are as follows: Own losses, wounded 26, dead 3. Enemy losses: wounded 1, fallen in combat 88, shot to death, 1,127; captured 21,440.

Continuing on page 11 of the English and page 11 of the German, the Divisional report of the 13th of October 1941, daily report of 12-13 October '41.

"Own intentions: Systematic combing out of the Iverak-and the Cer-mountains, preparation for the attack against Krupanj. About 100 civilian prisoners will be shot dead as reprisal measure today." I think we may skip now to page 12 of the English and page 13 of the German.

The report of the 342 Division for 11 November 1941:

"Since 10 November 41 the 697th Infantry Regiment is located in the area Ub, the 698th Infantry Regiment, after transient billets in Valjevo, in the area Lajkovac, the 699th Infantry Regiment and the Division Staff in Valjevo; no contact with the enemy.

On the roads Sabac, Valjevo and Sabac, Ub no new destructions.

Battle Headquarters: Group 697 Ub Group 698 Lajkovac Group 699 Valjevo Group 342 Artillery Regiment Valjevo Division Staff Valjevo Of the 160 shootings ordered in the radio message of 7 November 1941, 1830 hours 129 were carried out as there were no more hostages available in the Sabac concentration camp."

The Prosecution's next document is on page 14 of the English and page 14 of the German, Document [NOKW-1060](#), which is prosecution Exhibit 116.

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This is a series of reports of the 717th infantry Division to General Bader, Commander of the 6th Special Corps Command. The report is dated the 5th of October 1941. The receipt stamp of the 6th Special Corps Command, showing it received the report on the 6th of October 1941 appears on the top, right-hand portion of the document. The subject is employment in area around Rekovac. "Reports that we have received state that there are fairly large groups of bandits with well equipped camps in the area around Rekovac (36 kilometers northwest of Krusevac). For the purpose of combatting the bands and the destroying the camps the Division intends to employ the following:" and then follows the operational detail with which we need not be concerned at this time.

Turning now to the bottom of page 15 of the English, which is also page 15 of the German: "Judging from past experience it is to be feared that this assault may possibly be of little effect – that is, the bands may be driven away, but not annihilated. It will be necessary to give the troops clear instructions as to what is to be done in such an event. The instructions may be: 1. Propaganda and menace; 2. incendiaries; 3. arrest of hostages; 4. arrest of entire male population except children and men of old age. Proposal of the Division: Point 21 and Point 24.

To 1.)

Propaganda speakers of the Serbian Government will accompany the troop and enlighten the population in a propagandists way with a simultaneous threat that the most radical means will be used (extermination of whole communities).

To 2.)

When giving this order, approval of the execution has to be asked for in every case.

To 3.)

Statement of census for every community is requested.

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To 4.)

As the shooting to death of men not found with arms, does not appear expedient, it is proposed that they be taken prisoners. In this way it is guaranteed that no innocent ones are shot to death, that the guilty – after having hidden their arms do not escape, to take up arms again. Therefore one must see that the prisoners are taken away. Hereby we ask for orders and the approval of the Plenipotentiary General in Serbia, in so far as this is necessary for reasons of principle.

The necessary transfer of units for this operation into the area of neighboring Divisions, will be settled in direct agreement with the 714th Infantry Divisions.

It is requested that the persons designated (Security Service and Liaison Office) be committed to strictest secrecy on this matter. (signature) Hoffmann."

On page 17 of the English and page 16 of the German is another report of the 717 Infantry Division to the 65th Special Corps Command. The receipt stamp, 11 October 1941 appears on the document. The

report itself is dated 10 October 1941. "The last events have shown that the disturbances and destruction of communication lines (railways, roads, etc.) brought on by insurgents and bands could up to now, not be adequately prevented. The reasons for this are known. It has been confirmed that especially in the sector 749th Infantry Regiment the adversary is advancing from west to east according to plans and trying to encircle Kraljevo and to cut it off, all around, just as was done before with Cacak. Novacovic was already sighted on 5 October in Vrnjacka Banja at a conference of leaders and is now with several units near Alexandrovac and south of Kraljevo.

The enemy units are being led tactically correct (Serbian officers and soldiers!). Their fighting force and leadership has essentially improved. Roads important for us, railways, etc., have been destroyed according to plans in the area Cacak, Kraljevo, Kragujevac, Krusevac.

It can be assumed with certainty, that the bands - encouraged by the local successes they have had up to now - will now try to destroy our most important artery of communication:

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the railway and road Belgrade - Nisch - Salonika. In order to prevent this, it seems necessary, in addition to the measures of protection taken up to now to install an "obstacle zone" on both sides of the railway and road. This forbidden zone - on both sides of the railway line and road or around most important places (mines) 3 kilometers wide or with a radius of 3 kilometers - must be evacuated entirely (first of all at especially endangered spots) of all civilian population! It will be best to have the Serbian Government make the necessary decree. This area should be declared a "Combat Area" and is to be evacuated in the interest of the civilian population which does not fight and is not to suffer innocently. In view of the situation such an apparently severe measure is necessary. Such measures for example were also carried out with our own German population at the time of the west wall construction. Mines, must be placed around the most important railway bridges and tunnels! I already made such proposals orally at Corps Headquarters a few weeks ago.

Further measures - taking into consideration and employing the Balken customs, in my opinion, would be:

1.) The seizure of idle young men loafing about in towns and villages (Concentration Camp.)
2.) Establishment of a "Labor Service" by the Serbian government.
3.) Employment of Servian propaganda speakers and propaganda activity of the Serbian government (via the mayors and above all the heads of communities of the villages situated near our most important objectives) (possibly cars with loud speakers) as a measure of combatting Communist propaganda. These Serbian speakers should be obliged to follow the troops on every operation or this propaganda should be carried out by the interpreters of the troops themselves (the latter is not so effective).

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Contents:

Situation in Russia Situation in Serbia To emphasize that these momentary local successes of the bands can alter nothing with regard to final outcome of the war.

The entire Serbian people will now feel the might of greater Germany in all its weight. Now, whether Serbia will exist in the future or not, is dependent wholly on the behavior of all Serbs.

Threats of draconic measures in case of repeated sabotage acts or the like, whereby the complicity of the whole Serbian people is emphasized. The peasants must take steps for self-protection!"

Then, if Your Honors, please, in the margin by paragraph D, there is written this note: "To threaten is useless, only action." Continuing at the bottom of page 19 in the English, page 17 in the German.

"An example: In a village near Paracin the population capable of carrying arms was forced to join the bands. After they were armed they raided the bandits and killed 15 of them. They captured another 15. Other peace loving inhabitants were provided with the captured arms, a Gendarmerie Officer was requested who was immediately sent from Nisch to take over the leadership. The 2 enclosed "Articles may be of use to the propaganda speakers or interpreters.

Setting up posters and large billboards on which operations in Russia, number of prisoners taken etc. are indicated in Serbian. This has proved itself effective in the area of the Division!

Transfer of the arrested men to work outside of Serbia (Albania, Hungary and Bulgaria), this also at first only as a "threat"!

Influencing the women, especially with reference to paragraph 3 d and paragraph 5. Promise of immediate release of the arrested men, in case their cooperation leads to the arrest of bandits.

Imposing a war contribution.

Hostages especially priests and teachers.

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Ransom fees! This must also be brought to the knowledge of the peasants in the measure of propaganda. Appeals in newspapers, which they cannot read, are no good.

Work still more with agents and stool pigeons!

Reprisals against relatives of the Serbian prisoners of war who were "released" at a certain time.

Regulations for behavior in winter!

Preparations for the suppression of bandits must be made now. As experience has shown, bandits come out of their hiding places when the cold season begins, and go back into the villages where they spend the winter safely sheltered as "harmless peasants".

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"The bands who stay in the woods during the winter will give themselves away by their campfires or smoking huts and should be spotted in the great forest areas by airplane reconnaissance." The report is signed "Hoffman."

Continuing with page 21 of the English and page 19 of the German, we see the order of 16 September 1941 from the High Command of the Wehrmacht, signed "Keitel" which has already been introduced into evidence as Exhibit 53. The document here shows that the 65th Corps Command for Special Purposes received the Keitel directive on the 11th of October 1941. I think we need not read the Keitel directive at this time.

Beginning on page 24 of the English and page 21 of the German is a report from the Commander in Serbia, administration Staff, dated "Belgrade 1 November 1941" to the Plenipotentiary Commanding General in Serbia, Corps Command 65, and the Command Staff, Einsatzgruppe of the Security Police and SD. The subject is the "Arrest of Hostages", and the report is stamped received by the 65th Special Corps as of the 2nd of November 1941.

"The Einsatzgruppe of the Security Police and the SD was instructed, in cooperation with the Chief of Police of the city of Belgrade to arrest a number of about 700 representatives of the Belgrade population as hostages. The persons in question are nearly exclusively representatives of the intelligentsia, whose attitude in the past years was hostile to Germany and who for the greater part belonged to Free Mason lodges or are Communists. The operation will begin suddenly on Tuesday, 4 Nov. 41 at 2000 hours and will probably be terminated in the early morning hours. The arrested will at first be kept in concentration camp "Transit Camp Dedinje". Anxiety for the lives of the above will probably deter large groups of the anti-German population from any activity.

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"Nevertheless I believe that special care is to be taken during the days which will follow. In this connection I draw attention to the report of a reliable confidential agent of the Einsatzgruppe of the Security Police and the SD, according to which individual terrorist measures are being prepared by the Communists, directed against high military and political personalities of the occupying power."

The report is signed: "For the Plenipotentiary Commanding General in Serbia, The Chief of the Administration Staff, Turner."

Prosecutions next document begins on page 27 of the English and page 22 of the German. It is Document No. NOKW-891 which is offered as Prosecution Exhibit 117. This is again a collection of reports, this time from the 704th Infantry Division. The first report -- rather, the first document -- on page 27 of the English is an order from the 65th Special Corps Command to the 704th Infantry Division, a subordinate unit. The division's receipt stamp appears on the right hand corner of the document for the 16th of October 1941.

If your Honors will please note the code number of this order which appears right below the heading, it is "926/41." Those numbers will appear later in another connection.

The order refers in the first paragraph to the Keitel order of 16 September 1941 which has the code numbers "206/41". That, if your Honors, please, refers to the Keitel 50-100 order introduced as Prosecution Exhibit 53. This order of the 65th Special Corps Command also refers to an enclosed order of General Boehme as Plenipotentiary Commanding General in Serbia.

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The code numbers here again are important. They are "2848/41" which refers to the Boehme order of 10 October 1941 introduced as Prosecution Exhibit 88.

Continuing with the order: "Regarding order 2, Special Purpose Corps Command 65, in agreement with the Commanding General-Plenipotentiary in Serbia orders additionally:

"In the future, for every German soldier killed in action or murdered, 100 prisoners or hostages are to be shot to death; for every wounded, 50 prisoners or hostages are to be shot to death."

"For this purpose as many Communists and Jews as well as seditious elements camouflaged as being nationalistic or democratic -- particularly from out of the ranks of forest rovers - are to be arrested in each Command as can be guarded without endangering the combat strength. The reason for the arrest or the shooting is to be announced publicly and also communicated to the people arrested and their families."

"The number of people arrested and shot to death is to be reported on the 8th, 18th and 28th to Special Mission Corps Command 65."

The order is signed: "Bader, Lt.General of Artillery."

On page 29 of the English and page 23 of the German is the enclosed order of General Boehme of 10 October 1941, to which General Bader makes reference in his order to his subordinate, 704th Infantry Division.

The enclosed order of General Boehme has already been introduced in evidence as Prosecution Exhibit No. [88](#) and I think we, therefore, need not read it again at this time.

Your Honor will note on page 31 of the English and page 24 of the German at the bottom of the page the enclosed order of General Boehme was sent to the Wehrmacht Commander Southeast for his information.

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Continuing on page 32 of the English and page 25 of the German, we have the 704th Infantry Division showing its receipt on the 15th of October 1941 of a Boehme order dated 9 October 1941 which relates to the prohibition of negotiations with the partisans. This order, too, has already been introduced in evidence as Prosecution Exhibit 74 and need not, therefore, be read again at this time.

Turning to page 33 of the English and page 25 of the German, at the bottom of the page we have the order of the 704th Infantry Division, dated 20 October 1941, to its subordinate units and again it will be seen that the text of this order is almost identical with the language of the Keitel order of 16

September 1941, Prosecution Exhibit 53, the Keitel order as passed on by General Boehme on 10 October 1941 which is Prosecution Exhibit 88, and the Keitel and Boehme orders as passed on by General Bader on the 14th of October 1941, which is Prosecution Exhibit 117.

It can now be seen that the division passes on the same order to its subordinate units on the 20th of October 1941.

The only material in this order which is now found on page 35 of the English and on page 27 of the German. It begins with paragraph 5.

"In each single case of loss, the report of the Division must include whether and to what extent the reprisal measure has been executed or when it will take place at a later date. The independent units are to make an application for the shooting to death of hostages with the report.

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"Infantry Regiment and independent units will report to Division Ia on the 7, 17 and 27 of each month, the number of (a) arrested, (b) shot to death.

"The sentencing by summary and other court martials are in no way effected by the above directives. Reports under paragraph 6 will not include such arrests or executions."

Signed: "Borowski."

Continuing with this document on page 28 of the German, who have a report from the 2nd Battalion of the 704th Infantry Regiment, dated 23 October 1941. The report is sent to the 704th Infantry Regiment, its subject "Shooting to Death of Hostages."

Your honor will note, that the date of this report is 23 October 1941.

"The Battalion reports that 50 hostages from Valjevo have been shot to death by the 6th Company, 704th Infantry Regiment on 22 October 1941, because during a skirmish against bands near Iverak 21 October 1941 a member of the 6th Company, Infantry Regiment 724 was wounded by a shot in the head."

Signed: "Almer, Captain and Battalion Commanding Officer."

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On page 38 of the English, page 28 of the German, is a report from the 704th Infantry Division, as to the Special Corps Command, 65. The report is dated 27 October 1941, and the reference, Your Honors will note, is to the order of the Corps Commander 65th, but the code number is 926/41, the order of General Bader dated 14 October 1941, which was the passing on of the Boehme and Keitel orders, 10 October 41 and 16 September 41, respectively.

"Subject: Number of Persons Arrested and Shot to Death during the Period from 18 to 27 October 1941.

"In accordance with the order referred to above, the division reports for the period from 18 to 27 October 41:

"18 Oct 41 - 88 arrested "22 Oct 41 - 50 shot to death as reprisal for a German soldier wounded during attack on armored train near Iverak on 20 October 1941.

"27 Oct 41 - 38 arrested."

Turning next to page 39 of the English and page 29 of the German, is a report of the 704th Infantry Division to the LXVth Corps Command. Again reference to the Corps Command Order of 14 October 1941, with the code numbers 926/41:

"Subject: Number of Persons Arrested and Shot to Death during the Period from 27 October to 7 November 1941.

"In accordance with the order referred to above the division reports for the period from 27 Oct to 7 Nov 41:

"a) Garrison headquarters of garrison Valjevo turned over to the 342nd Infantry Division on 2 Nov 41. Number of arrests and executions by shooting by 342nd Infantry Division unknown. New arrests of shooting to death by 704th Infantry Division.

"b) In the garrison of Belgrade, number of arrests unknown. Number of shootings to death by 734th Infantry Regiment: 101, on 27 Oct 41 - pursuant to order of Commanding General Plenipotentiary in Serbia 19 Oct 41 - as part of reprisal measures for ten German soldiers killed in action and 24 wounded (members of the unit surrounded in Valjevo)."The prosecution's next document is on page 40 of the English, page 30 of the German, Document [NOKW--1055](#), which is offered as Prosecution's Exhibit 118.

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This document again is a series of reports, this time from the 342nd Infantry Division to General Boehme as Plenipotentiary Commanding General in Serbia.

The first report is dated 12 October 1941 and is the daily report for the 11th to the 12th of October 1941. Here again we have extracted only those excerpts which relate to matters set forth in the indictment:

"(f) Losses: Own: Two wounded Enemy:

About 180 fallen in combat and shot to death."

The report of the 342nd Division for the 13th to 14th October 1941:

"Losses: Own: Four dead, 19 wounded.

Enemy: Not yet determined. 170 men shot to death."

On page 41 of the English and page 30 of the German is the division's report for the period 24 September to 9 October 1941. There are two columns, 1a and 1b:

1a 1b "Fallen in combat 88 88 "Shot to death 1127 1127 "Taken prisoner 21440 17420 "The reports 1b are based on the rates in the concentration camp; the reports 1a are based on the continuous reports of the troops.

"The numbers 1a differ from 1b because "a) The troops could not hand in exact statements of the units in time.

"b) Because persons made prisoner by the troop were in some cases dismissed shortly before transfer to concentration camps.

"c) Because prisoners, shortly after having been transferred to the concentration camp, were dismissed without this being marked off the list of inmates admitted.

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"The numbers of the 1b reports are authoritative.

"f) Losses Wounded:

Three officers, 27 men.

"Enemy: Could not be determined.

"g) Reprisal: Of the 2300 shootings to death resulting from our own losses, 400 were carried out. 1900 still remain."

The daily report for the 14th to the 15th of October 1941, under losses:

"Own dead: One officer, 7 men.

"Wounded: Three officers, 27 men" If Your Honors will please note those totals, 8 dead and 30 wounded continuing on page 42 of the English and page 31 of the German, we continue with the report of the 342nd from the 14th to the 15th of October 1941, "Enemy losses could not be determined". Your Honors will note that for the eight persons dead, if we multiply the figure 8 by 100, we will get a total of 800, and if you multiply the figure of 30 wounded by 50, you will get a total of 1500, or a total of 2300, to which the paragraph "g" under "Reprisals" referred.

Continuing with the daily report of 14 to 15 October 1941:

"The 400 persons shot to death are people who were arrested in the combat area around Dranigac. The rest of those arrested, who were reported today, voluntarily put themselves under the protection of the German Wehrmacht to be transported to concentration camps."

The report is signed "342nd Infantry Division, Ia department".

On page 42 of the English and page 42 of the German is the division daily report from the 15th of October in the morning to the 16th of October in the morning.

Under (e) Prisoners and Booty:

"Arrested: 233 "Shot to death:

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635 (including the 400 reported yesterday) "Booty:

5 pontoons 200 pack saddles 104 head of cattle" Under "f) Losses": "Own:

None "Enemy:

Could not be determined," Continuing on page 43 of the English and page 32 of the German, the Daily Report of 16 October morning to 17 October 1941 morning:

"e) Prisoners and Booty:

"Arrested: 541 "Shot to death:

244 "f) Losses "Own:

One man wounded and one man missing.

"Enemy: Fourteen killed in combat."

Under the Daily Report of the 17th of October in the morning to the 18th of October in the morning:

"e) Prisoners and Booty "Arrested:

765 (most of them from Loznica) "Shot to death:

32 "Booty:

28 cows, 10 calves" Under "f) Losses": "Own:

Wounded: One officer, 4 men Fallen in combat: 2 men "Enemy:

140 killed in combat determined."

Continuing with the 10-day report of the 342nd Division, dated 20 October 1941, and again the report is sent to the Commanding General Plenipotentiary in Serbia:

"6) Losses and Booty for the Period of Time Reported on:

"Own Losses: Dead: Two officers, 13 men Wounded: Four officers, 72 men "Enemy Losses:

About 546 killed in combat 1081 shot to death 4295 prisoners and arrested" Again I direct Your Honors' attention to a comparison of the losses of the Germans and the losses of the enemy that they were fighting.

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We may pass now to page 45 of the English, page 24 of the German, to the report of the 242nd Infantry Division for the 20th of October 1941, subject, "Reprisal Measures":

"According to Daily Report 15 Oct 1900 shot to death for 15 to 29 Oct 41 10 dead 1000 39 wounded 1950 "Division asks for further orders; at the moment no prisoners are available.

"For the Command of the Division "The 1st General Staff Officer."

Then the figure "1900", if Your Honors please, should appear right above the figure "1000" rather than where it does appear, so that the total of 1900, 1950, and 1000 adds up to a figure of 4,850.

Continuing with the tabulation:

"Shot to death up to today, 1600; remain 3250.

"The division asks for further orders; at the moment no prisoners are available." Signed: "For the Command of the Division "The 1st General Staff Officer" Page 46 of the English, page 35 of the German, is the division 10-day report 20 to 20 October 1941.

Under:

"Own Losses: Dead: - officers, 6 men Wounded: 4 officers, 20 men "In the 1st Battalion of the 202nd Tank Regiment - 8 tanks knocked out.

"Enemy losses: About 200 killed in combat 100 shot to death 110 arrested."

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The report is signed by the commander of the division, Dr. Hinghofer.

Turning finally to the last report, page 47 of the English, page 35 of the German, is the division report to the Commanding General Plenipotentiary in Serbia, from 30 October in the morning to 31 October in the morning:

"Four wounded calls for 200 executions by shooting.

"No prisoners available for this."

It is signed "342nd Infantry Division, Ia Department".

THE PRESIDENT: We will take our afternoon recess.

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THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR.FENSTERMACHER: If your Honors please, the prosecution's next document is on page 48 of the English and page 37 of the German Document [NOKW-559](#) which becomes prosecution's Exhibit 119. This is a report from the 65th Special Corps Command to the Commanding General Plenipotentiary in Serbia. If Your Honors will turn first to page 49 of the English, which is on page 38 of the German, you will find the report from the 65th Corps Command dated 17 October 1941. The receipt stamp of the 18th Corps for the 18th of October, 1941, appears on the right-hand corner. The subject is "Surprise attack on a guard on 15 October 1941." The report is sent to the Plenipotentiary Commanding General

in Serbia. "Enclosed find copy of a report of the Panzer Jager Detachment 220 with the request for proper action."

Then down at the bottom of the document "handwritten", "Taken care of by order 19 October to LXV Corps Command for Special Purpose that 50 hostages are to be shot to death by the Panzer Jager Detachment 220 in conjunction with Commander Serbia Administrative Staff."

On page 50 of the English and page 38 of the German, rather on page 39 of the German, the handwriting continues: "A German guard, was attacked and wounded in Belgrade on the 15th of the month by communists who escaped without being recognized by throwing a hand grenade and by shots. In reprisal for this vicious attempt at murder, 50 Belgrade communists were shot to death today."

On page 51 of the English and page 36 of the German is the report of the Panzer Jager Detachment 220 dated 16 October 1941 to which the 65th Special Corps Command made reference. The report subject is "Surprise attack on a guard on 15 October 1941."

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The unit Reports below a surprise attack on a guard of the 3/Pz. Jag. Detachment 220:

On 15.10, 1500 o'clock a hand grenade was thrown and one shot fired on a guard who was in the quartering area of the 3/Pz Jag. Detachment 220, (school building, street bifurcation Bulevar Kneza Aleksandra Karadordevica and Ljutice Bogdana). The guard was wounded in the shoulder by a grenade splinter. The guard and a patrol which came hurrying up immediately fired some rifle shots in the direction of the attack. The 3/Px. Jag. Detachment 220 which was immediately alerted, patrolled the neighborhood of its billets, immediately afterwards, without being able to discover the perpetrator.

Referring to LXV Corps Command (for special purposes), Section Ia, No. 926/41 secret, dated 14.10.41, it is requested the corresponding number of Serbian communists or insurrectionists be shot to death. Since the detachment has no authority within the city limits of Belgrade, the detachment can merely apply for the reprisal execution. Furthermore, the detachment requests pertinent publication by press and radio. Since circumstances accompanying the accident necessitated voluminous interrogations, final report could only now be made.

(signed) Krahmer Lieutenant Colonel and Detachment Commander.

Now turning to page 48 of the English and page 37 of the German, is the report of the 65th Special Corps Command dated 29 October 1941 to the Plenipotentiary Commanding General in Serbia. The receipt stamp of the 18th Corps which General Boehme also commanded in addition to his duties as Plenipotentiary Commanding General Serbia, is found on the right hand corner of the document, the receipt stamp of 30 October 1941.

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"Subject: Reprisal measures.

Referring to above, the LXV Corps Command for Special Purposes reports that as reprisal measures for the guard of the 3/Px. Jag. Detachment 220, wounded on 15.10.1941, 50 hostages were shot by the Panzer Jaeger Detachment 220 on 25.10.1941.

(Signed) For the LXV Corps Command for Special Purposes The Chief of the General Staff The prosecution's next exhibit is on page 53 of the English, page 40 of the German, Document [NOKW-882](#) which is offered as prosecution Exhibit 120.

This exhibit is a series of daily reports of the Commanding General in Serbia, General Bader, to the Plenipotentiary Commanding General in Serbia, General Boehme. The first report is dated 3 October 1941, Belgrade. "1 October. In reprisal for attacks on hemp supplies near Mjr. Julia (20 kilometers Southeast Kikinda) 12 Communists were shot. (Signed) For the Commander Serbia Chief of the General Staff, Gravenhorst."

The next report is of the 4th of October, 1941, paragraph 7 page 54 of the English, page 40 of the German.

"In Belgrade on 3.10, 1930 hours, a car belonging to the Armed Forces Budget and administration Section was fired upon near Rumuniska. The perpetrator escaped unrecognized. 3.10, three youthful Communists arrested on suspicion of the murder of police agent Pajic. Arrest of counselor of State Dr. Jagebic. His is said to have close connection with the insurgents. 25 convicted Communists shot to death."

The report of the 7th of October, 1941 "4 October. In Basaid (28 kilometers North Petrograd) 11 Communists hanged as reprisal measure. " Continuing on page 55 of the English, page 41 of the German, at the top of the page, "Administrative Subarea Headquarters 816 and district headquarters 838 left at 12.

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30 hours from Krabujevac to Topola- 9.10 As reprisal measures for murdered soldiers, several hundred Communists shot to death."

The report of the 12th October, 1941.

9.10 in the Banat, near Kovin and Dubovac appearance of small groups of insurgents in black uniform Successful operation near forest area Lipovicka (5 kilometers West Ripanj) Under leadership of the town commandant of Belgrade:

11.10, 32 insurgents shot to death, 41 captured, 5 trucks with rations and two heavy machine guns, 21 rifles and ammunition captured. One Serbian gendarme missing. The village of Sremzica was set on fire and the village of Vk. Mostanica shot afire by a platoon of Panzer Jaeger because they were in possession of ammunition.

The villages of Meljak and Bacevao (10 kilometers West Southwest of Ripanj), as well as Arnajovo (30 kilometers South West Ripanj) are entirely Communists. Their destruction is requested."

MR. HINDEMITH: For the defendant Foertsch, on the occasion of the presentation of this document I should like to point out the following, without meaning to say that the defendant General. Foertsch--himself by this document.

THE PRESIDENT: Pardon me just a moment. I have a blank page 56 in my document book and I do not know to what you refer unless someone can furnish me--is there an extra page 56 which the prosecution has?

MR. FENSTERMACHER: I think we will be able to give you one in a moment, Your Honor.

MR. HINDEMITH: This is Document-- Exhibit 120 on page 40 of the German document book, page 53 of the English.

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I shall repeat. I should like to point out the following in connection with this document, without intending to say that the defendant Foertsch is implicated by this document, the connecting statements of the prosecutor in my opinion are intended to help the Tribunal and all concerned to evaluate this document. The prosecution made no explanation of the heading of this document. This is an unofficial copy. This also occurs in other documents. I think, for this reason, it would be advisable to have this basic question cleared up once and for all by asking the prosecutor to make an explanation of these words at the top of the document.

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THE PRESIDENT: Are you referring to page 13 of the original?

DR. HINDEMITH (counsel for the defendant Foertsch): Exhibit 120, on page 40 of the German Document Book, at the top of the page, there are the words: "This is an unofficial copy."

THE PRESIDENT: What page of the English?

DR. HINDEMITH: That is page 53 of the English.

MR. FENSTERMACHER: If Your Honor please, in the German Document Book on page 40, at the very top of the page, there is written the English words in parenthesis, "This is an unofficial copy." Then right below that the German begins, referring to page 13 of the original which can be seen on the top of page 53 of the English. I have no explanation as to why English words would appear at the top of the German Document Book, but perhaps if we had the original document itself, we could see whether there is anything on the top or not. If Your Honors please there does not seem to be anything at the top of the page of the Document which at all corresponds to the English words which for some unexplainable reason seem to have gotten into the German Document Book.

THE PRESIDENT: Is there agreement on behalf of the defense counsel that the statement made by the prosecutor is correct? I am not questioning it myself, but for the purpose of the record, does defense counsel so agree?

DR. HINDEMITH: I was shewn the photostat of the original. From this photostat I cannot see this notation which is given in the German Document Book. It is still unexplained why this remark is made.

MR. FENSTERMACHER: If Your Honor please, it is probably a mistake on the part of the stenographer who stenciled the mimeographed copy, some unexplainable reason.

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Instead of typing entirely in German on her stencil, she typed four or five words of English.

THE PRESIDENT: There being no indication that it is on the original, it seems to me that there is no basis for the complaint made by counsel. The fact that it is on the German translation, that it cannot be explained, the fact that the Court has no way of ruling upon it -- the Court has not anything upon which to pass. On the English Document Book, it merely refers to page 13 of the original. Under the circumstances and with this explanation, the prosecutor may proceed.

MR. FENSTERMACHER: Continuing on page 57 of the English and page 43 of the German is the report of the Commander of Serbia to the Commanding General Plenipotentiary in Serbia. The report is dated Belgrade 28 October 1941; paragraph 3a of the report "Combat Activity Details: 25 October, German Wehrmacht and Serbian auxiliary gendarmerie purges Raca (11 kilometers northwest Lapova) of Communists. Losses of our own: 1 German soldier dead, 1 auxiliary gendarme dead, 7 wounded. Enemy losses: 120 Communists dead, 23 captured and shot to death."

The prosecution's next document is on page 58 of the English and page 44 of the German, Document [NOKW-724](#), which is offered as prosecution's Exhibit 121. This is a series of extracts from the war diary of the Commanding General in Serbia for the month of October 1941. The entry on the first of October, "Order of the Commanding General in Serbia la. At least one reinforced battalion is to fight its way through from Kragujevac to Gr. Milanovac in order to find the 6th Anti-Aircraft Battalion 920. If the Company is not found there the village is to be burned down."

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The entry of the 12th of October: "The city commandant of Belgrade reports: on 11 October 1941 police forces and the Serbian Auxiliary Gendarmerie Group of Major Kalabic under the command of Police President Jovanovic attacked from four sides Lipovicka Forest, 5 kilometers West of Ripanj. The operation was supported by the 1st Field Gendarmerie 501 and by detachments of the Panzer Jaeger 220 (anti-tank unit). 32 insurgents were shot to death, 41 were captured. The gipsy village of Sremzica was set afire, its residents arrested. The village of Vk. Mostanica was shot at and set afire with 69 shells fired by the Panzer Jaeger troops."

DR. LATERNER (counsel for the defendant List): Mr. President, he said this was an excerpt from the war diary of the commander of Serbia. I object to the admission of this document. This is not an excerpt from this war diary. again we have four pages, merely typed pages. The enclosed certificate also indicates nothing to the effect that it is an excerpt from the war diary.

MR. FENSTERMACHER: I am not quite sure that I understand Dr. Laternser's objection. Is it that these pages are not from a war diary, or that they are not from the war diary of the commanding general in Serbia?

Dr. Laternser: Mr. President, I cannot answer this question. I deny that it is an excerpt from any war diary, for, as I have already said, it is merely four typo written pages; and the enclosed certificate in particular does not indicate what war diary it is.

THE PRESIDENT: It seems to me that the Court has indicated its attitude in connection with exhibits of this character, and it needs no elaborated comment from the Tribunal.

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The matter will receive such consideration as the Tribunal deems it entitled to. The objection will be overruled.

MR. FENSTERMACHER: Continuing on page 58 of the English and page 44 of the German, the entry of the 13th of October. "The 342nd Infantry Division reports: Strong blockade of the Jadar-Toles near Point 152/3, 6 kilometers Southeast of Draginac, also near the mouth of the Likodro Creek. Jadar Bridge dismantled by enemy near Point 152/3. 100 civilian prisoners were shot in reprisal. 250 men arrested. 8 prisoners."

Finally the entry of the 24th of October. "Plenipotentiary Commanding General in Serbia III/Chief of Military Administration ... "the code numbers are then given ... "The Feldkommandantur (Administrative Sub-Area Headquarters) and the Kreiskommandantur (District Headquarters) are to supply hostages for execution."

Turning now to page 60 of the English Document Book, page 45 of the German, Document [NOKW-1022](#), which is offered in evidence as prosecution Exhibit 122. Again this document is a series of reports, this time from the Plenipotentiary Commanding General in Serbia, General Boehme, to the Armed Forces Commander Southeast. The documents cover a period of time from 21 September 1941 to 4 November 1941, during which time the defendant List and the defendant Kuntze occupied the positions of Wehrmacht Commander Southeast.

First report is of the 21st of September. The receipt stamp of the Wehrmacht Commander Southeast, 12th Army, is indicated for the 20 of September 1941. The report reads as follows: " Nedic Government unable to suppress insurrectionist movement.

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Serbian Administrative Apparatus paralyzed in large parts of the country. Insurgents composed of communists, Nationalist Serbs and Chetniks, Leadership beyond doubt in hands of Nationalist Serbs Officers. A part of the Chetniks under Costa Petcana up to now, loyal to German troops."

Continuing down to paragraph 4: "8 wounded captured German soldiers before Sabac transferred to their own troops. 27 heavily wounded German soldiers are in the military hospital of the insurgents in Loznica. 12 Communists hanged for attack on the railroad line Petrovgrad-Pancevo."

Signed as the remainder of these reports, the Commanding General in Serbia.

Page 26 of the English and page 46 of the German, is the report of the Plenipotentiary Commanding General in Serbia North, 23 September 1941. Again the receipt stamp of the Wehrmacht Commander Southeast for the 23rd of September 1941. "Losses Own: 3 dead, 18 wounded. 23 insurgents shot to death in Gradist."

Turning to the next page, the report of the 24th of September 1941, "Restoration of the respect for the German Government by ruthless measures against the main center of insurrection in the Save River Bend. Creation of an intimidating example. Further contradiction of forces to reinforce security troops on the main traffic arteries from Belgrade and Bor. Assignment of captured Panzers. The presence of 50 insurgents in gendarmerie uniform under the command of a Gendarmerie 1st Lt. in the attack on Gradiste 20 September confirmed. Attack of insurgents on Sabac and Krusevac repelled. Sabac will be "depopulated" from 24 September on."

The next on page 65 of the English and page 50 of the German, a report of the 26th of September, paragraph 3: "125 Infantry Regiment near Valjevo 49 insurgents shot to death.

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Colonel Foertsch at Tatoi 27 September 1941, 1200 hours."

The next on page 66 of the English, 57 of the German the report of the 26th of September: "Jews arrested in Smederevo and vicinity since recognized as instigators of the insurrection. 125 Infantry Regiment. Northwest of Valjevo 49 bandits including leader (Serbian Reserve Officer) shot to death. 71 houses destroyed. Parts of Enemy wearing Serbian ticking coats and German cap."

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On page 68 of the English, page 52 of the German, a message of 27th of September 1941. The receipt stamp of the Armed Forces Commander Southeast, dated 28 September 1941, paragraph 2: "Start of operation 342 Infantry Division as reported 25 September. 4410 men arrested --" On page 69 of the English and 52 of the German, paragraph 3, page 52 of the German, page 69 of the English, paragraph 3: "4410 men arrested during mopping up of Sabac. 125 Infantry Regiment mopping up around Valjevo. Losses Own: Near Krusevac increases to 24 dead, 16 wounded, in addition 2 dead, 1 wounded, 1 missing. Enemy: 24 dead, 6 shot to death (Sabac) 1 prisoner."

Continuing on page 70 of the English, page 52 of the German, report of the Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southeast for the 28th of September 1941. The right-hand corner of this document, if Your Honors please, is the initial "Foertsch" which the prosecution contends is the defendant Foertsch, as the Chief of Staff to the Wehrmacht Commander Southeast. Paragraph 6: "Own 3 dead, 2 wounded 1 Panzer sunk on bridge, 1 Panzer run into mine. (1 slightly wounded). Enemy: 177 shot to death (Sabac)."

Continuing on page 71 of the English, page 53 of the German, the report of the 29th of September 1941, paragraph 7: "For attack in Belgrade 150 Communists shot to death." On page 72 of the English, 53 of the German: "Own: 342 Infantry Division: 6 wounded. Enemy: up to now 300 shot to death."

On page 73 of the English, 54 of the German, the report of the 30th of October 1941 with the receipt stamp of the Wehrmacht Commander Southeast for the same date. Paragraph 4 on page 74 of the English, page 54 of the German: "Curprijia 34 insurgents hanged. Paragraph 6. Own: 342 Infantry Division: 2 dead. Enemy: 84 shot to death."

Page 75 of the English, page 54 of the German begins the report of the first of October 1941. Again it is stamped received Wehrmacht Commander Southeast, 12th Army with the same date; and in the right-hand corner General Foertsch has written his name.

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Page 76 of the English and 55 of the German, the report reads:

"Paragraph 6. 3,800 prisoners (342 Infantry Division) Own: 10 wounded Enemy: 69 dead, 358 shot to death, 32 wounded." Page 77 of the English and 56 of the German Document Books is the report of the Plenipotentiary Commanding General in Serbia for the second of October 1941, paragraph 6 of the report which is on page 78 of the English, page 57 of the German. "Own: 2 wounded. 342 Infantry Division has shot to death approximately 1,000 and arrested 14,000."

THE PRESIDENT: May I see the original German document with the signatures on them?

MR. FENSTERMACHER: The signature of Foertsch to which I referred, Your Honor, on page 75 of the English and page 54 of the German, is on page 20 of the original photostatic copy, in the right-hand corner.

THE PRESIDENT: Will you point out what you claim to be the signature? In what appears to be the second line on page 2 of the German Document?

MR. FENSTERMACHER: That's right, Your Honor.

THE PRESIDENT: Let me look at that again. Is there some other document -- the document to which you are now referring is Document 122, and is found -- 1022 and is found on page 23 of the photostatic German Document, and is in the top line of this particular page.

MR. FENSTERMACHER: I think, if Your Honor, please, we can skip over the next several reports and read again on page 85 of the English, page 60 of the German. The report of the 7th of October 1941, turning to paragraph 6 of that report which is on page 86 of the English, and page 60 of the German. "Enemy: 115 dead, 41 wounded. In addition 43 including 1 armed woman shot to death. 38 including 1 leader captured (125 Infantry Regiment)".

Turning next to page 89 of the English, page 61 of the German, a report of the 12th of October 1941, paragraph 4: "Serbian gendarmerie participating in successful operations near Lipovicka (20 kilometers

south west Belgrade) 32 insurgents shot to death, 41 taken prisoners, 5 trucks without ammunition taken as booty.

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125 Infantry Regiment advance to Obrenovac slowed up by road blocks and blasting. 3 agents shot to death," Next report of the 10th of October 1941, which is on page 91 of the English, page 62 of the German.

I direct Your Honors' attention to paragraph 6 which is on page 92 of the English, page 62 of the German. Paragraph 6: "Total losses: Own 4 dead, 10 wounded. Enemy: 75 dead, 6 wounded 73 shot to death."

Next on page 93 of the English, page 63 of the German, is a report of the 9th of October 1941 from the Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southeast. Paragraph 3: "It is intended to move administrative Sub-Area Headquarters 816 and District Headquarters 838 from Kragujevac back to Topola. Shooting to death of about 2,000 Communists and Jews in retaliation for 22 murdered men of the 521st Signal Detachment of the 2nd Army underway. In Belgrade interpreter shot to death in the open street. New arson plots on 4 Communities."

I think we can pass now to page 96 of the English, page 64 of the German, a report of the 13th of October, 1941, paragraph 3: "342 Infantry Division: During advanced thrusts on Konviljaza and monastery of Tronosa, 10 German soldiers of which 9 were wounded, liberated. During the thrust by the division into the Jardar valley, enemy 2 dead, 8 prisoners, An additional 250 arrested by the Division. 100 civilian prisoners shot to death as a reprisal measure."

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I think, your Honors, we can skip the next several reports and turn next to page 102 of the English, page 66 of the German. This is the report of the 16th of October, 1941:

"125th Infantry Regiment: Mopping up of JasencDracevac--Vranic. 230 hostages shot to death. 3rd Battalion of 749th Regiment advancing on General Milanovac since 14 October (Renewed reprisal measures)."

Next is the report on page 104 of the English, page 67 of the German, the report of the 18th of October 1941, paragraph 2:

"717th Infantry Division. For losses in Kraljevo 1736 men and 19 women up to now shot to death."

Next on page 106 of the English and page 67 of the German, the report of the 23rd of October 1941 -- the reference on page 107 of the English and page 68 of the German:

"704th Infantry Division, Reprisal Measure for one wounded -- 50 shot to death."

Your Honors may have a typographical error in your Honors' document books. Instead of "to shot to death," it should read "50 shot to death." It's on page 107 of the English, second line from the top of the page.

Continuing on that same page:

"717th Infantry Division -- depopulation under way of all villages immediately situated on the railroad and road Krusevac - Kraljevo".

I think we can turn next, if your Honors, please, to page 111 of the English Document Book , page 69 of the German. This is the report of the Plenipotentiary Commanding General in Serbia from the 29th of October 1941:

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"250 Gypsies were arrested.

"3rd Battalion 697th Regiment. Renewed occupation of the Debrava Sector. Focal point near Orid (9 kilometers South Sabac)."

Then under "Enemy": Dead 26, 76 shot to death, several wounded, 10 captured."

Turning next to the report found on page 113 of the English, on page 70 of the German, the report of 31 October 1941, stamped received by the Wehrmacht Commander Southeast, 12th Army, on 1 November 1941, your Honors will note that in the right hand corner of the document is the initial "F" which the prosecution contends is the initial of the defendant Foertsch.

Reading from the report: "Belgrade, 1 Communist Leader shot to death by Police. 718th Infantry Division: During mopping up of area, 10 kilometers East Banja Lucka, 13 insurgents shot to death, 167 captured."

Turning next to page 117 of the English, page 71 of the German, the report of the 1st of November, 1941, from the Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southeast, paragraph "B":

"Express Train Doboj - Sarajevo was attacked 10 kilometers south of Doboj. The passengers were plundered, 17 dead (1 German Non-commissioned officer) 15 wounded (1 German soldier) (in Belgrade: 7 Communists arrested. Order has been issued to shoot to death 200 hostages) Reprisal."

Turning next to the report found on page 119 of the English, page 72 of the German, this is the report of the 5th of November, 1941, paragraph 1:

"Arrest of 169 hostages of the intellectual circles in Belgrade".Next, the report on page 121 of the English, page --if your Honors, please, this begins a new document -- on page 121 of the English, page 73 of the German, Document NOKW-980 which becomes prosecution Exhibit 123 in evidence.

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This is a series of war diary entries covering a period of time from the 29th of September to the 27th of November, 1941.

In the war diary of the 18th Mountain Army Corps the entry on the 29th of September 1941, page 121 of the English, page 73 of the German, is:

"As reprisal measure for an attack on German soldiers in Belgrade, 150 Communists are being shot to death according to summary court-martials."

And down on the bottom of the page, "Enclosure 37":

"Order to the 125th Infantry Regiment to arrest all available members of families of insurgents as hostages in the insurgent territory to be mopped up."

THE PRESIDENT: May I make this inquiry? Do you make any distinction between a shooting here which was the result of a courts-martial proceedings and one which was not?

MR. FENSTERMACHER: Yes, your Honor, the prosecution believes certain of the executions took place according to summary courts-martial and others of them took place simply out of hand, and the prosecution believes that when executions according to summary courts-martial took place the reports mentioned that fact and when there is no reference to summary courts-martial the prosecution believes the executions took place out of hand.

THE PRESIDENT: You may proceed.

DR. LATERNSEER: (Counsel for defendant List): Mr. President, may I comment? The question of the President, whether a courts-martial took place before shootings or not -- I should like to say by way of explanation that the clear opinion on international law in America as well as English literature is that if, by way of reprisal hostages are shot no court procedure is necessary beforehand.

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The shooting of hostages, regrettable as it is, is the last recourse under international law which a commander has. It is the use of innocent persons. A court procedure, the purpose of which is to determine who is guilty and those innocent -

THE PRESIDENT; May I interrupt, if you please? Dr. Laternser, my inquiry to the prosecutor was as to whether or not he drew any distinction between the shooting of the hostages as a result of a courts-martial proceedings or one which was not.

I do not wish to limit you at any time, and particularly at this time, but I hardly feel that this is the time and place for a legal discussion on this particular question and, if you will wait until some later time when that question can be properly presented, you may be assured that you will receive a courteous hearing. I believe at this time it would not be helpful.

DR. LATERNSEER: Very well, Mr. President. I agree.

MR. FENSTERMACHER: Continuing with a reading of the entries in the war diary of the 18th Army Corps, page 122 of the English, page 75 of the German, the entry for the 9th of October 1941:

"Valjevo: During the operation by the 125th Infantry Regiment on 6 October against Karaule, several Communists were arrested in Radljevo. Corps Headquarters orders the transfer of the leader Pavlovic to Belgrade by Storch.

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The SD interrogation shows the following results: Communist band, strength 1000-1200 men, in the forests around Ub.

"Organization: 4 companies.

"Commander of the 4th Company: Tribko, Reserve Officer, later civil servant.

"Leader of the 3rd Platoon of the 4th Company, Pavlovic.

"Armament; Rifles, up to 100 rounds of ammunition? the entire unit allegedly had only one Czechoslovakian machine gun.

"Attacks executed" -- I think we may skip the intervening lines, if your Honors, please, and drop down to the final three lines from the bottom of 122 of the English and page 173 of the German:

"In Grozdenovic a Peoples' Liberation Committee has been formed. Gun breeches, bombs and artillery ammunition have been buried near Glenovac (Valjevo) at An unknown spot."

The succeeding page, the entry of 9 October 1941:

"Commander Serbia: Several hundred Communists shot to death in Belgrade as reprisal measure for murdered soldiers."

And then, still on page 123 of the English and page 74 of the German, in the middle of the page under the entry of 6 October 1941:

"800 to 1000 men Krusevac-Kraljevo region von Bothmer requests stronger commitment against Communists. 100 men reinforcement is to go to Lescovac.

"Total Impression: P. (Pecanac) honestly and sincerely is on the German side in the fight against the Communists. The combats between Cetniks and Communists certainly have brought about a situation which makes cooperation of these two improbable, at least at this time.

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The incidents near Krusevac (24 September) prove that K.P. (Kosta Pecanac) cannot depend on his different groups unconditionally. K.P. admitted without any hesitation that he will always have to count on renegade followers. The further development will depend essentially on the successes of the German Wehrmacht. As far as I (von Bothmer) can judge, K.P. may be considered absolutely dependable. He certainly will always keep a strong group of his followers on his side."

Next, the entry of the 11th of October, 1941:

"Propaganda Unit reports that the mass meeting on the terrace planned for Sunday, 12 October will not take place, since Prime Minister Nodic voiced very strong objection to the suggestion of State Councillor Turner to speak publicly. This would immediately evoke jeering or demonstration parades, particularly since he constantly receives deputations complaining about hunger. Prime Minister Nodic will speak over the radio at 1145 hours on 12 October."

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Next the entry of the 11 November, 1941:

"11 Oct 41 'S' Propaganda Unit reports that the mass meeting on the terrace planned for Sunday, 12 Oct will not take place, since Prime Minister Nedic voiced very strong objection to the suggestion of State Councillor Turner to speak publicly.

This would immediately evoke jeering or demonstration parades, particularly since he constantly receives deputations complaining about hunger, Prime Minister Nedic will speak over the radio at 1145 hours on 12 Oct."

"Enclosure 58 Order to the 125 Infantry Regiment in Grabovac to burn down every fifth house in retaliation for cable sabotage."

Next the entry of:

"12 Oct 41 Liaison Officer SD is ordered:

3.) To make preparations, to make the names of insurgents known to the SD available, so that family members of the insurgents can be seized as hostages."

"Enemy threat on Ratina (6 Kilometers Southeast K.) repelled. Villages from which shots were fired set afire."

Next page, 125 of the English, page 75 of the German, is this entry:

"Report of VIth Volunteer Corps, 1st Lt. Bogomir Pavlovic:

Arrived in Iozarevac 2 Oct. The Serbian Commandant there is General Ilic, the German garrison commander Captain Krause, the Commandant of the Serbian Gendarmerie, Captain Djordjovic Bands are appearing in large groups (250 to 500 men strong) poorly dressed, well armed."

Next, on page 126 of the English, page 75 of the German, this entry on the bottom of the page:

"Macva-Krupanj 13 Oct Wehrmacht Liaison Staff: Our own right wing column has reached and burned down Koviljaca and the Monastery of Tronose."

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Next, the entry of October 13, 1941, page 127 of the English, page 76 of the German:

"Operational Cable 5 kilometers South of Tekeris cut. 100 civilians shot to death as a reprisal measure. About 250 people arrested, 8 prisoners; captured material and ammunition depot in Losniza and Koviljaca.

The entry for the 15 Oct 41 - Lt. Col, GSC Kratzer, Ia of the Wehrpropaganda Branch of the OKW in Belgrade for visit, with "S" Propaganda Unit.

Two-fold subordination of the Propaganda Unit: 1. OKW Wehrpropaganda, which is authorized to issue basic policies for propaganda, 2. Commander of Serbia now Plenipotentiary Commanding General subordination to Administrative Staff not desired by OKW."

Page 129 of the English, page 77 of the German, in the middle of the page:

"Belgrade Obrenovac 15 Oct. 125 Infantry Regiment. 1.) Baric Area - M1. Mostanica-Vranic Baljevac-Mislogjin mopped up. Rifle fire came from Vranic, village destroyed. About 300 men pulled out to the South during the night of the 15th. 24 hostages arrested, 42 bandits shot to death."

"17 Oct. Kraljevo - 717 Infantry Division: For losses of 15 Oct: a total of 1736 men and 19 Communist women shot to death up to now. Own losses in Kraljevo - 2 dead, one wounded."

Obrenovac 18 Oct. 125th Infantry Regiment. Mopping-up and destruction of Meljak and Bacevac. Population forced away, no contact with the enemy. In Guncati a small band, (15 men) observed withdrawing."

The list of the names of the territory mopped up, is given.

"Mislogjin-Drazevac-Baljevac-Vranic-Bacevac-Vk.Mostanica-Zeleznic territory mopped up."

Next, the entry in the war Diary for the 6th of October;

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"LXV Corps Command: The Peoples' Liberation Group of Jova Kursula on 7 Oct Demands (the following) of the local Kraljevo Garrison Commander: 1.) Cessation of arrests. 2.) Cessation of burning down Serbian property. 3.) 1,800,000 dinar as replacement for damages. 4.) Release of all people under arrest. 5.) Recognition of all rights as a unit engaged in warfare. Non-fulfillment will bring about the shooting to death of 8 captured German soldiers."

Kraljevo - The entry for 20 Oct. 4th Company, 749th Regiment repulsed a 20-man strong band during the night. 1st Battalion, 749th Regiment shot to death suspect, arrested deserter. Enemy artillery fires on city area during the day. Own losses: one dead, two wounded. Up to now, 522 shootings to death, about 3,000 arrested. 22 Oct shootings to death up to now total 2300."

At the bottom of the page, the entry of the 21st of October:

"To Kraljevo: About 40 Ljotic followers, mostly confidential agents, shot to death as hostages, despite protests by the Wehrmacht Liaison Staff."

Continuing on page 130 of the English, page 79 of the German, middle of the page:

Kraljevo 1 Nov. Counter Intelligence Office: Panzer attack 1 Nov with two Hotchkiss-Panzers captured at Milanovac. Anti-tank fire without result; we were able to penetrate deep into the city. Panzers accompanied by 50 Mihailovic men."

"Kraljevo from the Mataruska-Banja and Musina Reka. A captured partisan states that the conflict which had broken out between partisans and Cetniks has assumed an active nature. Uzice and Pozega are alleged to be purged of Partisans by the Cetniks, 500 Partisans disarmed and several partisan leaders murdered. Vukasinovic is said to have available merely 300 men and Dragosinjici (8 kilometers Southeast Kraljevo), 300 in Metikose (6 kms. Southeast of Kraljevo), 50 men in Kamenica. Major

KoseroVIC is said to be supporting Vukasinovic with 40 men, the larger part of the former Vukasinovic group is said to have deserted to Gordic, Chetnik-Vojvode of Trstenik.

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Bor 28 Oct. The Chief of the Administration Staff intends a surprise arrest of 700 representatives of the Belgrade Intellectuals, as hostages on 4 Nov 41 early in particular Free-Masons. A statement which has been approved by the Commanding General pertaining to it will be made public by press and radio on 4 Nov. 41."

Finally, on page 131 of the English and 79 of the German, the entry of 49 November:

"Enemy losses: 10 dead, 23 prisoners (of which 20 were shot to death, 3 notorious Communists taken to Sabac) 17 Cetniks surrendered. No losses of our own."

Finally, the entry of 27 November:

"Valjevo - 342nd Infantry Division: North Group opened advance march road near Voliki (5 south of Jaljevo). Heavy road block on cliff of 300 meters length with tank trap, dynamited road and falling rocks. The first time that a road block was defended by the enemy. Enemy repulsed, still unknown whether Communists or Cetniks. Own losses: 2 dead, 6 wounded. Enemy losses: still unknown. 265 Communists shot to death today as reprisal measure."

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Finally, Document in Book 4, is on page 132 of the English, Page 80 of the German, Document [NOKW 1157](#) which is offered as Prosecution Exhibit 124. This is a series of reports of the Plenipotentiary Commanding General in Serbia, General Boehme, to the armed forces Commander Southeast, which, for the period of time which these reports cover was Field Marshal List, and later General Kuntze.

The first report is dated 21 September 1941. In paragraph 4: "Numerous members of bands around Kucevo in uniform of Serbian Gendarmerie. 5: Line Cacak - Uzice cut. 12 Communists hanged for attempt on railway lines."

Next, on page 134 of the English and page 81 of the German, Report for the 24 September 1941, "Recovery of respect for the German Armed Forces through ruthless measures against the main insurrectionist area in the Sava river bend. Creation of an intimidating example. Further concentration of forces to reinforce protection of main arteries of traffic, from Belgrade and from Bor. Commitment of booty armored cars.

"50 partisans in Gendarmerie uniforms under the command of a Gendarmerie 1st Lieutenant in the attack on Gradiste 20 Sept. confirmed."

Next the report of the 27 September, 1941, page 135 of the English, 81 of the German: "Arrested 4410 men during mopping up operations in Sabac. 125th Infantry Regiment mops up surroundings of Valjevo.

"Own losses: At Krusevac in Greece 24 dead, 16 wounded, besides 2 dead, 1 wounded and 1 missing.
Enemy losses: 24 dead, 6 shot to death (Sabac) 1 prisoner."

Next the report of the 23 September 1941, page 136 of the English, page 82 of the German, paragraph 6:

"Own losses: 3 dead, 2 wounded; 1 tank sunk on bridge; 1 tank ran on mine (1 slightly wounded).
Enemy: 177 shot to death (Sabac)" I think that we can skip some of these reports, if your Honors please, and turn to page 139 of the English, page 84 of the German, to Report of the 1 October 1941, paragraph 6: "3800 prisoners (342nd Infantry Division) Own Losses:

10 wounded. Enemy Losses: 69 dead, 358 shot to death, 32 wounded."

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Turning next to Page 142 of the English, page 86 of the German, the report of 7 October 1941, from the Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southeast:

"Attempts of insurrectionists to cross the Danube at Dubovac and Korvin into the Banat. German Nationals employed for defense. At Basaid (18 kilometers north of Petrovgrad) 11 Communists hanged. Enemy Losses: 115 dead, 41 wounded. In addition to that 43, among them an armed woman shot to death; 38, among these leader, made prisoners (125th Infantry Regiment)."

Next, page 143 of the English, page 87 of the German, is the report of the 3 October, which General Boehme transmitted to Field Marshal List:

"It is intended to transfer back the Administrative Sub-area Headquarters 816 and the District Headquarters 838 from Kragujevac to Topola. Shooting to death of about 2000 Communists and Jews as reprisal for the murder of 22 of the 2nd Army Communications Section 321 is underway."

THE PRESIDENT: The Tribunal will adjourn at this time until 9:30 tomorrow morning.

(The Tribunal adjourned until 0930 hours, 22 July, 1947).

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 22 July 1947, 0930-0945, Justice Carter, presiding.

THE MARSHAL: Persons in the Court room will please find their seats.

The Honorable, the Judges of Military Tribunal 5.

Military Tribunal 5 is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Has the Marshal ascertained that all the defendants are present?

MARSHAL: May it please your Honors, all defendants are present in the court room.

JUDGE WENNERSTRUM: I have asked my associate Judge Edward Carter to preside during this day's session. You may proceed.

MR. FENSTERMACHER: Your Honors please, you will recall that yesterday afternoon we were concerned largely with Document Book IV which contains a series of reports from various subordinate units to higher headquarters. The material in the reports is of importance, because of the references to the nature, size, organization and insignia worn by the enemy against whom the Germans were fighting, as well as the German treatment of captured members of the enemy military organizations and the German treatment of the civilian population. At the time of the adjournment we were on Document [NOKW-1157](#) which is Prosecution Exhibit 124. I would like next to have you turn to the report of the Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southeast, dated 9 October 1941 which is on page 144 of the English and page 87 of the German. The subject of this report is a 10 day report to the Wehrmacht Commander Southeast from General Boehme as Plenipotentiary Commanding General in Serbia:

Political Situation:

No change has taken place in the political situation, except for the reorganization of the government. Details can be ascertained from the report of the Administration Staff at the Commander Serbia.

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Increase of attempts by insurgents in the Banat and in Southern Serbia, south of Nish and near Kos. Mitrovica. In the Banat numerous reprisal measures were carried out. The Administration in the whole country continued to be paralyzed except for Belgrade, the surroundings of Nish and the Banat.

Own Troops:

Mopping up operations in the Macva by the 342nd Infantry Division have been completed. Many places burned down. Enemy has about 90 dead, 1130 shot dead, 21,500 arrested, only few arms as booty. Own losses: 3 dead, 26 wounded. In attack on Lesnica on 6 October 41 enemy resisted for the first time, considerable losses.

Mopping up operations conducted by the 125th Infantry Regiment in the area of Karaula (height 302) - Divci - Lazarevac - Lisonolje. Only smaller bands are found and captured in parts by encirclement. The enemy bands were supported in many cases by the population, 43 partisans among them an armed women were shot to death. Own losses: 2 dead and 7 wounded.

In retaliation for the capture of an LS. Company in Grn. Milanovac parts of the 714th and 717th Infantry Division (about a reinforced Battalion) made attacks from Topola on Rudnik and from Kragujevac on Grn. Milanovac. The enemy resisted east of Grn. Milanovac and near Budnik after a short skirmish east of Grn. Milanovac. The group Kragujevac broke through into the back of the enemy standing near Budnik, however, without being able to prevent the enemy from withdrawing into the mountains. From Grn. Milanovac 190 hostages were taken along.

Next to the report of the 10 October 1941, Page 146 of the English, Page 88 of the German. Only the sixth paragraph is relevant to the matters charged in the indictment:

"Total losses: Own 4 dead, 10 wounded.

Enemy: 75 dead, 6 wounded, 73 shot to death."

Next, the report of 11 November 1941, Page 147 of the English, Page 89 of the German:

"125th Infantry Regiment has completed mopping up of surroundings of Ub on 10 October.

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A band of approximately 50 men managed to escape. 4 insurgents shot to death."

I think we can skip the report of 16 October 1941 and turn to the report of the 20 October 1941 which is on page 149 of the English and page 90 of the German. Again, the extracts which we have had translated are from a ten day report, from the Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southeast. Paragraph 3:

"3.) Own troops:

125th Infantry Regiment carried out several operations in the surroundings of Ub and Obrenovac. The road and railway line Belgrade Valjevo were put in order again. The line is again operating.

26 of the enemy fell in combat. 272 hostages were shot to death, 24 were arrested.

749th Infantry Regiment 3rd Battalion carried out reprisal measures against Milanovac. From 14 to 18 October the Battalion fought in several skirmishes before numerous blockades fighting its way from Kragujevac to Grn. Milanovac and back. Grn. Milanovac was destroyed, 133 hostages taken."

"7.) Total arrested:

Arrested by 342nd Infantry Division up to present 22,658 Of these dismissed 5,004 Shot to death 1,968 Died 2 Remainder 15,684 Investigations still in progress.

1,041 hostages shot in Belgrade up to now."

Next, report of 23 October 1941, page 150 of the English, Page 91 of the German:

"704th Infantry Division: Reprisal measures for 1 wounded; 50 shot to death."

Under the 125th Infantry Regiment on Page 151 of the English, Page 51 of the German:

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"125th Infantry Regiment: dispersed band around about Arnajevo, 10 insurgents dead, in Barajevo 15 shot to death, 5 farms destroyed."

Then the report of 28 October 1941, same page of the English, Page 92 of the German:

"342nd Infantry Division: 3rd Battalion, 697th Regiment:

57 civilian prisoners shot in flight."

Next, the report of the 29 October 1941, page 152 of the English, Page 92 of the German.

"Belgrade: 250 gypsies arrested."

Under paragraph 3, the final two lines:

"Enemy: 26 dead, 76 shot to death, several wounded, 10 prisoners taken.

"Own: 3 wounded (among these 1 officer)."

Next the report of 30 October 1941, page 152 of the English, Page 92 of the German. Subject: 10 day report:

"704th Infantry Division: Cooperated with small units in the cleaning up of the area directly east of Valjevo and in the reconstruction of the road Osecina - Valjevo. As reprisal measures for 1 wounded German soldier 50 Communists were shot to death.

Total arrests: 3853 727 dismissed from camp Sabac after examination by 64th Police Reserve Battalion.

Shootings:

405 hostages in Belgrade (total up to now in Belgrade 4750).

90 Communists in camp Sabac 2300 hostages in Kragujevac 1700 hostages in Kraljevo Total number of inmates in camp Sabac (on 25 October) 16,445.

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Turning next to the report of the 1st of November, from the Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southwest, on page 155 of the English page 94 of the German. Paragraph 2a: "For the first time enemy tanks appeared near Kraljevo" Then under paragraph "b", the last two lines: "Belgrade: 7 Communists arrested. Order given to shoot to death 200 hostages (reprisal). Paragraph 3a. 342nd Infantry Division: In surroundings of Valjevo several skirmishes. Enemy: 39 fallen in combat, 125 shot to death. Own losses: 3 wounded."

Next on page 156 of the English, page 94 of the German, the report of the 2nd of November 1941.

Paragraph 3a: "3rd Battalion, 697th Regiment: 31 October, cleaning up operation to Vladimirci (18 kilometers southeast of Sabac) and Belotic (20 Kilometers south of Sabac) - of enemy, 30 dead, 150 prisoners. 1 November, pushed back surprise attack on Jadar bridge near Lesnica (14 Kilometers northwest of Loznica) Own losses: 1 wounded. Near Loznica 20 shot dead, 13 Cetniks taken prisoner."

Next the report of 5th of November 1941, page 157 of the English, page 95 of the German. "Arrest of 169 hostages from the Intelligentsia in Belgrade." Next the report of 10th of November 1941, which begins on the bottom of 157 of the English and 95 of the German. Page 158 of the English, 95 of the German, paragraph 3a, under 342nd Infantry Division: "3rd Battalion, 677th Regiment: Arrived in the new area Lesnica (15 kilometers northwest of Losnica) no contact with enemy. 130 hostages shot as measures of reprisal."

Next the report of 10th of November 1941, page 158 of the English, page 96 of the German, under political situation. "During the time from 31 October to 9 November, 35 additional Communists arrested in Belgrade, 1 Communist leader in Obrenovac, 2 in Batocina (20 kilometers northeast of Kragujevac) shot to death." Under "Own troops, 342nd Infantry Division: 3rd Battalion, 697th Infantry Regiment: Inflicted upon the enemy 30 dead during independent cleaning-up operation south east of Sabac on 31 October and during reconnaissance advance attacks as far as south of Losnica.

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180 prisoners taken. The Battalion since the termination of the operation of the 342nd Infantry Division again directly subordinated to the General Commando 18 (at present in Lesnica)-- will be transferred in the next days to Lesnica to protect the Antimon mines in Zajacar. While combing through the area between Sabac and Lesnica 130 prisoners were shot as reprisal measure on 10 November." The report continues under the 717th Infantry Division, finally in paragraph 5, Administration and Economy. Turning to page 160 of the English, and 97 of the German: "In order to increase the production of the mine Kostolac, the General Plenipotentiary for Economy in Serbia assigned 300 men from the concentration camp Sabac as laborers. Orders were given to the troops to increase the security measures and to cooperate with the pioneers in surveying the work. An increase in production is absolutely necessary because of the increased needs of the Belgrad electricity works conditioned by the season."

Then under paragraph 7: "Arrests. In the future the reports about shootings, arrests, and measures of reprisal are to be handed in according to the enclosed form (enclosure). Partisans killed in combat: 758; shot as hostages: 506; arrested as hostages: 895 (of these 169 in Belgrade); captured in combat: 461. A summary report on the numbers up to now will be submitted for the time up to 15 November after the reports of 19 November are available."

Next the report of the 11th of November 1941, page 161 of the English, page 97 of the German. Under 342nd Infantry Division: "Arrived in billets. 129 hostages shot as measures of reprisal." Next, turning to the report of the 19th of November 1941, at the bottom of 162 of the English, page 98 of the German, under 342nd Infantry Division: "Brigadier General Hoffmann has taken over command of the Division. 3rd Battalion, 697th Regiment: Liaison established with parts of the 718th Infantry Division in Zvornik, near Radalja (4 kilometers northwest Zvornik), 23 Communists, 17 Cetniks taken prisoners. Shirmish 5 kilometers east of Loznica.

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Enemy 10 dead, 20 Communists shot to death as reprisal."

Next the report of the 20th of November 1941, page 163 of the English, page 99 of the German, under "Own troops. 342nd Infantry Division: In small local operations in vicinity of billeting area. The enemy lost 147 dead (129 thereof were shot as a retaliatory measure), 7 prisoners, 3 rifles, 2 horses were captured." The report continues on page 164 of the English, page 99 of the German, at the top of the page: "Of the enemy, 17 fell in combat, 130 were shot to death, 207 followers of Mihajlovic were disarmed and taken as prisoners to the Sabac concentration camp." Continuing under the 714th Infantry Division: "Parts of the 714th Infantry Division: "Parts of the 714th Infantry Division carried out 7

operations in the vicinity of quartering area, the enemy lost 3 dead, 33 prisoners. Six were shot to death." Under Paragraph 5, Administration and Economy: "300 men arrived from the Sabac concentration camp we work in the Senjaki Rudnik coal mine and 300 men to work in the Lignite mines Kostaolac and Klenovnic." Under Paragraph 7, Arrests: "Reports about shootings, etc., in compliance with prescribed form have not yet arrived at time of writing report. Partisans killed in combat: 513; shot as hostages: (total) 305; arrested as hostages: 239; captured in Combat: 814. 12 English PW's in PW hospital Belgrade will be transported to the Reich on 20 November."

The report of the 21st of November 1941, page 165 of the English, page 100 of the German. "33 Communists arrested in Belgrade, among them 4 officials and 56 suspicious persons. 8 Communists hanged for attempt to escape from Sabac concentration camp."

Turning next to the report of the 26th of November, page 166 of the English, page 101 of the German, under "Serbian Auxiliary Police: Attack on Gen. Milanovac unsuccessful, Communists hold 45 positions. 500 Prisoners from Rudnik shot to death by Gendarmerie. Paragraph 5. At 717th Infantry Division 4 Communists shot after court martial.

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Next the portion of the 10-day-report, dated 30 November 1941, on page 168 of the English, page 102 of the German. Paragraph 2: "The enemy. Area south of the Danube: Mopping-up operations conducted by several Serbian Auxilliary Police Detachments in the area Pozarevac Petrovac - Rabrovo - Gradiste terminated on 22 November; 239 Communists were shot to death, 300 captured. With the shooting of teacher Veliko Pugosevic of Turija and of Professor Milanovic as well as the arrest of the partisan leader Pleskovic of Kucajna the driving forces of the partisans of this area having been removed. It may be assumed with certainty that in the area south of the Danube only small troops of bandits exist."

Under paragraph 7: "Enemy losses: Insurrectionists shot in combat: 847; shot as hostages (total) 534 (500 of these by Serbian Auxilliary Police); arrested as hostages: 376; taken prisoner in combat: 809; further surrendered: 300 Communists."

Next the report of the 5th of December 1941, on page 170 of the English, page 103 of the German. Under 113th Infantry Division: "47 insurgents, disarmed by Cetniks in the mountains near Guca, shot to death after interrogation. A total of 11 insurgents, who had returned to their villages, arrested." And this report, as are all the others, was signed by the Plenipotentiary Commanding General in Serbia, who, at that time, was General Franz Boehme.

If your Honors please, this completes the presentation of documents in Document Book 4. Mr. Denney will introduce the documents in Document Book 5.

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MR. DENNEY: At this time we hand to the Court the list of documents in Book III. I would ask that the Court refrain from marking it at this time because we have three more documents that we want to

put in at the end of that book and we will furnish an extra page to be added to this, either today or tomorrow morning.

These are 24 copies for defense counsel, 1 copy for the Secretary General and 1 for the Court reporters and 1 for the interpreters.

The first document which we would like to insert at the end of Book III is [NOKW-1711](#) and, if it's agreeable with your Honors, we will use letters after the numbers so that they will keep in order and, in view of the fact that we have used "a" for identification before, perhaps it would be better if we start with "b" on these and keep "a" out of exhibit identification, if that is agreeable with you.

JUDGE CARTER: That's agreeable with us.

MR. DENNEY: Thank you, Sir. In the English this contains--the Court has three copies in English, the Secretary General has the photostat of the original, the German counsel have eleven copies -- the defense counsel have 11 copies in German -- and the court reporters and translators have an English and a German copy.

This will become, if your Honors please--the first page will be 163, the second page 164 and the third page 165; and it is offered as Exhibit 14b in evidence.

Dr. Laternser, perhaps you can tell me what the German pages would be. It's in the book and it goes at the end, just after Exhibit 114, which is [NOKW-1662](#).

DR. LATERNSE: That will be page 111 in the German.

MR. DENNEY: This will be 111?

111, 112 and 113 in the German, if your Honors please.

This is a communication dated 17 January 1942 and bears the stamp of that date and is from the 718th Infantry Division to the 342nd Infantry Division.

I don't think we need to comment on the first page. However, the second page, which is a communication from the 342nd Infantry Division to the 718th Infantry, dated 21 January 42 recites an order of the Plenipotentiary Commanding General in Serbia, Order No. 21:

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"Armed enemy is to be shot. Armed enemy surrendering is to be treated as Prisoner of War. Inhabitants in whose homes arms are found and who do not participate in the fighting are to be arrested and treated as Prisoners of War."

And the attention of the Court is directed to the date "21 January 1942."

It has just been called to my attention that I omitted to read the last paragraph on the first page:

"So far six captured Cetniks shot, further enemy losses will be reported later."

Next we have [NOKW-1066](#) which is a teletype from the 65th Corps, dated 19 September 1941 and this is offered as prosecution's Exhibit 114c in evidence. It is Document [NOKW-1666](#) and the original is handed to the Secretary General, three copies for your Honors, a copy in English and German for the translators and reporters, and eleven copies for defense counsel to Dr. Laternser, please; and in Document Book III these pages -- this page -- will become 166 in the English and 114 in the German.

Are there only two pages to the other one in the German?

This is to become 113 in the German, your Honors. This is a report of 19 September 41 and bears the receipt stamp of the Wehrmacht Commander Southeast for the following day, report from the 65th Corps that the 1st Battalion 724th Regiment was shot 165 bandits at Uzice.

And the last document to be inserted is [NOKW-1633](#) which is offered as prosecution's exhibit 114c.

JUDGE CARTER: You mean 114d.

MR. DENNEY: I beg your pardon, Sir; 114d -- thank you. "D" for "dollar", Sir; three copies for the Tribunal, a copy in English and German to the reporters and interpreters, eleven copies in German for the defense to Dr. Laternser -- and the pages in the English book are 167, 168 and 169 and in the German book 114 and 115.

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MR. DENNEY: Will you hand the original to the Secretary General?

This is a photostatic copy of a copy, dated Belgrade, 21 August 1941. It is to the Commander in Serbia, and it is from the, -- rather it is a report by the Commander in Serbia and through the Chief of his general staff and it gives the situation report as of the date of the document:

Enemy band activity has not decreased in comparison with the first third of the month. In particular, terror acts against German Wehrmacht and population have increased. Bands are apparently acting according to uniform pass-words, for instance attacks on municipal buildings, mayors, railway stations, and the like. Shutting down of industries in the vicinity of Krupanj and Loznica (72 km Northwest of Valjevo) according to plan.

Then it recites the main areas of unrest, and then in paragraph 2 lists the various installations which have been attacked. The note under (b), "on 13 August, the Sergeant who was kidnapped 9 August in the area South of Topola was released by the bands."

And, "On 16 August a pursuit detachment from 704th Division liberated 3 missing soldiers near Monica".

And, "On 16 August in return for the attack on a truck of the 3rd Company of the 64th Police Reserve Battalion near Skela, Skela was burned down on 14 August 1941 and 50 Communists shot, some hanged, 15 village inhabitants were shot.

Under "e" "On 17 August 5 Communists were hanged in Belgrade," and then it recites major operations, and gives the dates and areas. On the 14th and 16th of August, "in the area of Cacak".

"12th, 13th, 19th and 20th, in the area of Obrenovac; 16th and 17th west of Sabac; And an especially successful major operation on 19th August in the area Southeast of Uzice" Then it recites the Wehrmacht losses. Then the "Estimate of the Situation":

Estimate of the Situation Employment of special pursuit detachment and total employment of the remaining units in cooperation with reinforced Gendarmes has so far not resulted in the expected relief on account of lack of allocation of Tanks and Reconnaissance Cars.

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Then for intended measures: Continuation of very wide employment of pursuit detachments results of which promise increasing success on account of the resulting training. In addition large operations with several battalions in preparation. On account of the totally insufficient strength of the Local Defense Battalions large forces of front line troops have to be employed for guard and security duty. Individual employment of an aeroplane met with good success. Therefore the request for bombers is renewed.

It is requested to speedily allocate the tanks requested separately. As before, request for a location of a Division is upheld, since industrial installations of military importance, among others those at Bor and Kuprany, are insufficiently protected.

There was a document which we passed in Book 3, on page 93. It is already in the book and defense counsel has had copies of it. It is [NOKW 1378](#). It appears at page 69 in the German, page 93 in the English, and it is offered as Exhibit 104a in evidence.

It is report from one of the natives in the area in the southeast, with reference to bands. It is a photostatic copy of the copy.

DR. LATERNER: If your Honors please, I object against the introduction of this document. Again two sheets of paper with merely typewriting on them, they have no signature. Even the signature of the person allegedly interrogated, it is written in typescript. Likewise the alleged interrogator has not signed himself, - rather his signature is typewritten. This is not a document which can be admitted in evidence.

MR. DENNEY: If your Honors please, it is the same proposition that has come up numerous times before. It is a captured document. We offer it for what it is worth. The photostatic copy of what purports to be a copy taken from the German file.

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PRESIDING JUDGE CARTER: Objection overruled.

MR. DENNEY: The report speaks of the captivity by this interrogee, and I do not think it is necessary to read the whole report. However, at the beginning of the second paragraph it says:

"In the areas mentioned there are about 500 communists and the Cetniks cooperated with them."

And later, they speak of, --on page two of the original, which is page 69 of the German, and page 94 of the English, paragraph 3, or rather the first paragraph on page 2:

Four days ago the bandits were saying among themselves that they expected 80 peasant wagons full of ammunition from Uzice and that they were to receive reports about the situation on the Russian front."

At the end of the next paragraph:

"Furthermore the bandits mentioned that everything was prepared and 2,000 men were ready for the attack on Valjevo."

At the beginning of the next paragraph:

"Some of the bandits have civilian clothes, some have Serbian army uniforms, and about 10 to 15 German uniforms, as well as German headwear with Soviet Stars."

Then again, on page 70, the first paragraph, on page 95 of the English, the second paragraph rather:

"In the neighborhood of the iron bridge across the Kelubara I met a peasant; he was wet and dirty and came out of the gardens; he told me that in several days' time, 2,000 partisans were going to attack Valjevo".

My attention has been called to the fact, that I neglected to read at the top of page 93, at the beginning, before "Valjevo",--this is on page 69 of the German, 93 English, at the very top of the beginning of the affidavit.

"Before Valjevo nea the churchyard, 10 armed men who all wor Soviet Stars and red, white and blue badges came from the left."

That, if your Honors, please, concludes that document book.

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We will try today, or if not, the first thing in the morning, to have an extra page added to the list of documents in this book, and it is suggested that this be marked in accordance with our procedure, 169a, and submitted for annexation to Document Book 3, not in evidence, but merely for purposes of indicating the counts, and defendants against whom the document in this book have been offered.

PRESIDENT JUDGE CARTER: That is agreeable.

MR. DENNEY: Turning to document book 5 as your Honors will note, there are only six document numbers there, and there is one which we would like to insert. Perhaps we had better wait until we reach the point.

Most of these reports have been received in evidence in other forms from lower units, - other copies, - but for purposes of making sure that these were brought home, we have offered these others, and I think that it will not be necessary to comment on them generally in mist cases.

The first document is [NOKW 892](#), which is offered as Prosecution Exhibit 125, and it is on page 1. Again reports from and to the Commanding General in Serbia. I believe that the only one that it is

necessary to read is the first one. The rest have already been received, and I believe that it will be sufficient to comment on them, just to call the court's attention to them.

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MR. DENNEY: This is a report by the Councillor of State, Dr. Turner to the Commanding General, and it is dated 21 September 1941.

"The aggravated situation, especially however, the appointment of the Commanding General of the 18th Army Corps, who is invested with executive authority, necessitates -- as I believe -- a complete change, however also a completely new attitude towards administrative problems.

For psychological reasons, it appears to me intolerable, that the government Neditch be kept in office at the moment where the executive power is assumed by the troops and where large military forces are employed for the purpose of suppressing the revolt. This puts the government in an unfortunate light in the eyes of the people. Failing to suppress the Communist revolt with its own forces it will appear as though it resorted to the troops of occupation. This will doubtlessly be the assertion of the people -- creating thereby a situation which after the revolt has been suppressed will deprive the government of the people's confidence.

Therefore I intend to advise General Neditch in a purely private conversation to tender not only his own resignation but also that of the entire government of the Commander in Serbia. Simultaneously he should make a radio address saying that a week had past since his last appeal to the Serbian people and because the Serbian people had not listened to his warnings, the occupation authorities had to take the suppression of the revolt into their own hands. Hence he had to consider his mission as unsuccessful.

This would assure General Neditch of a departure which would be plausible to the public in every way and leaves the possibility to the Commander to appoint him again, when the cleaning up operation is terminated in the Serbian area and the Commander believes that he should again appoint a man of the rank and position of General Neditch. Besides one must also take into consideration, that it would be very difficult to form a government again or even to find men, after operation which had become necessary, who would be prepared to take over the administration of the country.

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This however will be necessary because our own available forces simply will not be in a position to do so in the long run.

In addition the government cannot exercise any administrative activity as long as military operations are going on and as long as the country is not pacified. Moreover in the period during which only executive power is in force, our own military administration must be given a completely free hand, that is, a real government or a government by Commissars could not be taken into consideration. Administration reforms already introduced, with simultaneous purge of officials, commensurately severe legislation concerning the duties of officials, laws against corruption, would be decreed by the Military Administration and enforced by Military power. In this way after purging the country, one would be

able to give into the hands of the Serbs an apparatus which would allow them to take up the administration activity.

If one proceeds thus, it might be expedient for psychological reasons, to take the newly established police detachments out of those areas in which they are operating at present. For it is to be feared, that as soon as these forces are militarily employed, and they see that the tasks assigned to them are executed by the Germans, they will no longer muster up the élan to go on fighting, because military commitment is necessarily directed against forces also which belong to national circles. Therefore -- passive resistance might set in, and what would be worse, they might permit themselves to be disarmed, whereby arms too would be played into the hands of the enemies of the German troops. The withdrawal of these forces may very well be explained by saying that the discernment of armed forces in the terrain is very difficult and that moreover the police forces are more urgently needed to protect priority enterprises and that the cleaning up operations are carried out by the Wehrmacht itself.

In the southeast area of Serbia, southwest and south of Nisch, thanks to the formations of Kosta Pecanek which are there, not a shot has been fired and there is absolute silence.

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Also there are no German troops; the formations of Pecanek might continue to see to order and quiet and security as heretofore. The volunteers of the Ljotic group which placed themselves at the disposal of the newly formed police forces,--and which have proved themselves in doing excellent work -- could continue the cleaning up operation in the area between Belgrade and Gradiste, as this operation is primarily concerned with sheer combatting of Communists.

The separate Ministries, and thereby the highest authorities subordinated to them, are under direction of highest civil servants, who in all matters are bound only to the orders of the Military Administration.

With regard to the mopping-up operation itself, I am of the opinion, that for reasons of prestige,-- the reputation of the Wehrmacht has suffered seriously by the failures at Kuban and Losnica and a short time ago at Uzice, -- we must act at least in one place with complete lack of consideration in order to provide an intimidating example for the other parts of Serbia. I, personally, believe that in the area west of Labac, in the area between Save and Drina a complete evacuation must be carried out since according to unequivocal reports and messages, a large part of the male population of this area which is grouped in bands belongs to the Mihajlovic bands located in the southern part of the Cer mountains, and children and women maintain the communications service and the food supply. Therefore the whole population must be punished, not only the men.

Besides, this territory belongs to the most fertile area of the present Serbian area and every possible means must be applied in order to prevent even the slightest amount of food available there from benefitting the insurgents. Furthermore since winter is close at hand and living in the open air amid the mountains soon will no longer be possible.

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Pushing off of women and children to the dreary mountains in the south would also present a catastrophe for the insurgents with respect to food supply. They can get their supplies by terror and also voluntarily from the peasants, but they are not in a position to supply thousands of women and children with the necessary food. Such an operation though it appears cruel, is in my opinion the only guarantee for engendering fear and terror in the country and bringing the enormous amount of forced insurgents and followers to their senses by causing them to fear that their relatives may be facing the same destiny.

The corn fields can be harvested in this area quickly and readily by the Germans from the Banat and Syrmia, who voluntarily are prepared for this work at any time. The same applies to the Wheat harvest which along with all the cattle should be brought into the Syrmian area, north of the Save, to be kept in reserve for the German Wehrmacht. The fact that this is Croatian territory should not be of importance because according to agreements, the German Wehrmacht possesses complete freedom of movement in the Croatian area.

At the same time I propose that the Croatian government be requested to occupy the western bank of the Drina in order to prevent the bands from trying to penetrate into Croatia, which not only seems to be their intention, but which according to reports is already being done by some forces. Thereby the insurgents will meet with disaster in the inhospitable areas in winter without forcing the Wehrmacht to intercede with any large scale combat operations in the mountains. At the same time the winter should be used to comb through all villages systematically. By means of money and confidential agents one could find out very quickly I believe who belonged to the bands or has helped them during these months and these people must be ruthlessly shot to death. Thereby the revolt which is expected to flame up certainly and perhaps on an enlarged scale this spring would be deprived of its subsistence.

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Simultaneous with the cessation of the Neditch government it seems to me urgently necessary to conduct an especially severe operation in Belgrade, because here, without doubt, the threads pass on to the insurgents without being disturbed and via the most unreliable elements of the intelligentsia. Therefore, it seems to be necessary to arrest the circles from the highest persons downward without consideration and if necessary to liquidate them. To this group there belong in the first place: high grade free masons, members of the Russian-Serbian, of the English-Serbian and the French-Serbian clubs, and members of the Serbian Cultural Society, persons who have contributed money to the Communist organizations, instigating elements of the university and members of Serbian Technical organizations, who, as can be proved, were Communistically very active as far as their youth groups are concerned.

At the same time all active officers and NCO's are to be arrested with the exception of those who put themselves at the disposal of the government Neditch immediately. Consideration towards officers, who in the last months worked professionally, does not seem to be appropriate because these persons by virtue of their feeling of solidarity were no doubt used in the communications service or were put in harness in some way, likewise the arrest of all Jews which has already started, is to be carried out more drastically and the gypsies too, are to be arrested.

Last but not least a proclamation should be released in the Belgrade area allowing a deadline of a very few hours in which it is requested that all arms and ammunition and explosives etc. be surrendered. Belgrade should be cut off during this period and a warning should be published that if arms and such were found, not only the one in possession of arms but also the proprietor of the house will be shot without legal proceedings. Thus the proprietors themselves would be impelled to give information against others in order not to become liable for this punishment.

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Thereby every possibility for a revolt in Belgrade itself -- an area which can be searched systematically block by block -- is removed -- which is especially important in so far as an insurrection is deprived of assistance from without.

(signed) Turner State Councillor

MR. DENNEY: On page 7 of the English and Page 8 of the German is Document No. [NOKW-892](#) Continued. This is the same as the prior entry in Book II, Exhibit 62, and I don't believe it's necessary to reread it. As can be seen, it is the same report as the one of that date in the earlier book, which appears on Page 107 in Document Book II. It is, however, a different copy which we have here. On Page 10 in the English and Page 11 in the German there is a report of 24 September. This is the same as Exhibit 69, which is in Document Book II. The report in Document Book II, in that case, is from the Quartermaster, and this one is the copy from the Ia. Turning then to Page 13 in the English and Page 14 in the German. This, again, is the same as Exhibit 89, which is in Book III, Page 337. This is the report for information of the 65th Corps, and the earlier record was the same report sent by the 342nd Division up to the Commanding General -- Plenipotentiary in Serbia, Boehme. On Page 14, in the English and Page 15 in the German test is the same as Exhibit 70, Document No. [NOKW-203](#), which is in Book II, Page 141. That Exhibit was a communication from the Defendant List to his subordinate, the deceased Boehme, and this one is Boehme's passing down the List order to the 125th Infantry Regiment. The entry on Page 18 -- the one that appears on Pages 16 and 17 -- is Boehme's reporting to List of activities of his various divisions -- 342nd, 125th, 717th, and 714th, the 125th being an Infantry Regiment. And these reports have similarly been read in evidence at an earlier time.

That concludes this document.

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Starting on page 18, page 21 of the German, [NOKW-1053](#), it is offered as Exhibit 126. Here again, this is a series of additional reports from Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southeast. Most of these have been read before.

In turning to page 20 in the English, 24 of the German, I would just like to direct the Court's attention to the entry on page 11 of the original which is under page 3--this is on 25 of the German--reference from Boehme to List of the 717th Infantry Division, "For losses suffered at Kraljevo so far 1736 men and 19 women were shot." That, of course, is the same report which we have seen before, page 90 in Document Book III, [NOKW-1074](#), where the 749th Infantry Regiment reported to the 717th Infantry

Division. It also appears on Exhibit 83 which is page 15 in Document Book III, [NOKW-3042](#) in the Security Police-and the SD report issued from Berlin on October 21 1941, and the same entry also appears in the diary of the 65th Corps, Exhibit 85, which is on page 20 in Document Book III and it is from the War Diary kept by General Bader, the Commander of that Corps. And the entry appears under the date of October 18, 1941, and here we have the Plenipotentiary Commanding General in Serbia passing it on up to the Armed Forces Commander Southeast.

I don't think it is necessary to take up the time of the court or counsel to cover any more of these reports. They are all from Boehme to List and the court is certainly familiar with the contents of the reports from the various lower units up and I believe that one reference is sufficient to indicate the type of reports which were going up. They are also concerned with matters of very small detail.

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It might be pointed out on page 28 of the German and page 22 of the English where they speak of their own losses as being three wounded and then on page 29 of the German, and on page 23 of the English, it is recited that individual enemy tanks appeared for the first time at Kraljevo. It is not submitted, that the individual enemy tanks called to the Court's attention in connection with the prior statement concerning three wounded.

I believe the balance of the reports need not be gone into.

Then turning to page 27 in the English, page 34 in the German, Document [NOKW-123](#), there are additional reports from the same period but starting in July and concluding in December of 1941, from the Plenipotentiary Commanding General to the Armed Forces Commander Southeast. The report which appears in the first page has been given at page 66 from Book IV. This is, in this case, the copy which was received by 12th Army. In the earlier book, they were copies which were taken from either the files of the Plenipotentiary Commanding General in Serbia or one of his staff.

On page 29, this has been placed in before, but I might call the Court's attention to it; it is the incident occurring in Belgrade on 25 July which the Court will recall was, it is alleged, that an unknown Jew attempted unsuccessfully to set a German motor vehicle on fire with a bottle of gasoline and further similar attempts were made. The culprit, a 16 year old Serbian girl, was arrested. She admitted that a Jew had been the instigator. As reprisal measure, 100 Jews will be shot to death in Belgrade on 29 July.

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The Court will recall the balance of the earlier report which went up to Boehme.

In the next page, page 35 in the German, 30 in the English, there is the case of 31 July 1941 which recites "Execution of Communists as reprisal is being prepared." At the bottom of the page on the first of August, "As reprisal for the previously reported disturbances near Petrovgrad 90 Communists shot to death there yesterday."

On the next page, 36 of the German and 31 of the English, report for the 7th of August again reciting "In Zagreb 4 plotters and 98 Communists and Jewish hostages shot to death."

In the entry below, which the Court will recall, "Three pointed wire books, 7 centimeters wide are thrown on the road."

On page 37 of the German and 32 of the English, they continue the report for that day. The entry under the 4th reporting on the Communists and Jewish hostages shot to death on the 6th of August.

Page 37 of the German, 33 of the English, report for the 16th, reporting for the 15th, "Skela will be burned down and 50 Communists from Belgrade will be hanged there." The Court will recall the earlier reference to that.

Then turning over to 38 in the German and 34 in the English, the report with reference to Skela again of the people shot to death and hanged and village residents shot to death because they failed to report the presence of an armed band. That has been gone into at some length before, and in the next page 35, and 38 of the German, the recitation of the destruction of 350 houses.

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Then we can turn over to page 37, page 39 of the German, these reports that we are passing have also been seen before. They are for the 4th of September and report the recital of 50 Communists executed in reprisal for the soldier killed on the open street in Belgrade on the 3rd of September.

Then we can turn to page 42 of the German, page 42 of the English, where we have the radio speech of Nedic reported to the Wehrmacht Commander Southeast, asking them to refrain from acts of sabotage and to be friendly toward the occupation troops and the entry under the 7th for the 15th of September. "Another Communist shot to death because of propaganda activity."

Page 43 of the English and of the German, the report of the 20th of September under 6, "Parts of the Belgrade male population sent to transient camp near Belgrade."

Then turning to page 44, of the English and the German, this document--the other copy is at pages 60 and 61 of Document Book IV-- and the entry at the bottom of 45 in the English, 44 in the German, under "3" for the date of 26th of September, 1941, "125 Infantry Regiment has shot to death 49 insurgents near Valjevo." The Court will recall that.

THE PRESIDENT: We will take our morning recess at this time, Mr. Denney.

(There was a short recess)

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THE MARSHAL: All persons in the courtroom will please take their seats.

The Tribunal is again in session.

MR. DENNEY: If your Honors please, we were in the middle of Exhibit 127 which is [NOKW-123](#) and on page 144 of the German text and page 45 of the English and again in proper order has gone in before, Document Book 4, pages 60 and 61. I just refer to item 6:

"8 wounded captured German soldiers before Sabac to returned to own unit. 27 heavily wounded German soldiers are in a hospital in Loznica belonging to the insurgents. 12 Communists hanged for attack on line Petrovgrad-Pancevo."

And still on 44 of the German and 46 of the English -this document was put in at page 69 of book IV.

Then turning to 46 of the German and 48 of the English, the recitals under 3A and B: "Infantry Regiment 268 has shot 44 Communists" -- I believe that is an error in the German; it should be "44" as it is "44" in the original -- "by summary court martial on 29 December."

And "3B": "In Cacak 50 Communists shot to death."

46 in the German, 49 in the English; and the first entry is on page 70 of Document Book IV and need not be repeated here, and the second one is on page 71 of Document Book IV.

Turning to page 47 of the German and 50 in the English, material appearing at the bottom under the date of 1 October or a teletype of the 30th of September is on page 74, Document Book IV, page 48 in the German, 51 in the English, the reference under "6" in the teletype of 1 October 1941:

"3800 prisoners (342 Infantry Division)." That's on page 76 of Document Book IV and still on page 48 in the German, 52 in the English, in reference again under "6"; "A total of about 1000 were shot to death and 14,000 arrested by the 342 Infantry Division."

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That's on page 78 in Document Book IV, page 53 in the English, 49 in the German -that appears at 79 and 80 in Book IV, page 54 in the English 50 in the German. That appears on page 86 of Document Book IV as does the balance of the message which is on page 55 of the English. Message starting for the 9th of October at the bottom of page 55 in the English, 50 in the German, page 93 of Document Book IV is the balance before the omissions on the top of page 56 in the English, still on 50 in the German, the matter which goes before the third paragraph of the communication. The third paragraph of the communication is on page 95 in Document Book IV and the entry which appears on the top of page 51 in the German which is page 42 of the original and 58 of the English: "130 hostages shot as reprisal." That should be deleted as that appeared in the earlier paragraph. That is an entry with reference to the third Battalion of the 697th Infantry Regiment and it appears on page 56 in the English and 50 in the German. There has been a mistake and this has been set forth twice.

On page 59 in the English, 52 in the German, the communication just preceding the signature and certification, in the communication of 11 October 1941 should be "73 shot to death" in the English instead of "70"; and on 56 of the German and 60 of the English, another communication of the 11th of October from the Plenipotentiary Commanding General in Serbia Boehme to the Wehrmacht Commander Southeast List again refers to the speech to the Serbian people against Communism.

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On page 53 of the German and 61 of the English, that material appears at pages 89 and 90 of Document Book IV.

Page 54 of the German and 62 of the English, the entry at the bottom has been submitted before as the rest of them. I just call the Court's attention to "3":

"342nd Infantry Division, in addition to 250 arrested by the Division, 100 civilian prisoners shot to death as reprisal measures."

That's under date of October 14.

Page 55 of the German and 63 of the English, communication of the 16th of October -- or the 15th -- received the 16th -- by the Wehrmacht Commander Southeast, beginning with sub-paragraph "3" under "II": "Infantry Regiment No. 125: 230 Hostages shot to death."

And on 54, still of the German, and 64 of the English, another report of the 342nd Division: "635 shot to death, 1043 arrested."

55 of the German, 65 of the English, the report of the 18th of October is at page 104 of Document Book IV, page 56 of the German, 66 of the English, has been put in at page 110 of Document Book IV.

Then going to 57 of the English -- or German -- and 68 of the English, a message of 23 October 41, report concerning the 704th Infantry Division of the Plenipotentiary Commanding General in Serbia; "50 have been shot to death in reprisal for 1 wounded;" and the next reports very similarly have been seen before.

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Turning to page 59 in the German and 72 in the English communication of the 11 November, received on the 12th, "129 hostages shot to death as reprisal measures," and in passing, we might note such as page 76 of the English, and 60 of the German, the distribution which is given this in the office of the Wehrmacht Commander Southeast, where it goes to the 1a, 1c and 1d chief of transportation, then the note for the 19th of November, that on, -- page 76 of the English -- "Generalmajor Hofmann has taken over command of the 347th Division".

The force of the band outside of Kragujevac, in November, is reported at page 81 of the English, -- I am sorry I do not have the German page, -- that is over several pages, -- a communication to the Wehrmacht Commander Southeast, under 26 of November, it is No. 2737/41 received by 12th Army on the 27th.

Does defense counsel have it in the book?

DR. LATERNER: The number is 62.

MR. DENNEY: 62, did you say, Dr. Laternser?

DR. LATERNER: Yes, 62.

MR. DENNEY: Page 62 of the German, recites that a band of 1500 men is reported near Kragujevac, and the balance of the message on the next page, reports "500 prisoners from Rudnik shot to death" and "four communists shot to death after Court Martial", with which your Honors are already familiar.

Then turning to page 88 in the English, this is a message of the 4 December 1941 received by the 12th Army. The 1a number is 2791/41 is on several pages. Do you have the German page, Dr. Laternser?

DR. LATERNSEER: Page 64 of the German.

MR. DENNEY: Page 64 of the German, and the bottom of the message on page 88, reports the size of the communist band. In the two areas, supposedly about 1000 communists in area Pecka west of Valjevo. And further down, reports, "11 communists shot to death; 11 suspects rather; 42 Mihailovic followers arrested", and a little lower, "hostages seized".

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Then on page 90 of the English, which is a communication of 6 December, the Wehrmacht Commander Southeast, is advised in paragraph 6 that the new staff has taken over the affairs of the Commanding General in Serbia, pursuant to orders, -- and this is submitted, if your Honors please, is the time which General Bader, as will be recalled from the Diary of the 65th Corps, which was placed in evidence in Book 3, on this date, -- he succeeded to the position formerly held by General Boehme. This is the notice to the Armed Forces Commander.

Then on page 94 of the English, communication of 11 December 1941, it has the last message, No. File No. 2821/41. This is a report about enemy band northwest of Valjevo, increased to 1500 men, and above that a band about 300 men strong in held positions. Then another band about 400 men strong.

On page 96 in the English, the next message of 13 December message No. 2973/41:

"Air reconnaissance finds concentration of bands of about 100 men" and "In surrounding villiages a noticeably large number of men."

On page 98, a reference of 23 December, which your Honors will recall, is Message No. 3124/41a, of the Armed Forces Commander Southeast, and of course, at this time the Armed Forces Commander Southeast as of a late date in October, is the defendant, Kuntze, and of course, that applies as Mr. Fenstermacher has said, to the communications from the Plenipotentiary Commanding General in Serbia, which he read, as well as these.

Then on page 102, a message of the 30 December. This is the beginning of a new document. These, again, are now reports from the Armed Forces Commander Southeast to OKW and OKH. This is offered as Prosecution Exhibit 128, in evidence. These, again, are repetitious of the material which has been covered. However, now we are concerned with the last step in the echelon report, the reports coming from the lower units to regiment and division, and division to corps and Plenipotentiary Commanding General in Serbia.

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The corps reports from the Plenipotentiary Commanding General in Serbia, going to the Armed Forces Commander Southeast, the receipt of those reports, and now we have the certified copies of the reports which the Armed Forces Commander Southeast, passed on to OKW.

It is to be noted that for information copies of these reports were sent to the OKH, Army General Staff, Operations Section; OKH group in the Near East; and in the Balkans; to the Commander in Chief of the Luftwaffe and the 1c of the Luftwaffe Operational Staff.

The reports of 30 December -- these go backwards, if your Honors please, -- cites the activity of the 113th Division, the part which we use:

"94 communists shot to death;" and "the communist leader of the Mavca group killed in action".

"In Sjenica, 103 communists shot to death". At this period in December, the Armed Forces Commander Southeast is the defendant Kuntze.

Then, on page 103 the second report which is on 27 December 1941, "31 Communists shot to death, 43 arrested".

Your Honors will note as we go along that the reports are addressed to the same officers as were indicated in the first one, OKW, with information copies going to OKH and OKL.

On page 104, the note on the daily report of the 18 December, two Majors of the Mihailovic staff were shot to death according to summary court martial procedure, and the report of the 16 which appears at the bottom of the page, "In Uzice 21 Communists shot to death". It is an entry concerning the 113th Infantry Division.

And the report of the 8 December, 342nd Infantry Division on page 105 reciting:

"During mopping up operations around Cacak, Uzice and Pozega 182 Communists shot to death."

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THE PRESIDENT: Mr. Denney.

MR. DENNEY: Yes, Sir?

THE PRESIDENT: Were all these orders made while the Defendant Kuntze was the Commander Southeast?

MR. DENNY: Yes, sir, that is, that order was made by the Defendant List, except for a latter portion in this order when the Defendant Kuntze took over. I believe it's already in, your Honor. And then, there's one reference in Document Book III, however. During November and December, the parts which we are now covering, the Defendant Kuntze was the Armed Forces Commander Southeast.

THE PRESIDENT: I just thought if you mentioned that as you went along, it would be helpful here. We could make a note of it.

MR. DENNY: Thank you, your Honor. I'm sorry, Your Honor. I was under the impression that I had made that statement earlier. Thank you for calling it to my attention. There's a note on Page 143 of the Document Book III, and Page 97 of the German, Exhibit 111 in evidence, which says that on 18 October Lieutenant General of Infantry Kuntze takes over temporarily for General Field Marshal List. If your Honors recall we referred to that yesterday, and it says General Kuntze, well-known in the

Division as the Commanding General in the Ardennes area during the fall of 1940; but it's our submission that there's another document, and at the moment I can't put my hand on it, which indicates that the Defendant Kuntze did not actually take over until 27 October 1941. But certainly during the period December and November and for the latter small portion at the end of October, we submit that the Defendant Kuntze was the Armed Forces Commander Southeast. On Page 107, the Defendant Kuntze still in command, a communication of the 30th of November, again to the same addressees, reciting the arrest in Belgrade of 90 Communists and suspect in Bor 16 Communists shot according to Summary CourtMartial procedure. And then a note for Croatia that there was "New band activity north and northeast Banja Luka, north Bosnia, Gradiska and north Bjelovar. During this activity Novi Grad (80 kilometers northeast of Zagreb) attacked by Communists in Russian uniform with the Soviet Star."

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And then we have on Page 108 the communication of 26 November being passed on to OKH, "500 Prisoners from Rudnik shot to death by Gendarmerie," the Defendant Kuntze is submitted was still the Armed Forces Commander Southeast in this period. On Page 110 there is a report of 11 November 1941, reciting the entry which has been seen before of "129 Hostages shot as reprisal measure", by the 342nd Infantry Division. And then on 1 November 1941, and the date-line of Serbia, Page 111, still in Document No. 128 in evidence, "In Belgrade 200 hostages will be shot as reprisal measures". And then, turning to Page 112, getting back to 26 October 1941, there is a note about Serbia and below it about Greece. And Your Honors will recall the document which was placed in evidence yesterday, from which all of these reports are compiled, it being the Document No. [NOKW-1073](#), Exhibit No. 111, which reports from the 164th Infantry Division, which is on Page 140 in Document Book III. The reports of the shootings of the male inhabitants of the villages are passed on up, Page 112, "Male inhabitants (67 men) were shot to death. Women and children were resettled." That is the same report as was in Exhibit 111. On Page 113, again a report about Greece on 24 October 1941, and this, if Your Honors please, is at about the time when the change-over took place between List and Kuntze. This recites the villages northeast of Kozani being burned. "Male inhabitants (142 men) were shot to death. Women and children were resettled." On Page 114, Daily Report for the 23rd October, still concerning Greece, with one entry about Serbia, "704th Division 50 Serbs shot to death in reprisal." And in Greece, "During search for arms west of the estuary of the Struma River 5 Greeks shot to death, several houses burned down." And on November 22, on Page 115, the 714th, which is in Serbia, recites the burying of houses by the elements of the 1st Battalion of the 721st Infantry Regiment, which was part of the 714th Infantry Division. Page 116 has a report for the 21st October, "Serbia: 717th Division: Within the divisional area 529 shootings." And then on Page 117 a communication of 9 October 1941 from the Wehrmacht Commander Southeast, who at this time is the Defendant List, to OKW, and the informational copies to OKH and OKL. The incident which Your Honors will recall with reference to the 521st Signal Battalion goes on up to the OKW staff.

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"In reprisal for 22 murdered men of the 521st Signal Regiment, 2,000 Communists and Jews are being shot to death." That has to do with the incident which, Your Honors will recall, took place in General Boehme's area, and which the initial documents in Book III, Exhibit 79, which is the report from Boehme to List, on Page 2 in the German and Page 3 in the English, of Document Book III, which is Exhibit 79 in evidence. And then Exhibit 80, which is on Pages 3, 4, and 5 through 8 of the German Book and Pages 4 to 10 of the English Book, Exhibit 80 in evidence, which recites the report of the Lieutenant to his Major, the Commander of the 521st Signal Battalion, and the report from the Major to the 1st Signal Officer for the staff of General Boehme. And then on page 118, indication of the 29th of September, recites a band of 500 men dispersed northwest of Veljevo by the 125th Infantry Regiment. "For attack on 27.9 in Belgrade, 150 Communists shot to death." And then on 27 September, Page 119, recites the burning of houses, 71 of them northwest of Valejavo. On the 20th--this is the report of List to OKH, with reference to his request to OKH that General Boehme be assigned as Plenipotentiary Commanding General in Serbia; and then, Your Honors will recall how that order was worded, and then List appointed him, and here he recites to OKW, "Corps Headquarters XVIII" that was General Boehme's corps, "arrived with small working staff in Belgrade 19.9. General Boehme has taken over command." Of course that is the position of Commanding General and Plenipotentiary General in Serbia. The reports of the 17th and 16th of September have already been called to the Court's attention. Turning then to Page 123, to show that he reported as well concerning Greece, the entry under Arabic "5" for the 8th of September, "During special operations against Franc tireurs on Crete, 20 more Greeks shot to death, 41 Greeks and 11 Englishmen captured." And then on Page 124 is the communication of the 8th of September, the first quoted paragraph "2"--that is Serbia, and the second one quoted, which is No. "4", recites "Greeks and Englishmen shot to death, 75 Greeks and 16 Englishmen captured." And then on Page 125 a message of 7 September 1941, "In three villages of the Banat 30 Communists hanged publicly in reprisal for repeated cable sabotage."

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Turning over to Page 126, messages again continue about Greeks and English. The communication at the bottom of the page for the 3rd of September, "During special operations again, 20 Greeks and two Englishmen shot to death. 33 Greeks and 11 Englishmen captured." And then for the 2nd, again referring to Greeks and Englishmen, "27 Greeks and 2 Englishmen shot to death. 30 British soldiers and 23 Greeks captured." That was on Page 127. Page 130, the entry under the first paragraph sets forth houses being burned down in Serbia; it is a communication for the 19th of August 1941. And on Page 131, the communication of the 17th of August, "5 Communists convicted of sabotage, hanged in the main street of Belgrade." On Page 132, going from the Armed Forces Commander Southeast, Defendant List, to OKW, entry of the 16th of August, "In addition to the Communists hanged in Skela (see Daily Report dated 15.8. 15 villages shot to death because they omitted to report the presence of the band. 350 houses burned down. The punishment has been publicized by radio, poster and in the press." That has been called to Your Honors attention before.

THE PRESIDENT: I believe this is the proper time to recess.

MR. DENNEY: If Your Honor pleases.

(The Court recessed from 1225, to resume at 0130)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours, 22 July 1947.)

THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

MR. DENNEY: If it pleases your Honors, we were approaching the end of Prosecution's Document Book V and we were on Exhibit 128, which is document [NOKW-251](#) in evidence, and we were considering reports received by the Wehrmacht Commander Southeast from the 164th Infantry Division, which your Honors will recall was operating in Greece and had been the case with prior reports here, most of these have been put into evidence before in Document Book III, Exhibit 111, in the form of copies which were taken from the files of the 164th Infantry Division, and these copies are taken from the files of the Armed Forces Commander Southeast, and at the period of the telegram to which I will not make reference, 30 September, 1941, the Defendant List was Armed Forces Commander Southeast. This has been put in before, reports an operation on the 29th of September in area northwest of Negrita. "22 Greeks disposed of, partly while escaping, partly while resisting. Some houses burned down."

The next report on page 144 for the 6th of October recites divisional troops of the 164th making a search for weapons on the 5th of October. Two Greeks executed by a firing squad for unauthorized possession of weapons. Houses in which arms were found were burned down.

And on the 8th at page 145, "search for weapons in the area south of Lake Drojan on 7 October, various weapons and ammunition were found, 11 Greeks shot. 16 houses burned down."

On 17 October 1941, again from 164th Army, your Honors will recall this, the two Greeks shot southeast of Negrita and 12 houses burned down. A small quantity of arms found. "Additional member of the Bolshevik parachute squad which was dropped on 6 October was shot on 17 October while attempting to resist arrest."

And on page 147, the communication of the 8th, the figure of 207 persons shot, the male inhabitants between the ages of 16 and 60 years in the two villages of Ano-Kerzilion and Kato-Kerzilion.

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Those are references to that same incident in Exhibit 111 in Book III, page 99 of the German, page 146 of the English.

On Page 148, daily report of the 24th of October, the figure appears as 142 on your Honors' English copy of Document Book III, Exhibit 111 in evidence, U. S. or English copy 149, and page 101 of the German. That figure appears as 42 instead of 142.

THE PRESIDENT: Just a moment, please. We have a little mechanical trouble that has come up.

(There was a short pause.)

THE PRESIDENT: You may proceed.

MR. DENNY: Thank you, your Honors. Referring again to page 148 of English Document Book V, which is - excuse me, your Honor, I passed on over and neglected to mark this section of these reports [NOKW-1380](#) as Exhibit 129. That starts at page 92 of the German, for the benefit of German counsel.

THE PRESIDENT: What page on the English, please?

MR. DENNY: It starts at page 143 of the English, your Honor. It is the beginning of these reports of the Wehrmacht Commander Southeast from the 164th Infantry Division, and the first report is the one dated 30 September. That will be 129 in evidence.

Returning to page 148 of Document Book V, Exhibit 129, in the daily report here, the male inhabitants of the villages of Mesevunos and Selli are listed as 142 here. I checked that with the German original of this communication and also with the original of the copy which was presented as part of Exhibit 111 and in the English text at page 149, Document Book III, where there appears the copy which was retained in one of the offices of the 164th Infantry Division, the figure appears as 42. It should be 142, the same as is here. And this is the identical report to the one that was offered before.

On Page 149 of the English, the next page of the German, the recitation with reference to the 25th of October, the male population between 16 and 60, 67 persons shot. Women and children transferred. That also appears at 101 of the German, and 149 of the English, Exhibit 111 in Document Book III.

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We now come to the document which is to be inserted, which is NOKW-1056, and these are further reports to the Wehrmacht Commander Southeast from the Commander Saloniki. It is Document [NOKW-1056](#) which we offer as Exhibit 130 and ask that it be given pagination starting with 150a and continuing to 150p, "A" as for Abel and "P" for Peter.

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11 copies for defense counsel in German, 1 copy of English and 1 copy of German for the reporters and interpreters, and the German pages, I believe Dr. Laternser, will start out as 98a and continue through 98g. Page 150 we can pass. It is just the heading of this document.

Then page 150b, the message of 29 July, paragraph 4:

"Sonderkommando Rosenberg starts Eisatzaktion against the Jews."

Turning then to 150c. The entry in there, note 4, report of August 11:

"Checking the Greek prefectures for newly employed personnel, in particular, former Greek officers. Installation of a concentration camp together with the Greek Governor for the purpose of receiving elements inimical to the axis."

Then at 150d, the report of 23 September contains a note:

"About 20 hostages siezed."

150e reports for the period of 29 to 30 of September:

"During mopping up action of the mobile column near the place of attack on Wehrmacht trucks, 22 men, some while attempting to escape, some while offering resistance were shot to death and some houses were burned.

150 f the report for 3 October, note 2.

"Near Poligires (Kalkidiki) 5 English prisoners of war and 4 Greeks trying to get to Asia Minor have been seized.

From prisoner of war Air Transport, 27 Englishment broke out. 2 shot to death, 1 heavily wounded. Search operations was started during which weapons were found. 1 Greek shot to death. Houses of owners of arms burned.

In a report of 8 October starting at 150g and continuing over to 150h:

"Operation for search of arms South of Dojran Lake - 11 persons shot to death, 16 houses burned" Starting at 150h and continuing over to 150i, the indent with reference to the two villages of Ano-Korzilion and Kato-Korzilion are set forth and in this report here it says 202 shot to death and that is the number that was actually transmitted by the Commander, although the prior reference is 207; so, some place en route it was changed from 207 to 202.

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This same information is on page 147 in this same book, Exhibit 129, and it is also in page 146 in the English and 99 in the German in Exhibit 111, Document Book III.

Then passing to 150j, communication of the 21 October still from the Commander Saloniki-Aegean to the Wehrmacht Commander Southeast:

"Of the Russians who had parachuted on the 6 October, one each was shot on the Struma River on 17 and on 19 of October. Nothing is known as yet regarding the other three escaped parachutists.

Then they go back to the 17 and recite the action again concerning Ano and Kato Korzilion and now the total has risen to 215 men.

In the note of the 20 October, "As preliminary reprisal measure, 10 insurgents hanged in public in Kato-Kastron."

In turning to 150(1) note of 24 October, the figures for the two villages Northeast of Ptolemais, the same figures and same report that appears on page 148, Exhibit 129.

Page 150m, communication 23 of October:

"In Dafni, 2 men shot to death while attempting to hide arms, in Sitochori, 2 men shot to death for belonging to bands and the houses of people concerned burned down.

"Also Zerovohori the houses of 9 confirmed members of bands burned down.

"In Efkapia, a Greek shot to death by Summary Court Martial for having been convicted of belonging to a band.

"Two death sentences each (each for the crime specified) for unauthorized possession of arms and for aiding and abetting members of enemy forces were carried out by shooting to death."

Then the note that 2 Australian prisoners who had escaped from Rest Transfer Camp 183, had been recaptured.

Then 150(o) The report again with reference to the 67 men is the same as appears at page 149 of this document book, Exhibit 129.

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In the report for the 8 of November, this time the dependant Kuntze has become one armed forces Commander Southeast:

"During raids in the area of Nigrita, 95 persons who had carried on Communist activities were arrested and sent to a concentration camp. 1 band leader was hanged, two bandits shot to death."

Then we turn to page 152, Document 1033 [NOKW which](#) is the last document in this book. This is offered as Exhibit 131 in evidence.

JUDGE CARTER: What number?

MR. DENNEY: I beg your pardon 152, Exhibit 131 [NOKW 1033](#), beginning at page 151, in Prosecution Document Book V and 99 in the German Book.

These are more reports from the Commander of the Salonika Aegean Area to the Armed Forces Commander Southeast and are certified copies. The first report, Paragraph 2 "In the area of Poligires (Kalkidiki) 5 English-prisoners of war and 4 Greeks, who were on their way to Asia-Minor, were captured."

That was just submitted from another source in a prior document.

Turning to page 153: The material contained here is the same as [NOKW 1073](#) which is page 99 in Document Book IV and also Exhibit 129 Page 146 in Document Book V. Page 154. This report is contained in Exhibit 111, Book III, page 99 of the German, page 146 of the English and also in this book Exhibit 129, page 147. Page 156 - this is the same material that was contained Exhibits 111 and 129 and 111 is in Book III, English page 149, German Page 101 and Exhibit 129 it's in this book at English page 148.

Page 157, this report is contained in English Book III as Exhibit 111; English page 149, German page 101. Then there is Exhibit 129 in this book, page 149 of the English.

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Then the last document in the book, the communication of 27 December 1941, from the Commander Saloniki - Aegean to the Chief of Staff.

DR. HINDEMITH: Mr. President, I only have one question regarding the numbering of the exhibits. I don't know if there hasn't been a mistake. Document [NOKW-1056](#), which was subsequently submitted, and which was not in the book, has the Exhibit number 130. According to that, in my view, the next Document [NOKW-1033](#) would have to receive number 131. From what the prosecutor has said, I believe that he has given the number 132 to this Exhibit. I would like to ask the Tribunal to clarify whether this is right or whether there has been a mistake.

THE PRESIDENT: According to the records that I have, [NOKW-1033](#) is Exhibit 131.

DR. HINDEMITH: I believe the prosecutor mentioned this number, but subsequently the prosecutor corrected himself and gave number 132 to this Exhibit.

THE PRESIDENT: I think you are in error. I think the correct number is 131.

DR. HINDEMITH: I started from this number, but I assumed that the prosecutor had number this Exhibit 132.

MR. DENNEY: Returning to the last report which is contained in prosecution's exhibit 131 in evidence, which is [NOKW-1033](#), it is dated 27 December 1941, from the Commander Saloniki - Aegean to his Chief of Staff, the Wehrmacht Commander Southeast, who at that time was the defendant Kuntze. Paragraph 5 of the communication: "On 27 December 1941 at 8 a.m., 12 communists were shot to death as reprisal for attempts in which explosives were used."

And if your Honors please, that concludes the presentation of Document Book 5, and Mr. Fenstermacher will continue the evidence and the presentation of Document Book 6.

MR. PENSTERMACHER: If your Honors, please, with the introduction of Document Book 6, we now come to the major portion of the case against the defendant Kuntze.

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You will recall that from documents previously introduced that Field Marshal List, the Commander-in-Chief of 12th Army and Wehrmacht Commander Southeast from April 6, 1941, throughout the campaign against Greece, became ill some time in October 1941. He was replaced during his illness for a period of one or two weeks by his senior Corps Commander, the defendant Felmy; and on the 27th of October, he was replaced by the defendant Kuntze who assumed all the duties and responsibilities of the Wehrmacht Commander Southeast and the Commander-in-Chief, 12th Army, but who retained, nevertheless, the title "Deputy Wehrmacht Commander Southeast" and "Deputy Commander-in-Chief, 12th Army." Many of the reports which we have introduced in the previous books, you will recall, overlapped from a time standpoint, so that some of the reports for the period of September and October were included in a report which also included the period of time November and December 1941. For those reports and the facts contained therein, we hold the Defendant List responsible for the period during which he was Wehrmacht Commander Southeast and Commander-in-Chief 12th Army; and we hold the defendant Kuntze responsible for the material introduced in the reports after he assumed command of the 12th Army and the position of Wehrmacht Commander Southeast. But with

the introduction of Document Book 6, we are concerned only with the period of time after the defendant Kuntze replaced the defendant List.

The first document book -- the first document in Document Book 6 is on page 1 of the German. Document [NOKW-879](#), which is offered as prosecution Exhibit 132. This is a biographical affidavit which the defendant Kuntze signed here in Nuernberg on the 12th of March 1947.

"I, Walter Kuntze, being duly sworn say and depose:

"I was born in Prtizerbe, Province of Brandenburg on 23 February 1883. I am a Protestant.

"From 1911 to 1941 I attended the Kriegsakademie in Berlin. During that time (1913) I was transferred to the 26th Engineer Battalion.

"Participation in the war 1914-1918: With the beginning of the war, I took over the 2nd Field company of the Engineer Battalion Number 26 and I led this company as a Captain (beginning of November) until the end of November 1914.

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(East Prussia, fighting in the bend of the Vistula). I was wounded at the end of November. After I was well again, in May 1915, I was attached to the General Staff (Grosses Hauptquartier) being transferred there in approximately July 1915. About the end of May 1917, I was appointed 1st General Staff Officer of the Fourth Cavalry Division (Kurland), and in October 1917 was given the same assignment with the 89th Infantry Division (Rumania). I remained at this assignment until the end of the war.

"Decorations: Iron Cross 2nd Class, Iron Cross 1st Class, the Knights Cross of the House Order of Hohenzollern with Swords, Bulgarian Military Merit Cross, Austro-Hungarian Military Merit Cross 3rd Class with War Insignia, Turkish Iron Crescent, Bavarian Military Merit Order 4th Class, the Hapsburg Hansa Cross, the Wounded Badge (1934 Front Fighter Cross).

"In the spring of 1919 I was transferred to the Reichswehr Ministry (Department Foreign Armies). There I remained until October 1923. Subsequently until October 1925, I became Company Commander in the 3rd Engineer Battalion. During this time -- April 1924 -- I was promoted to Major, effective April 1923. I then was transferred to the Garrison Headquarters in Kuestrin where I remained until May 1928. Subsequently I was appointed commander of the 1st Engineer Battalion which I led until the spring of 1930. In the Spring of 1929 I was promoted to Lieutenant Colonel. From the spring of 1930 until October 1932 I was Chief of the Inspectorate of Engineers and fortifications in Berlin. I was promoted to Colonel in 1930. From October 1932 to May 1935 I was Senior Engineer Officer I, Berlin. I was promoted Generalmajor (Brigadier General) in 1934. In May 1935, I was ordered to deputize for the commander in Muenster (Division Muenster). In the fall of 1935, I was appointed commander of the 6th Division in Bielefeld which I led until February 1938. About August 1936 I was promoted to General-lieutenant (Major General). In February 1938 I was appointed Commander of the Headquarter's Staff, Kaiserslautern, simultaneously being promoted to General of Engineers.

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As such, I had to prepare the construction of the Westwall from Mettlach to the Rhine and to execute it, and further, with the beginning of the fall of 1938, to assemble and to train the border troops. For this purpose the Headquarter's Staff, Kaiserslautern was changed into the Corps Headquarters of the border troops of the Saar Palatinate, which was charged in addition with the preparing the defense in its sector.

"Participation in the war 1939 to 1945: Corps Headquarters (since October 1939 Corps Headquarters XXIV) defended the sector Bliess, "west of Zweibruecken) to the center of the Palatinate forest with three divisions.

"In the beginning of June 1940 the Corps Headquarters XXXXII, which I had organized, was committed with 3 divisions south of Laon on the right wing of the 9th Army, for an attack against the Weygand position.

"After the armistice the Corps Headquarters was subordinated to the 16th Army. The 16th Army ordered it for Coast Guard duty in July 1940 between Ternenzen and Cape Gris Nez, later for training of the divisions (generally three of them) which were resting in the area Charleville - La Capelle - St. Quentin - Rethel - Sedan, and which in addition were employed in agricultural labor. During the period from the beginning of August to the beginning of June 1941 Corps Headquarters was situated in Charleville. In the first half of June 1941 Corps Headquarters was transferred to East Prussia and subordinated to the 9th Army of this Army. Now Corps Headquarters was subordinated to the 16th Army and it became its duty to ring up reserves for this Army approximately by way of Wilna-Dissna.

"During the middle of July and until the middle of October Corps Headquarters was subordinated to the 18th Army and then transferred to the Crimea.

"I myself was ordered to Nikolajew to deputize from four to six weeks for Field Marshal List, who was ill.

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At that time Field Marshal List was Wehrmacht Commander Southeast and simultaneously Commander in Chief of the 12th Army. In the beginning of June 1942 I was transferred to the Fuehrer Reserve but remained in my position until the beginning of July until the arrival of Colonel General Loehr, the successor of Field Marshal List. I remained in the Fuehrer Reserve until 15 September 1942. Subsequently, I took over my new duty, supervision of the training of the replacement army (Chief of Matters pertaining to Training in the Replacement Army). This employment lasted until February 1945, being interrupted briefly in the fall of 1944 when I had to reconstruct the Westwall. Then I was again transferred to the Fuehrer Reserve where I remained until the middle of March 1945. From then on until 2 May 1945 I deputized for the Commander in Wehrkreis III, who was ill. The orders issued in the 2nd half of April making me commandant of Berlin did not become effective.

"Decorations: Clasps for the Iron Cross, 1st and 2nd Class, Knight's Cross to the Iron Cross; German Cross in silver; insignia for Training regarding the Protective Wall; the large cross for the Bulgarian Military Merit Cross; Great Order of the Crown of King Zwonimir.

"I am married and have one child.

"I have never been a Party member."

Then, if your Honors, please, follows the jurat. The affidavit is signed by the defendant Walter Kuntze.

Turning next to page 5 of the English and page 3 of the German, this document [NOKW-205](#), which is offered as prosecution Exhibit 133. This document consists of two communications between the Military Commander in Serbia, Administrative Staff with the Commanding Plenipotentiary General in Serbia, General Bader -- General Boehme. The first communication is dated 28 October 1941, receipt stamp of Boehme's 18th Infantry Corps Headquarters, appears on the right-hand portion of the document. Receipt dated 29 October 1941. The subject is captured members of the German Wehrmacht shot to death by Communists bandits.

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"The Headquarters Staff reports that 8 German captives were shot to death by the insurrectionists in the area of Rabrovo on 9 October 1941. The required measures had been taken regarding 6 of those German captives, 4 men of the water security police fleet and 2 custom officials. With regard to the 2 other Germans, I request a German unit be ordered to perform the execution as directed."

Signed: "For the Commanding General, Plenipotentiary in Serbia, the Chief of the Administrative Staff."

On the next page, page 6 of the English, page 4 of the German, is another communication, a day later, dated 29 October 41, from the Administrative Staff, The Military Commander in Serbia, to the Plenipotentiary Commanding General in Serbia:

"Belgrade. The Department for State Protection of the Serbian Ministry of the Interior has reported that a German soldier was killed and two German soldiers lightly wounded during Communist attacks on a train in the railroad station of Kusadak, district of Smed. Palanka, in the night of 27th of this month. I request that a troop unit be selected for the execution of 200 men on the basis of the order dated 10 October 41."

And your Honors will recognize the familiar code numbers "2843/41," which are one code numbers we have seen previously, referring to the Boehme order of 10 October 41 which incorporated the language of the Keitel document, the 100-to-1 directive of 16 September 1941.

"I suggest the execution be performed by a Belgrade unit."

I call your Honors' attention to the application of the ratios here. One German soldier was killed and two German soldiers were lightly wounded, or a total of 100 times 1, and 50 times 2, a total of 200 executed in reprisal.

Turning next to page 8 of the English, page 5 of the German Document Book, Document [NOKW - 199](#), which is offered as Prosecution Exhibit 134. This is a report dated 30 October 1941 on the number and category of persons in the concentration camp at Sabac. It is a supplement to the 10 day report.

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I think the first portion of the document need not be read but I ask your Honors' attention -- draw your Honors' attention -- to paragraph "6b" which is on page 8 of the English page 5 of the German:

"Removals: from Croatia, 76 railroad cars; from Serbia railroad cars," a total of "455 railroad cars."

Next, on page 9 of the English, page 6 of the German, under paragraph "7":

Arrests: 3853. Releases 727 from Camp Sabac after examination by Police Reserve Battalion 64.

Executions: 405 hostages in Belgrade (to date total number in Belgrade 4750) 90 Communists Camp Sabac 2300 hostages in Kragujevac 1700 hostages in Kraljevo Shot to death during combat by units:

697 Total number of inmates in Camp Sabac 25 October:

16,445 Next, on page 10 of the English and page 7 of the German Document Book, Document [NOKW-191](#), which is offered as prosecution Exhibit 135 -- this is a series of reports and orders from and to the Plenipotentiary Commanding General in Serbia.

The first report is dated 19 October 1941 and it's from the Plenipotentiary Commanding General in Serbia to the Officer Commanding in Serbia, Administrative Staff, and the 65th Special Purpose Corps, with a copy for the 220th Panzer Jaeger Battalion:

"By virtue of the order for the suppression of the Communist rebellion movement for wounding of a guard of the 220th Panzer Jaeger Battalion in Belgrade on 15 October:

"50 hostages are to be shot.

"The shootings will be carried out by the 220th Panzer Jaeger Battalion.

"The Commander of Serbia, Administrative Staff, is to hold the hostages in readiness.

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"The date and place of the executions, the fetching and delivery of the hostages as well as further details will be settled directly between the executionary troop units and the Officer Commanding in Serbia, Administrative Staff.

"The report on the executions is to be sent to the Commanding General Plenipotentiary in Serbia."

The document is signed: "For the Commanding General, Plenipotentiary in Serbia, Chief of the General Staff."

The next report is on page 11 of the English, page 8 of the German, report of the 30th of October. You will note the subject is: "Retaliation Measures" and the reference is again to the Boehme order of 10 October 1941, with the code numbers "2848/41":

"By virtue of the order for the suppression of the Communist rebellion movement for murdering of 8 German prisoners on 9 July 41 by Communists in Rabrovo:

"800 hostages are to be shot.

"The shootings will be carried out by the Town Major Belgrade with respect to 200 hostages."

Then, if your Honors please, the three paragraphs of this report are the same in form as they were in the previous report.

Turning next to the report which appears on page 12 of the English page 9 of the German, the report dated 31 October 1941, again the subject is: "Retaliation Measures," and the reference is to the same order with the familiar code numbers:

"By virtue of the order for the suppression of the Communist rebellion movement, for Communist surprise attack on railway train in Kusadak, in which one German soldier was killed and two wounded:

"200 hostages are to be shot.

"The shootings will be carried out by the Units of the City Headquarters, Belgrade."

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The three paragraphs of the form are again the same as they were in the reports which we have just read.

Next, the report on page 13 of the English, page 10 of the German, report dated 20 November 1941:

By virtue of the order for the suppression of the Communist rebellion movement for losses of the 3rd Battalion, 697th Infantry Regiment:

"365 hostages are to be shot.

"The shooting is to be carried out by the following units in Sabac: Commander Serbia Headquarters Staff, 200 hostages; the 65th Special Purpose Corps, 185 hostages."

Turning next to the report on page 14 of the English, page 11 of the German, another report from the Commanding General Plenipotentiary in Serbia, General Boehme, this time dated 29 November 1941:

By virtue of the order for the suppression of the Communist rebellion movement, for Corporal Bernhard Schmidt of the Mountain Corps Signal Detachment 449 who was wounded in the region of Tokeris on the 16 October and found dead on 19 November:

"100 hostages to be shot.

"The shooting will be carried out by the Mountain Corps, Signal Detachment 449."

And this report, if your Honors please, is to reference "5b" under Count 1 of the indictment.

Our next document is on page 15 of the English and page 12 of the German, Document [NOKW-1103](#) which becomes prosecution Exhibit 136. I think we need not read this document which is a letter from Tutner, the Chief of the Administrative Staff of the Plenipotentiary Commanding General in Serbia, dated 3 November 1941. That has already been introduced in evidence as Exhibit 116 which is on page 25 of the English document book IV and page 21 of the German document book IV.

However, on page 17 of the English and page 13 of the German is an enclosure to Turner's letter dated 3 November 1941:

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"The Commanding General has agreed to the publication by way of the press and the radio of the following declaration:

"Authoritative quarters state that in consequence of certain reports according to which relations between leading Masons and persons in the pay of the enemy with the insurgents have been established the arrest of a great number of persons in Belgrade as hostages has been ordered. In the first place, the representative of political corruptionism are involved whose entire attitude is co-responsible for the misery of the Serbian people. They guarantee with their lives the security in the Serbian area. With their arrest it has been proven that the measures ordered do not only hit the deluded farmer and worker who has joined the insurgents but that above all the wire pullers of this criminal system and their political friends are being caught."

Signed: "For the Commanding General Plenipotentiary in Serbia Chief of Administrative Staff"

Turning now to page 19 of the English, page 14 of the German, Document [NOKW-1379](#), which is offered as Prosecution Exhibit 137, this is an Intelligence Report of the 342nd Infantry Division, which relates to the insignia worn by these Chetnik and partisan units:

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"342nd Infantry Division 1c (open) of 1 November 41 - Information about the Enemy.

"However, on the basis of experiences made up until now, the conception seems to be growing that peace and order cannot be restored in the country without the German Wehrmacht. Even the mood for self-pity is increasing."

DR. MENZEL (Counsel for defendant Kuntze): I point out to the Tribunal that this document does not bear any heading nor signature. It is merely an excerpt of page 6, written in transcript, partly corrected in handwriting, as I said, without any heading and without signature. I request that the document not be admitted in evidence.

THE PRESIDENT: The objection will be overruled for the reasons already stated.

MR. FENSTERMACHER: Continuing on page 19 of the English and page 14 of the German, paragraph 10:

"The insignia of the various units has not changed. The Chetniks as a rule wear on their lamb fur caps a Serbian cockade and underneath it a skull and crossbones; the Communists wear on their headgear a red star, sometimes below it a narrow strip of ribbon in Yugoslav colors or the Soviet emblem with hammer and sickle, or also plain red stripes. Arm bands with the word 'partisan' written on them were encountered.

"Leaders often wear in addition tassels in their caps, the Chetniks gold colored ones, the Communists red ones.

"11) Clothes are already known. Mostly peasant costumes in all units only a few in uniforms, almost exclusively among the Chetniks; the Chetnik officers often wear over their peasant costume a Serbian officer's coat with epaulettes.

"12) Valid passes in green color which are certified by the German military offices by means of a stamp are only at the disposal of a part of the Chetnik group Valjevo.

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The remaining Chetniks who are loyal to the government have in their possession passes issued by Pecanac.

(handwritten)

"Probably dating from the period before the split of the Chetnik units."

On page 20 of the English and 15 of the German the prosecution's next document is [NOKW-1385](#), which becomes Prosecution's Exhibit 140. This is a report on partisan movement and activities including the insignia worn by partisan units.

THE PRESIDENT: Isn't that Exhibit No. 138?

MR. FENSTERMACHER: I beg your pardon, Your Honor, it is 138. It begins on page 20 of the English and page 15 of the German. It is a report dated for the period 1 October until 1 November, 1941, concerning band movement and activities in the area of Pozarevac, 20 October 1941:

"The gold mine Blagojev Kamen and its surroundings occupied by a major band, supposedly 2000 men, consisting of partisans and Chetniks. The Chetniks are commanded by a certain Mitar, the partisans by a certain teacher from Velko. Armed with heavy machine guns, light machine guns, and rifles. Uniform: peasant clothing and civilian clothing; headgear consists of army or civilian caps with former Yugoslav coat-of-arms or Soviet star."

I direct Your Honor's attention to the entry at the bottom of the page for 9 October 1941:

"Dubovac 19 kilometers north of Pozarevac. Appearance of a band in black uniforms."

Turning now to page 21 of the English, page 16 of the German, NOKW-1152, which is offered as Prosecution's Exhibit 139.

DR. HINDEMITH (Counsel for defendant Foertsch): May it please the Tribunal, I want to say the following to the prosecution regarding this document. The prosecutor has said in his statement -- he said that this was the report. In my view this is not correct. If the document is declared to be a report, this concludes that this document has been sent from one department to another department.

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It therefore contains facts which are of value for the probative value of this document. These facts cannot be read from the document. It cannot be seen anywhere in this document by whom this report has been sent and to whom it was addressed or which unit it reached. The connecting statement of the prosecution is in my view intended to give the Court and all concerned the possibility to make better use of this document. If concepts are used for this document which cannot be read from the document itself, this can only mislead. In this respect, I want to object to what the prosecution has said in this regard.

MR. FENSTERMACHER: I would be glad to amend my statement and call the document a "memo" which on its face does not indicate whether received by any unit or sent by any other unit.

THE PRESIDENT: The objection will be overruled.

MR. FENSTERMACHER: Continuing, the next Exhibit 139, which is on page 21 of the English and page 15 of the German, this is a situation report on the Balkans, dated 2 November 1941, prepared by the Wehrmacht Commander Southeast. Turning first to page 22 of the English and page 16 of the German, paragraph 6:

"Insurrectionist Movement.

"Reasons for the insurrection are:

"1) Recovery from the shock effect of the short campaign which scarcely touched large parts of the country or did not touch them at all.

"2) Panslav and Communist tendencies.

"3) Merger of remaining parts of the Serbian Army.

"4) The refugees expelled from the separated territories (from Croatia 110,000; from Hungary 37,000; from Bulgaria 20,000), who were transported across the frontier without means and without sufficient care.

"B) Carriers of the revolt are:

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"1) Remaining parts of the former Yugoslavian army "2) Communists bands "3) National units of the Chetniks.

The Chetniks are a Free Corps organized in a military manner, which has been in existence since the war of liberation against Turkey and which after the World War had received its legal basis for existence through the foundation of a Chetnik organization.

"The words with which their secret broadcasting station opens each broadcast, 'It is not Communists who are speaking here but National Chetniks who are ready to fight for the liberation of Serbia and Yugoslavia,' characterize their political attitude. Strictest discipline, silence, and absolute dedication of personal efforts are the basic pillars of this organization. The Vojvode (leader of the band) is master over the life and death of his people; only his will governs.

"Today part of the Chetniks fight together with German troops and the Serbian police under the Vojvode Kosta Pecannac against the Communists.

"4) Mixed bands (Chetniks and Communists).

"D) Combatting the Insurrection.

"1) The Commanding General of the XVIII Corps, General of Infantry Boehme (The Commanding General Plenipotentiary in Serbia) has been charged with the suppression of the insurrection in Serbia and Croatia...

"3) In retaliation for acts of sabotage the following procedure is to be used respecting male population of areas cleared of bands:

"(1) All prisoners taken during combat or mopping up operations will be hanged or shot to death.

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"(2) For the time being arrests are being made only for purposes of interrogation or to supplement reconnaissance.

"(3) In addition to that in order to stop a further increase of the insurgents, male civilians will be temporarily collected in camps. Of these, those who are convicted of having participated in combat will also be hanged and/or shot to death, suspicious elements will be detained as hostages, people who are beyond any doubt peaceful will be sent home under guard after their home area has been cleaned of bands.

"Doubtless the insurgents are impressed by the German operation. It remains to be seen whether a noticeable effect on the whole country has been achieved. The total situation is still tense."

The report is signed for the Wehrmacht Commander Southeast, which is, at the time, General Kuntze, by his Chief of the General Staff, then a colonel in the General Staff Corps, the defendant Foertsch.

Next, on page 25 of the English, page 19 of the German, Document NOKW-235, which becomes Prosecution's Exhibit 140; this is an order of the Plenipotentiary Commanding General in Serbia, General Boehme, dated 2 November 1941:

"Subject: Suppression of the Serbian Resistance.

Signs of Dissolution among the Insurgents.

"1) Under the pressure of the ruthless and successfully carried out operations of the unit, in consideration of the approach of winter and on the basis of the destruction of the Russian Wehrmacht which is gradually becoming noticeable, the first indications of dissolution are to be recognized among the insurgents.

"2) These signs were to be expected; they do not signify by any means that the opponent will give up his aims. It depends on:

"a. Destroying Communism in Serbia in such a manner that flaring up again under more favorable circumstances is impossible, "b. Destroying Serbian chauvinistic circles which now and in the future refuse close economic and political cooperation with the Reich.

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"3) At the same time those parts of the Serbian population must now be won which have placed themselves on the side of the Serbian Government of Nedic, installed by the Reich. (See disposition of the Plenipotentiary Commanding General in Serbia /Ia No. 33446/41 Secret of 2 Nov 41.)

"4) The following directives are published for the Commit ment of the units and the conduct of the administrative offices:

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a. As before, all insurgents who are taken in combat even if they desert, are to be shot as partisans. Negotiators who come from territories which combat actions take place or will happen soon are likewise to be shot.

The arrest and shooting of hostages is regulated by the order of the Plenipotentiary CG in Serbia/Chief of Mil. Admin./Qu No. 2848/41 secret of 10 Oct. 41 and No. 3208/41 of 25 Oct. 41.

b. Negotiators who do not offer the capitulation of small or large groups under the pressure of combat actions taking place or to take place, are to be told that the battle against insurgents will be continued with unabated severity and only unconditional capitulation with surrender of all weapons will be accepted.

c. Unconditional surrender is to be carried out as follows: The insurgents are to lay down their weapons at a place determined by one of the troop commanders or the administrative subarea and/or district commandant and are to be brought together in a reception camp of the battalion, regiment or divisions.

They are to be examined there by the secret Field Gendarmerie SD, and Serbia auxiliary police. For this purpose, administrative orders in my mission proceed through tho Chief of the Mil. Admin.

d. The Divisions are to report in the daily reports, place of the reception camps and number of the prisoners.

5.) The exploitation of the signs of dissolution lies exclusively in the hands of the German Wehrmacht (Unit and Admin. Offices). Serbian auxiliary police may not accept offers of capitulation, but must obtain the decision of the German offices. The insurgents will, nevertheless, first of all approach the units of the Serbian auxiliary police with offers of capitulation. Through getting into close touch with them, it is to be guaranteed that the initiative remains unequivocally with the German offices.

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It is understood that a crossing over of insurgents into the Serbian auxiliary police is to be prevented with all possible means.

Orders of this sort to the Serbian Government are issued through the Chief of the Mil. Admin. A copy of the order of the Prime Minister Neditsch to the branches of the Serbian Government is enclosed as a supplement.

6.) The larger number of the insurgents will attempt to strike through to their home localities unnoticed, in order to conceal themselves there. Such groups are to be arrested by the units or by the Serbian Auxiliary Police, if necessary with force of arms and are to be brought into reception camps.

The following is valid for the seizure of insurgents who succeed in escaping and reaching their home localities:

a. The administrative offices have received from the Chief of the Mil. Admin. an order to prepare exact reports and submit lists, from which the leaders of the bandits, members thereof, and all persons absent from the localities or returning there may be obtained. They are to note in addition the localities which have offered the bandits assistance.

b. In addition, frequent surprise raids are to be carried out by the unit in collaboration with the administrative offices. Because of their knowledge of the locality and population, it will often be practical to use the Serbian auxiliary police.

7.) In doubtful cases (above all when it is uncertain whether individual groups are to be regarded as "insurgents" or not) the decision of the plenipotentiary CG in Serbia is to be obtained."

MR. FENSTERMACHER: The document is signed "Boehme, Lt. Gen. Infantry", and the initials "PM" at the side are those of Boehme's Chief of Staff, General Pemsel. You will note the distribution of the Boehme order, "Down to battalion and district leaders." On page 29 of the English and page 22 of the German is Document [NOKW-235](#)-a, which is offered as Prosecution's Exhibit 141.

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This is a letter of President Nedic in Serbia, sent to Serbia authorities regarding the treatment of Communists, saboteurs, and their helpers. It is an enclosure to the Plenipotentiary Commanding General in Serbia.

"To all Serbian Authorities and Armed Units:

The visible successes of the Gendarmerie, the volunteer and Cetnik Detachments, the measures of the German troops; and the advancing season are no doubt the reasons that the communist bandit and activity and sabotage began to decrease and will decrease more and more. Therefore, numerous insurgents surrendered, yes, even entire groups surrendered to separate detachments and even went to join them. The possibility that the surrender of the insurgents was even recommended by the leading members of the bands and for reasons which were obvious cannot be eliminated, however, these elements are to be used for destructive and terrorist activities whenever the opportunity appears - and perhaps in a still worse way.

So it should not occur on account of an incomplete knowledge of the situation, misplaced sentimentality, or for any other reason that these guilty of the present woe of the people hide themselves and then reappear when the opportunity is favorable to act against the peace and order in order to endanger the lives and property of the unhappy citizens and their families.

I order:

1.) that all saboteurs, their instigators, helpers, Communist-reactionaries, their followers and in general all who have contributed by word and deed, actively or passively, to the present misery of the people, be punished in an exemplary and ruthless way and be compromised in every way:

2.) all chiefs of units, in close cooperation with the police authorities, are to examine every single place or surrender and turn over the guilty to the competent courts-martial. Those, however, who have committed no offense and/or were only seduced and betrayed or mobilized by force, will be proposed to me for pardoning, whereby detailed reasons must be given.

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3.) no unit may take over deserters into their ranks. Those pardoned by me will receive information from me, whether and where they may join as volunteers.

4.) In those areas where no units and/or courts-martial exist, the District chief will act according to this order.

5.) Wherever possible and in cases where needed, the German local authorities in question will be notified of all decisions and events. Continuous cooperation with them is to be carried out.

6.) This order will be distributed by the: Deputy of the Minister of the Interior, the Gendarmerie Commander, the Commander of the Detachments of Volunteers, and the Chief of the Cetnik Staff to all District Chiefs and Commanders and/or all Leaders of the armed detachments in question with the remark that all must obey these orders closely and unconditionally.

Signed: The President of the Ministerial Council Signed:

Nedic Lt. General

MR. FENSTERMACHER: The Prosecution's next document is on page 31 of the English Document Book and on page 24 of the German. It is No. [NOKW-801](#), which becomes Prosecution's Exhibit No. 142. This is an order of General Boehme, as Plenipotentiary Commanding General in Serbia, issued by the Chief of his Administrative Staff, Turner. The order is dated 3 November 1941, Subject, "Arrest of Hostages." The order is distributed to "All Sub-Area and District Administrative Headquarters."

"With reference to my order of 10 October 41, No. 2848/41 Secret, I order the immediate arrest of all Jews and Gypsies as hostages.

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If the carrying-out of the order is not possible for technical reasons, a report is to be issued concerning it, giving exact details as to number and residence at the same time.

In addition, the approximate number of the wives and children of the Jews and Gypsies, together with residence, is to be furnished and their deportation to an assembly camp in the proximity of Belgrade is to be prepared.

Closing time for the report. 15 November 41 Signed Turner

MR. FENSTERMARCHER: I will call Your Honors' attention to the date on which this order was issued--3 November 1941. General Boehme was Plenipotentiary Commanding General in Serbia, subordinate to General Kuntze, as Commander in Chief, and his Chief of Staff was General Foertsch. Turning next to page 33 of the English, page 25 of the German Document No. [NOKW-905](#), which becomes Prosecution's Exhibit No. 143. This is a report by the 734th Infantry Regiment, to its next higher headquarters, the 704th Infantry Division. The Division's receipt stamp appears in the right-hand portion of the document, and is 10 November 1941. The report itself from the Regiment is dated 4 November 1941, subject is "Reprisal Measures", and there is one enclosure: "The Regiment encloses the report of 1st Lt. Walther, 9th Company, 433rd Infantry Regiment, concerning the death of Jews and Gypsies on 27 and 30 m October 1941". On page 34 of the English and 25 of the German appears the report which the Regiment sent to the Division. The 704th Infantry Division, at this time, November 1941, was subordinate to General Walther, who was subordinate to General Boehme, who was subordinate to the Defendants Kuntze and Foertsch. It is a "Report concerning the shooting to death of Jews and Gypsies."

"By agreement with the SS Office, I picked up tho selected Jews and/ or Gypsies from the Prisoner camp Belgrade. The trucks of Administrative Sub-Area Headquarters 599 available to me for this purpose were impracticable for two reasons:

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1. They have civilian drivers. Hence secrecy is not assured.
2. All of them were without cover or tarpaulins so that the population of the city saw whom we had put in the vehicles and where we went. Wives of the Jews had assembled in front of the camp who cried and screamed when we drove off.

The location where the shooting to death was carried out is very favorable. It is situated North of Pancevo immediately on the road of Pancevo - Jabuka where there is a grade high enough to make it difficult to climb. Opposite this grade is swampy terrain, behind it, a river. When the water is high as on 29 Oct. it almost comes up to the grade. Thus, an escape of the prisoners can be prevented with few troops. Also favorable is the sandy ground which facilitates digging of the ditches and consequently shortens the time of the labor.

After arrival, approximately 1 1/2 to 2 kilometers before the selected site, the prisoners got off, marched to the selected site while the trucks with their civilian drivers were sent back immediately in order to afford them as little grounds for suspicion as possible. Then, I had the blocked for all traffic for reasons of security and secrecy.

Place of execution was secured by three light machine guns and twelve rifle men:

1. Against attempts to escape by the prisoners.
2. To protect ourselves against possible attacks by Serbian bands.

The largest part of the time was consumed by the digging of the ditches while the execution by shooting itself (100 men in 40 minutes) went very rapidly.

Luggages and valuables had been collected previously and taken along in my truck in order to turn them over later to the National Socialist peoples' Welfare.

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The shooting to death of Jews is simpler than that of the Gypsies. It must be admitted that the Jews accept death very calmly - they stand very quietly - while the Gypsies cry scream and move continuously when they are already on the spot where they are to be shot to death. Some of them even jumped into the ditch before the firing and attempted to act dead.

In the beginning, my soldiers were not impressed.

The second day, however, it had become noticeable that one or the other did not have the nerve to carry out shooting to death for a longer period of time. My personal impression" is that one does not develop any psychological inhibitions during the shooting to death.

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However, these appear if one contemplates it quietly after a few days in the evening.

The regiment report is signed by Walther, 1st Lieutenant.

Major Hatfield, may I see the original exhibit, please? It is Exhibit 143. On the original exhibit, if your Honors please, is a map which shows the location of the burial place of Jews and gypsies which were reported shot by this 9th Company of the 233rd Infantry Regiment between the 27th and 30th of October, 1941. The site is near Belgrade on the road between the towns of Pancevo and Jabuka.

THE PRESIDENT: We will take our afternoon recess at this time.

(There was a short recess.)

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DR. HINDEMITH: (Attorney for defendant Foertsch) To the presentation of the Prosecutor when he presented No. 140, 141 142 and 143, I'd like to point out the following:

The Prosecutor, when he made the connecting statement, pointed out not the measures concerned which various units executed; those were units which eventually, that is at the top, were subordinate to the defendants General Kuntze and General Foertsch and therefore the presentation of the prosecution is not a factual presentation but a legal argument. It contradicts, in my opinion, even the conception order Command that a person in plura can be designated as issuing the order as the person issuing the order, only one person can be represented and that is the person who in his own name signs the corresponding document. I believe it is sufficient to point out this fact and then later on it will be the task, especially in the pleas, to say more concerning this legal argument. At this point I only request to point out to the prosecutor that this respect he shows refrain from a legal argument at this stage of the proceeding.

JUDGE CARTER: At this time we will consider only the exhibits as they are offered in evidence. Any arguments that are casually made will be ignored by the Tribunal.

MR. FENSTERMACHER: If Your Honors please, turning next to 37 of the English, page 27 of the German, the document which you find there, NOKW 1219, has already been introduced into evidence as Exhibit 110, so I ask that you strike reference to it at this time from your books.

The document here appears as Exhibit 110 on page 37 of Document Book III, page 37 of the English and page 27 of the German in Document Book III. I beg your pardon, it appears in Document Book III at page 139A of the English and page 95A of the German, exhibit 110.

Turning now to page 38 of the English, page 28 of the German, Document [NOKW 1358](#) which is offered as Prosecution Exhibit 144. This is a daily report from the III Battalion, 697th Regiment, dated 10 November 1941 to the Plenipotentiary Commanding General in Serbia.

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"Parts of the Battalion combed the terrain between Sabac and Lesnics. 130 men shot as a reprisal measure Reconnaissance in the direction of Dobric and Kokesina."

Next, on page 39 of the English, page 29 of the German, [NOKW 726](#) which becomes Prosecution Exhibit 145. These are reports to the Commanding General Plenipotentiary in Serbia dated Belgrade, 11 November 1941. In the middle of the page, paragraph 2.b.

"Enemy situation: 10 November. Arrest and commitment into a concentration camp of 2 former Yugoslav officers and of 4 men in Belgrade because of suspicion of having connections with Mihailovic".

Next, under paragraph 3.b.

"Details of combat activity 5 November Skirmish between Bulgarian detachment and communist band near Palovo (13km. South Southeast Leskovac). Enemy losses: 3 bandits dead, 25 insurgents villagers shot to death."

Next on page 40 of the English, page 30 of the German, the report of the 18 of November 1941. Paragraph 3.b.

"12 to 13 November. During mopping-up operations in Zabrdje and Punkovo (29 km. Southeast Pozarevac) by detachments loyal to the government, 63 communists killed and 23 arrested. 12 of the latter were shot to death.

Losses of our own; 2 dead, 2 wounded."

Turning next to page 42 of the English, and page 31 of the German, Document [NOKW 1052](#) which we offer as Prosecution Exhibit 146. The document is a series of reports from the 342nd Infantry Division to the Plenipotentiary Commanding General in Serbia. The first report is dated 11 November 1941.

Its subject: 10 days report from 31 October to 10 November, 1941.

"Divisional Combat Post: Valjevo:

"Own; 1 killed in combat, 9 wounded (2 officers.)

"Enemy losses: 53 killed in combat; 248 shot to death; 45 captured."

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The report is signed Dr. Hinshofer, 342nd Division.

Next, on the same page, page 42 of the English, page 32 of the German, another report of the 342nd Infantry Division:

"Subject: Reports on shootings, arrests and reprisals."

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Turning next to page 43 of the English and 32 of the German, the report reads: paragraph 1: "According to decree: Plenipotentiary General in Serbia III/Chief Military Administration/..." and the code number ... "Qu. No. 2848/41, Secret, of 10 October 1941 the troops are to shoot to death: a. For every killed or murdered German soldier or German National (men, women or children) 100 prisoners or hostages, b. for every wounded German soldier or German National 50 prisoners or hostages. In this number shootings of insurgents during combat actions may be included. Regimental and independent Battalion Detachments report according to enclosed form the total number of shootings, arrests, and reprisal measures as they are listed from the 5th, 15th and 25th inclusive to 7th, 17th, and 27th of every month. Reports of the various troops are to be presented by department 1b of the Divisional Staff. They will be submitted for the first time on 17 November 1941 covering the period beginning with their commitment until 15 November 1941 inclusive."

Next on page 44 of the English, page 33 of the German is a report of the 699 Infantry Regiment, dated 13 November 1941. I think we may pass over that report, but continue on page 44 of the English, which is page 34 of the German, with another report of the 342nd Infantry Division, dated the 30th of October 1941. The report, as the others, was sent to the Plenipotentiary Commanding General in Serbia, General Boehme. "According to Daily Report of 15 October for 15th to 29th October 1941, 10 dead," and then out to the right, "1,000". "39" wounded," and out to the right, "1,950". And at the top of that column is the figure "1900 shot to death." The total executions by shooting is the sum of the three figures, 1900, 1,000 and 1950.

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"Executions by shooting to date 1600, remaining 3,250." If Your Honors please, the total 3,250 is derived by adding the first three figures, 1900 1000, and 1950, for a total of 4,850, and then subtracting the 1600 which have already been shot. The "Division begs for further instructions, as no prisoners are available at present."

Turning to the supplement which is on page 45 of the English and page 35 of the German. "Losses during the period from 31 October to 15 November '41: 1 dead, 100 shot to death, 5 wounded, 250."

And the total 350. "Enemy losses: 73 dead, 129 shot to death." A total of 202; the figure 202 is subtracted from the figure 350 which is the figure which must be shot to death according to retaliation quota, and the balance left is 148. Then the line beginning "Losses for which reprisals have not yet been taken: 3398, "which is a total of the 148 and the balance carried forward of 3,250.

Continuing on page 45 of the English and page 36 of the German, the report of the 342nd Infantry Division of the 18th of November 1941. "Report according to status on 15 November inclusive on shootings, arrest of hostages, and reprisal measures, during the period from 21 September to 15 November 1941. Own losses: during the period covered by the report: 32 dead, 127 wounded. Losses during the period reported on for which reprisals have not been taken; None dead and none wounded. Paragraph 2. During the period covered by report there were shot to death: a. Insurgents during combat actions, 905; b. hostages as reprisal 2,685," and the total is 3,590.

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Turning next to page 46 of the English and page 36 of the German. "Paragraph 3. Therefore total for which reprisals not yet taken: 5960. Remark: Further shootings not carried out as hostages were sent to concentration camp. Paragraph 4. Number of hostages at the beginning of report period, none; arrested during the report-period, 22,175; of these shot to death or sent to concentration camp, 21,875; therefore still remaining 300. During the period covered by report there were further..." then a blank... "shot to death..." then again a blank ... "As reprisal for losses of troop units not belonging to Division, none; by special orders 129."

Continuing with the report for the 18th of November 1941, on page 46 of the English and page 37 of the German. "Enemy Losses from 24 September to 15 November 1941." Your Honors will note the tabulation form in which the numbers enemy killed in combat, shot to death, and captured, are listed and the various totals given for the indicated periods. The totals also should be noted. 950 killed in combat, 2685 shot to death, 21875 captured. I believe in Your Honors' Document Books the figure captured for the report of 9 October is given as 1742. It should read 17,420.

The prosecution's next document is on page 48 of the English, page 38 of the German, Document [NOKW-220](#), which becomes prosecution's exhibit 147. This document represents an exchange of correspondence between the Plenipotentiary Commanding General in Serbia and his subordinate units, the 342nd Infantry Division. The first communication is dated 12 December 1941: "The Camp Commandant of Sabac reports that during the execution of 131 prisoners by 3rd Battalion Infantry Regiment 697, 2 prisoners escaped of which one was said to be wounded, due to insufficient guards.

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Both prisoners have not been recaptured to date. Since at that time the 342nd Division ordered the 3rd Battalion Infantry Regiment to carry out the execution notwithstanding the present immediate subordination of the Battalion to the Commanding General, Plenipotentiary in Serbia - the 342nd Division is charged with the immediate investigation and report."

Turning to page 49 of the English and page 39 in the German, is a communication dated 18 November 1941 from the 342nd Division to the Commanding General, Plenipotentiary in Serbia. "In answer to radio inquiry at 3rd Battalion Infantry Regiment 697. Executions took place two kilometers..." Apparently there should be a geographical notation in here... "of Sabac. During the bringing up of a group of 10 men, these broke away to all sides. 8 were shot, 2 men escaped. One of the latter was slightly wounded. A more thorough search of the terrain and further investigations remained without results. The Company Commander concerned received an admonition by his Battalion Commander. The leader of the execution detachment was punished by a reprimand."

Then on page 50 of the English and 40 of the German is a notation of the 9th of November. "Unit 3rd Battalion, 697th, picked up 131 prisoners, according to orders. 2 prisoners escaped during execution. 1 of them is said to be wounded. Neither one of them has been recaptured." and the notation at the bottom of the page: "Due to insufficient security measures by the unit."

We turn now to page 51 of the English and page 43 of the German Document Book, Document [NOKW-237](#), which becomes prosecution Exhibit 148.

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This document represents correspondence between the 697th Infantry Division and the Plenipotentiary Commanding General in Serbia. I think it will be helpful if we turn first to page 55 of the English, which is on page 41 of the German. This is a message from the Commander of the 3rd Battalion, 697 Regiment. It was sent on 13 of November and arrived at the Headquarters of the Commanding General, Plenipotentiary, in Serbia on the 13 of November. "The Battalion requests assigning another troop unit for shooting to death of 250 more hostages as reprisal measure, since the battalion at this time is committed and the distance to Sabac is too far. At the time the Battalion marched off, hostages in sufficient numbers were not yet available."

Then turning to page 54 of the English and 42 of the German, there is the communication from the Commanding General, Plenipotentiary, in Serbia to the 3rd Battalion Infantry Regiment 697th, dated the 14th of November 1941, and the reference is to the communication of the Regiment which we have just read, dated the 13th November 1941. "Subject; Reprisal measures. Information is requested why the 250 hostages are to be shot to death. Is it reprisal for losses of the Battalion or has the shooting to death been ordered by special order of the 342nd Infantry Division for the losses of other troop units?"

Then turning to page 53 of the English and page 44 of the German is the communication by the Battalion Regiment involved, dated the 19th of November. Again the communication is to the Commanding General, plenipotentiary, in Serbia. "Reference letter dated 14 November 1941 "which we have just seen... "referring to the 250 hostages to be shot to death in reprisal.

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Regarding the 250 hostages to be shot to death, it concerns reprisal for the losses of the Battalion."

And now turning finally to 51 of the English and page 43 of the German is the report of the 3rd Battalion, 697th Regiment to the Commanding Plenipotentiary General in Serbia. The report was sent

on the 18th of November '41, arriving at the higher headquarters on the same day. "In the mountain terrain southeast of Draginac near Terzici and Reginovac, 150 to 200 Communists in reinforced field positions concerned. According to statements by Chetniks heavy fighting between Chetniks and Communists in Ljubovija. Reportedly two to three thousand Communists. Chetniks unable to hold Ljubovija against them and asking for help particularly for ammunition. Arrival of a company in Koviljaca. Taking over of vital installations. Chetniks were disarmed and led to Sabac on 18 November. Despite greatest security measures, a reinforced reconnaissance unit, with combat strength was attacked by 150 Communists with 4 light machine guns and 1 heavy machine gun. This group of Communists came from the direction of Draganic, from the mountain terrain near Terzici and Rejinovac. Bitter hand to hand fighting occurred. Enemy losses: 15 dead. Losses of our own; 1 dead, 1 wounded (radio non-commissioned officer). Reinforced reconnaissance had to withdraw due to strong enemy superiority. One broadcasting apparatus and three bicycles were lost. The unit code was secured. A unit which immediately pursued with tanks could not save broadcasting apparatus and bicycles. Communists disappeared in stupid flight. Captured material: 57 rifles, 15 bayonets, 400 rounds of ammunition, replacement parts. Since no hostages are available at the Battalion, the Battalion asks that a unit in Sabac be assigned with the shooting of the 150 hostages.

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As reprisal measures, Terzici and Draginac will be fired on by artillery. Patrol activity near Leznica." The report is signed by the commander of the 3rd Battalion 697th Regiment, Salzmann.

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Turning now to page 51 of the English and 45 of the German -- I beg your pardon -- it's 57 of the English, page 45 of the German -- [NOKW-1384](#) which becomes prosecution Exhibit 149, this is an "Evening Report" of the 1st Battalion, 699th Infantry Regiment. It is written from the field and dated 20 November 1941. Paragraph "2" is all that is pertinent from a prosecution standpoint:

"Towards 1:30 hours elements of the 2nd Company (Company Troop I and II Platoons) carrying out their task of occupying height 440 came into contact with the enemy. In a short violent exchange of fire, six Communists were shot. They were fully uniformed. Their average age was 20 to 21 years. Individual Communists managed to escape in a westerly direction. Enemy losses: 6 Communists dead, 2 Prisoners; Own Losses: None." Signed: "Captain and Commander of the Battalion."

Next on page 58 of the English, page 46 of the German, Document [NOKW-236](#), which becomes prosecution Exhibit 150, this is an order of the Commanding General Plenipotentiary in Serbia dated "Belgrade 23 November 1941." distributed to the Commanding General Plenipotentiary in Serbia for his own files, to the LXV the Corps Command, and to the Headquarters Staff on the Premises; subject; "Death Certificates of Executed Communists, etc.":

"An inquiry of the Feldkommandantur 610 (Administrative Subarea Headquarters) in Pancevo has occasioned me to ask you to inform the units that if the relatives apply for confirmation of deaths resulting from executions carried out by the troops, it is to be given by the unit which carried out the executions, provided the name of the executed person and his death are established beyond doubt.

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"I should further like you to order the troops to limit the confirmation to the statement that the person concerned has been shot to death on.... in.... by order of a high authority and to have this confirmation show the official seal of the unit but no signature.

I have issued the same directive for executions carried out by the police battalion and by the police forces of the Banat administration in the Banat."

And the Stamp: " For the Commanding General Plenipotentiary in Serbia The Chief of the Administrative Staff."

Page 60 of the English and page 47 of the German is prosecution's next document, [NOKW-1200](#), which is offered in evidence as prosecution Exhibit 151. This is a report of the Plenipotentiary Commanding General in Serbia. I beg your pardon -- it is a report of the 342nd Division to the Plenipotentiary Commanding General in Serbia dated --transmitted, rather -- the 27th of November.

Paragraph 4: "As reprisal measures 265 Communists were shot today." Continuing on page 61 of the English and page 48 of the German is another report of the Division sent to the Plenipotentiary Commanding General in Serbia on the 29th of November and received by him on the same day.

Paragraph 4: "Group North A. 7 dead, 12 prisoners, 2 shot."

On the same page, page 61 in English, page 49 in German, is a report of the Commander of the IIIrd Battalion, 697th Regiment, to the Plenipotentiary Commanding General in Serbia, sent on the 30th of November, arriving in higher headquarters the same day:

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"Talisavac was taken with the support of artillery after heavy combat. Three road blocks on road Krupanj-Mojkovic were eliminated, one entirely destroyed bridge temporarily repaired. In many houses German equipment was found. These houses were set on fire."

Next, on page 63 of the English and page 50 of the German, Document [NOKW-1113](#) is offered as prosecution Exhibit 152. This document is a series of extracts from the war diary of the 113th Division which was subordinate to General Boehme. Your Honors will note that from the 1st of November 1941 until the 12th of January 1942 this unit was subordinate to General Boehme as Plenipotentiary Commanding General in Serbia.

Then on the last four lines on the bottom of page 63 of the English and page 50 of the German:

"The division will be placed under the command of the Plenipotentiary Commanding General in Serbia (Headquarters LXV the Corps), Lt. General Boehme, Infantry, for the purpose of pacifying the Serbian area of revolt."

I should like to call your Honor's attention to certain of those entries: first, the entry of 18/19 November which is on page 64 of the English document book, page 51 of the German:

"The Plenipotentiary Commanding General visits the division and confers with the Division Commander about the operation for the destruction of the enemy in the Western valley of the Morava and the pacification of this area."

Then at the bottom of the page, entry for the 4th of December 1941:

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"260th Infantry Regiment carried out two mopping up operations, during which the area around Cacak was investigated as to their membership in the Communists." It should read "in the Communist party who had actively participated in the uprising were found and shot. All other civilians were not suspected and were released. 32 rifles, handgrenades and ammunition were brought in."

I call your Honor's attention next to the entry of 5 December 41 and the reference to partisan units which is given in that entry on page 65 of the English, page 51 of the German:

"260 Infantry Regiment and 268th Infantry Regiment have mopped up the quartering area and have arrested 51 Communists, which were shot immediately. The leader of the 3rd Partisan Company of the Cacak Battalion was also arrested."

Next, the entry for the 7th of December 1941 on page 52 of the German, bottom of page 65 of the English document book:

"261st Infantry Regiment marched into Novi Pazar with the II. Battalion and Regimental Headquarters and was welcomed rejoicingly by the population. The situation there has been clarified in a surprising manner. Albanian gendarmes occupied the village so that neither Communist nor partisans appeared in its vicinity. But since the Albanians are mortal enemies of the Serbs, the Cetnik units located at Raska only wanted our help in order to take revenge on the Albanians. The unit needs great skill to master these various political tendencies.

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The Division Commander arrived in Novi Pazar soon after the first troops and obtained a personal impression of the situation existing there."

The entry of 8 December 1941:

"Surprise raids carried out resulted in a number of partisans at Cacak, Uzice and Pozega who had returned again to the villages. 182 at Cacak, of which 16 whose active participation in the fight could be proved were shot immediately; 42 at Pozega; 40 at Uzice."

The entry of 9 December 1941:

"The Division Commander visited the 260th Infantry Regiment at Cacak and the IIInd Battalion of the 260th Infantry Regiment at pozega. The commanders reported the impressions gained in their areas. According to the opinion of Lt. Colonel Haerder attacks against the troops are scarcely to be expected any more, since everybody fears the execution of the penal measure of 100 for 1."

Next, on page 67 of the English and page 53 of the German, portion of the entry for 11 December 1941, the middle paragraph of that entry:

"34 Communists of those arrested on the previous day were shot after exhaustive interrogation."

The entry of 13 December 1941, the last two lines on page 67 of the English, page 53 of the Germans
"19 Communists and 18 partisans were arrested.

A further 10 Communists were shot."

Next on page 68 of the English and page 53 of the German, the entry of 16 December 1941:

"268th Infantry Regiment was mopping up from the Drina In the direction of Uzice and came upon a fight between Communists and Cotniks, in which the Communists lost 6 dead and the Cetniks 3. Twenty of the prisoners brought in were shot after exhaustive interrogations."

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Finally, under the entry of 23 December 1941:

"Smaller bands have appeared again in the area of Novi Pazar. Major operations against them cannot be started on account of the snow. During minor patrols 43 Communists were captured. On the basis of reports by confidential agents arrests of suspected insurgents were carried out. 31 Communists, including 1 woman, were shot by order of Town headquarters Cacak."

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Next, on page 70 of the English Document, page 55 of the German, NOKW 983, Document offered as Prosecution Exhibit 153, this is an enclosure to the Activity Report of the Wehrmacht Commander Southeast, and simultaneously the Commander of the 12th Army, dated 30 November 1941.

This enclosure outlines the jurisdiction of the Wehrmacht Commander Southeast, Commander in Chief of the 12th Army, and is important enough, I believe to be read in its entirety:

"On 5/11/41, the new basic order of the Wehrmacht Commander in the Southeast and Commander in Chief of the 12th Army was issued regarding the regulation of command in the Southeast.

"In order to create clearly defined and coordinated channels of command in the occupied Southeast, the Fuehrer, the Supreme Commander of the Wehrmacht, has appointed a "Wehrmacht Commander in the Southeast" by order No. 31, dated 9/6/41."

Your Honors will remember that this is the document which appointed Field marshal List as Wehrmacht Commander Southeast, in addition to his command as Commander-in-Chief of the 12th Army. The seat of the Wehrmacht Commander in the Southeast is Salonica.

The Wehrmacht Commander Southeast is the highest representative of the German Wehrmacht in the Southeast. As such, he is directly subordinate to the Fuehrer and the Supreme Commander of the Wehrmacht. He carries out the Executive power in the territory occupied by German troops and he has here all the authority of a territorial commander.

Excepted from this unified command, regulations are:

- a) The offensive aerial warfare in the Eastern Mediterranean. This is carried out according to orders of the Commander-in-Chief of the Luftwaffe. For this purpose, the Xth Fliegerkorps is subordinate immediately to him.
- b) Problems of operational naval warfare in the Eastern Mediterranean, the cooperation of the Naval Group Headquarters South with the Italian, Rumanian and Bulgarian Navy, as well as the transport tasks of the Navy in the Black Sea traffic, which will be carried out in accordance with orders by the Commander-in-Chief of the Navy.

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These exceptions, however, do not change the basic principle of a coordinated Wehrmacht leadership by the responsible Wehrmacht Commander Southeast.

In detail, the Wehrmacht Commander Southeast is charged with:

- a) The guaranteeing of a coordinated defense of the territories including the Greek Islands.
- b) The coordinated direction of Navy Transport Movements.
- c) The regulation of cooperation with the Italian, Bulgarian and Croatian High Commands in the Southeast.
- d) The control of the supply by land and sea for all German Wehrmacht units committed in the Southeast.
- e) The supervision of the administration in the territory occupied by German troops.

Subordinate to the Wehrmacht Commander Southeast are:

- a) For the area Old Serbia, the "Commanding General Plenipotentiary in Serbia" simultaneously charged with observation of the affairs of the Commander Serbia.
- b) For the area Salonica and the Islands of Lemnos, Mytilene, Chios and Strati, as well as for the neutral zone of Turkey in Thrace, the Commander Salonica-Aegean.
- c) For the area of the harbor of Piraeus, for the billeting area of the German troops in Attica as well as for the islands of Melos and Creta: The "Commander Southern Greece".
- d) The QAdmiral Aegean".

The "Commanding General Plenipotentiary in Serbia" and the Commanders are responsible for the coordination of the defense in their areas and for their security against interior disturbances. Within their areas, they have the authority of a territorial commander.

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Within the above mentioned areas they carry out the executive power and direct and or supervise the administration. They are competent for all problems of billeting and of road construction.

All unit headquarters authorities and units are to fulfill the requests of the commanders pertaining to these matters. If danger threatens, each unit commander is obligated beyond this to take action independently and immediately with the necessary forces.

The Island of Creta occupies a special position in the Southeast. It is an operational area from which the Air War in the Eastern Mediterranean is carried out.

The "Commandant of Fortress Creta" is subordinate to the Commander South Greece. All units of the German and Italian Wehrmacht employed in Creta for the defense are subordinate to the Commandant of Fortress Creta in all tactical matters.

The eastern part of the Island has been assigned to the Italian occupation forces.

In his capacity as Commander of the Luftgau Staff, the Commandant of Fortress Creta is subordinate in all Luftgau affairs to the Commanding General of the Fliegerkorps by way of the Commander of the Luftgau Headquarters Southeast.

The "Commandant of Fortress Creta" carries out simultaneously the executive power and the supervision of the administration over the entire Island.

The "Admiral Aegean" is subordinate to the Wehrmacht Commander Southeast. For duties of "Admiral Aegean" sec. Ia No. 0303/41 top secret, paragraph 8.

Cooperation with the Italian, Bulgarian and Croatian High Commands in the Southeast is regulated in all basic matters by the Wehrmacht Commander Southeast. Matters of local significance are regulated by the Commander, the General in Zagreb and by the General of the German Army with the Royal Bulgarian Army Command.

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The General of the German Army with the Royal Bulgarian Army Command, is subordinate to the Wehrmacht Commander Southeast in every respect.

The Military Attaches in Zagreb, Sofia and Athens are to inform the Wehrmacht Commander Southeast continuously regarding all problems pertaining to their work which affect the tasks of the Military Commander Southeast.

The position and the duties of the Commander-in-Chief of the 12th Army remain unchanged by his appointment as Wehrmacht Commander Southeast. The staff of the 12th Army functions simultaneously as the staff of the Wehrmacht Commander Southeast. All Army units employed in the Southeast are subordinate to the 12th Army.

Regarding the chain of subordination in the Command area of the Wehrmacht Commander Southeast, a difference must be made between:

- a) Tactical subordination.
- b) Territorial subordination.

Enclosures 9 to 16 of the order "Regulation of the Channels of Command in the Southeast" contains: Political problems, counterintelligence and ideological welfare, matters pertaining to the Engineers, road maintenance, rationing of construction material in Greece, Transportation, Signal communication, Problems of Wehr Economy, Jurisdiction, Wehrmacht patrols, I think we may skip now to the page 75, English, page 60 of the German, to enclosure 119:

Correspondence and reports.

Special directive will be issued separately for the supply. The order regarding the regulation of the Channels of Commands in the Southeast dated 25.6.41 is superseded by this new order.

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See file with special enclosures: order regarding the regulation of the channels of commands in the Southeast.

6.11.: Commander-in-Chief: the higher to Army Engineer Commander General major Dr. Meise reports that he is leaving.

7.11: The hitherto Oberquertiermeister Lieutenant Colonel G.S.C. Freiherr v. Hanstein reports that he is leaving.

We will stop to the middle of page 75 of the English.

Enclosure 119.

On 7.11 the directives of the Wehrmacht Commander Southeast (18th Army) (that should read 12th Army instead of 18th Army) regarding the organization of the Fortress Division Creta and regarding the relief of the 5th Mountain Division, as prepared by the Ia, were issued to Corps Hqs. XVIIIth Infantry Corps, 164th Infantry Division, 718th Infantry Division, 5th Mountain Division, Commander Salonica-Aegean, Commander South Greece, for the Commandant of Fortress Creta and Admiral Aegean.

(signed.) For the Wehrmacht Commander Southeast The Chief of the General Staff I.A.Macher (?) On page 76 English and page 61 German, the enclosure is signed "For the Wehrmacht Commander Southeast, the Chief of the General Staff". On page 77 of the English and page 62 of the German, Document Book [NOKW 1051](#), which becomes Prosecution Exhibit 154, this document is a collection of reports from the 342nd Division, dated 24 November 1941.

Under paragraph 1:

342nd Infantry Division (Stamp) SECRET !Branch Ia/op No. 9 Oct.

41 secret Divisional Battle H.Q. 24 Nov.

41.

Divisional Order For the Annihilation of the Enemy in the Area of Uzice.

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Map 1 : 50.000 - in advance orally 24 Nov.

41, 10:00 Hours

1) Enemy.

Enemy are Communists and the Chetniks of Mihailovic not those of Pecanac (loyal to the Government).

In the area South of the Folubara there are no loyal Chetniks. Consequently every Communist and every Chetnik is an enemy.

Situation and road reconnaissance see enemy report 16 (Enclosure 1).

(Stamp)

SECRET!

342nd Infantry Division Branch Ia/op. Nov. 9 Oct. 41 secret Subject: For the Annihilation of the Enemy in the Area of Uzice.

Report of the 9 October 1941, page 77 English, 62 of the German, paragraph 2.

Combat Directive

- a) Any burning down is strictly prohibited and punishable. Burning down is applicable only if arms and ammunition are found or if fire is leveled from houses.
- b) To be shot dead are all men carrying arms using them or concealing them, women, and children, however, only if they actively participate in the fighting. In any case children are to be spared.
- c) All Chetniks and Communists who surrender are to be made prisoners and are to be disarmed.
- d) Prisoners and booty to be brought to Valjevo from the advanced roads. There, Branch of Ia will take over.

The prisoners can not be evacuated, they are to be taken to Uzice as hostages. Further evacuation pursuant to directive to be issued later.

(Stamp)

SECRET !

(Sign.) Hoffmann Brigadier General and Division Commander.

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I call your attention to paragraph 6 of the report, which is on page 79 of the English, page 62 of the German:

Group North, which will be committed tomorrow, today opened advance road near Velki Vrh. Most difficult road block on cliff 300 meters long with tank trap, road blasting and falling rocks.

For the first time a road block defended by the enemy. Enemy repelled still unknown whether Communists or Chetniks and what the enemy losses are.

As reprisal measure 265 Communists were shot to death today.

342nd Infantry Division Branch Ia (handwritten) taken care of Elsoesser (Oberfuehrer) (handwritten) Divisional Battle HQ 10 Nov.

41 At the bottom of page 79 of the English, 63 of the German report 10 Nov.

1941.

From 30 Nov. P.M. in Cajetina, 3 non-residents found to possess arms were shot to death.

(Sign. illeg.)

Captain Ic Next the report on page 80 of the English, page 64 of the German report for the 2 December 1941, from a subordinate unit, 342nd Infantry Division, I direct Your Honors' attention to paragraphs 15 and 16 which are on page 90 English, page 64 of the German.

Group B Group Battle HQ 2 Dec. 41 Subject:

Booty To 342nd Infantry Division Branch Ia Own losses:

1 dead (non-commissioned officer). 1 man wounded.

Enemy losses: 118 dead 36 wounded 117 prisoners 6 shot to death.

Reported in advance by phone (illeg.

sign.)

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Lieutenant and Regimental Executive Officer Teletype:

(handwritten)

URGENT SECRET! 19:20 hours E.S.

Divisional Battle HQ., 5 Dec. 41 Received:

20:20 hours (handwritten) d. F.S. 34(7? - Ni) Roetz, Oberfuehrer To Commanding General Plenipotentiary in Serbia Reorganization for new operation Combat Poses:

697th Infantry Regiment Valjevo 697th Infantry Regiment Dobrinja 697th Infantry Regiment Milanovac Division Uzice 29 Communists were shot to death.

86 Chetniks disarmed and turned over to local headquarters Pozega (113th Division).

342nd Infantry Division Ia (init.) R

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MR. FENSTERMACHER: Our next document is an insert, if Your Honors please, and I give three copies in English of [NOKW-1066](#) to Your Honors. This should be marked Exhibit 154, I beg your pardon 155, and be marked Pages 81-a and 81-b in the English Document Book. I hand eleven copies in German to the Defense Counsel. One copy in English and German each to the Court importers and Interpreters, and the original to the Secretary General. This document should be marked Page 64-a in the German Document Book. This is an order from the 342nd Infantry Division to one of its subordinate units, Group A. It is dated 2 December 1941. And I call Your Honors' attention to the portion of the document which we have had translated on the bottom of Page 81-a. "Combing through from Vardiste, as far as it is not Bosnian in the direction of Kremna. One Platoon remains in Kremna. Wounded Communists are to be shot to death." Next, on Page 82 of the English Document Book and Page 65 of the German. It is Document No. [NOKW-1150](#), which becomes Prosecution's Exhibit No. 156. This document consists of notes of the Wehrmacht Commander Southeast, simultaneously Commander in Chief of the 12th Army, regarding his trip to Belgrade. This, Your Honors, refers to the trip which the Deputy Commander in Chief of the 12th Army and Deputy Wehrmacht Commander Southeast, the Defendant Kuntze, took, and notes are dated 5 December 1941. Under Paragraph II, "Political situation in Serbia, subparagraph b, "In winter it is intended to examine the entire population of the insurgent territory by means of special detachments in collaboration with the troops. Whoever is proven to have participated in insurrection is to be shot."

The question of the resettlement of the women and children of the insurgents as well as other unreliable elements is still being examined. The retention of these people in Serbia south of the Danube does not appear to be practical. There are still difficulties with respect to shelter, rations, and guard which oppose the transfer into the Banat.

All Jews and gypsies are to be transferred into a concentration camp at Semlin (at present there are about 16,000 people there). They were proven to be the bearers of the communication service of the insurgents.

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The arrest in Belgrade of 1,200 active Serbian officers and their accommodation in prison camps in the Reich is to be carried out next."

MR. FENSTERMACHER: The notes are signed by a Major in the General Staff Cotps. Turning next to Page 85 of the English and Page 66 of the German Document Book, there is Document No. [NOKW-1521](#), which becomes Prosecution's Exhibit No. 157. This is a report of the 342nd Infantry Division, dated 8 December 1941, sent to the Commanding General Plenipotentiary in Serbia. "Enclosed please find recapitulation concerning losses and booty in the course of operation Uzice submitted by the Division." And the enclosure, "Losses and Booty during operation Uzice":

"25 Nov. to 4 Dec. 1941.

1.) Own Losses:

10 dead 22 wounded II.

Released from Captivity:

1 Officer 3315 non-commissioned officers and men.

III. Enemy Losses;

707 dead) excluding numerous dead and wounded 93 shot to death) taken along by the enemy."

312 arrested)

MR. FENSTERMACHER: The next document is on Page 87 of the English and on Page 67 of the German and is, in effect, the same as the preceding document; so I ask that Your Honors strike it from your book and disregard it. On Page 88 of the English and Page 71 of the German is Document No. [NOKW-660](#), which is offered in evidence as Prosecution's Exhibit No. 158. This is a ten-day report of General Bader, dated Belgrade, 10 December 1941. If Your Honors will recall after General Boehme departed from Serbia on the 5th of December, General Bader took over Boehme's Command and succeeded to the title of Plenipotentiary Commanding General in Serbia. This is General Bader's ten-day report, The document is signed in the draft by General Bader, Lieutenant General, Artillery.

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I. General Situation and Intentions:

A. The attack operations of the units are over, in the main. They have brought about the expected success and brought about considerable pacification of the situation in Serbia.

Decisive in this was not so much the number of the insurgents taken care of (erledigt) in combat as rather the draconic reprisal measures and the fact that sufficient strong, well-armed, and well-equipped German units under mobile and energetic leadership also sought out the bandits in those places, where they had previously felt themselves safe on account of the inaccessibility of the terrain or where they could carry out their terror unmolested, on account of the lack of sufficient German forces.

The Mihajlovic Group can now be regarded as beaten. Mihajlovic himself has only evaded with difficulty seizure by the unit, and is in flight, Mihajlovic was prescribed, in one of the appeals to the Serbian population, circulated by radio and leaflet as being a criminal insurgent and a premium of 200,000 dinar was set on his head. His staff has been taken care of (erledigt) for the most part. The Staff Officer, Major Misic, is among the prisoners. Many followers of Mihajlovic appear to have fled into the forest and mountains. Reports are at hand according to which these bandits which are now without leaders have tried to go over into the Cetnik detachments of Kosta Pcanac. Signs indicate also that certain Serbian government circles only recently desired to come into contact with Mihajlovic, in order to spare Serbian blood. Along the same line, there are attempts of the Serbian Prime Minister Nedic which amount to preventing a severe thrust against the - allegedly only forced into it - Mihajlovic followers. The investigations concerning are still in progress. Report follows.

The Communistic Partisan activity has also relaxed. This is doubtless because of the service of the Serbian gendarmes and partly also of the Cetnik units which are loyal to the government, which have fought well against the Communists lately.

B. From these reasons, it may well be taken into consideration that larger actions of the insurgents will hardly occur in the following (winter) months, in Serbia.

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The activity of the bands will, in general, be restricted to terror and sabotage acts.

Nevertheless, however, the Serbian resistance movement can not be regarded as finally beaten down. The relative pacification which has now appeared must not delude one, that it is a question perhaps of only a temporary circumstance. The greatest danger lies in the fact, no doubt, that a quantity of rifles and munition are still in the hands of the Serbs – in the hands of numerous illegal and so-called legal organizations.

Accordingly it must be taken into consideration the start of the warmer season of the year, the resistance movement will come to life again, above all, if the whole situation should make a withdrawal of large troop units out of Serbia necessary.

C. Accordingly I see as my chief mission during the next few months the complete pacification of Serbia and the rendering impossible of a renewed flame-up of the resistance movement.

This should be attained by:

1. Sufficient security of the traffic lanes, the economic centers, etc.

(as ordered.)

2. a large-scale, thoroughly prepared disarmament action.

3. arrest and deportation of the active Serbian officers.

4. speedy commencement of German and Serbian administration in the territory occupied again by the troops.

5. reorganization of the Serbian police forces, (proposal being presented.)

6. continuous influencing of the Serbian population by the necessary propaganda.

D. A pacification of the situation can not yet be spoken of, in the Serbian-Croatian border area (Bosnia). It really appears that unrest has increased there, as a result of the changing-over of Serbian insurgents. Whether the Croatian troops are in the position to carry on with the means at their disposal appears questionable according to the latest reports and experience. I propose, accordingly, to concentrate the 718th Infantry Division more strongly in the Bosnian insurgent area (Sarajevo-Zenica-Doboj-Tuzla) and shall examine the question as to whether a reinforcement of the German troops in the Croatian border area (by the 342nd Infantry Division) is necessary and can be executed with our own forces.

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II. Details.

A. a) large enemy groups are still reported in the following areas.

In the adjoining Croatian area west of the Drina (strength not yet known).

Between Krupanj, Valjevo, and Koceljeva 3 bands, each between 500 – 100 men strong.

Between Arandjelovac and Kosmaj Mountain Range, remnants of bands (strength about 500 men.)

In the Moraviza Valley, about 800 men at Arilje.

North of Novi Pazar, remnants of bands, about 400 men all together.

Territory around Leskovac, bandits in a total strength of up to 2000 men.

b) for sabotage acts and surprise attacks, see enclosed chart.

B. Our own forces:

a) I took over the affairs of the Plenipotentiary Commanding General in Serbia from Lt. General, Infantry, Boehme on 6 Dec 41. Chief of Staff, Colonel, General Staff Corps, Kuebler. The affairs of the Corps Headquarters XVIIIth Corps were transferred to the Headquarters Staff of the Commander of Serbia.

Leadership, fighting power and discipline of the individual genarme and volunteer detachments are various. The Gendarme Colonel, Babic, successful in the cleaning-up of the Morava-Danube triangle disarmed and arrested his own people on account of undisciplined conduct toward the civilian population.

D. Our own and enemy losses:

(in German operations during the period from 26 Nov – 5 Dec 41).

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Enemy Losses Our Losses dead 1,415, among them 389 14 as reprisal measures wounded 80 35 captured 778

THE PRESIDENT: We will adjourn until 9:30 tomorrow morning.

(The Court adjourned at 1630, to resume at 0930 23 July 1947.)

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Official transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nuernberg, Germany, on 23 July, 1947, 0930-1630, Justice Wennerstrum Presiding.

THE MARSHAL: Person in the Courtroom will please find their seats.

The honorable, the Judges of Military Tribunal V. Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Marshal, will you ascertain if all the defendant are in the courtroom.

THE MARSHAL: May it please, Your Honor, all the defendants are present in the courtroom.

THE PRESIDENT: You may proceed, counsel.

DR. MENZEL: (Counsel for the defendant Kuntze): During the session yesterday, towards the end, the document 660 was being read—that is Exhibit 158. After the Document had been read, it was announced that the session was adjourned until this morning so that I couldn't point out something which I want to do now. The representative of the prosecution, when finishing the document, read figures about "Own losses" which were not in the German translation. This is in the official translation which we have in front of us. I rather think that such discrepancies should be ascertained and that as a matter of principles documents should, in my opinion, only be read when they correspondent with the German translation; or rather when they don't correspond with the translation, the defense should have an opportunity to correct the translation which they have.

THE PRESIDENT: To what particular section or part of the document do you make objection?

DR. MENZEL: That was the last part of Document 660, capital D. It reads there : "Own losses", and "Enemy losses." In the German translation, only the "Enemy losses" are mentioned, not the German losses.

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Since the retaliation measures are in a certain proportion to the own losses, the translation swere, this point, in my opinion showed to be corrected, is quite important.

MR. FENSTERMACHER: If Your Honors, please, I think the trouble here is just the human margin of error. In making so many stencils, it often happens that the portion which appears in the English document book will be omitted from the corresponding portion of the German document book.

THE PRESIDENT: We are now referring to the bottom of page 91?

MR. FENSTERMACHER: 91 of the English and 74 in the German. Apparently, in typing the German document book, the "Our losses" section which appears in the English document book was omitted from the German. I think that is just the human margin of error in handling such a mass of material, but I believe if the original document is passed to the official interpreter, she can read into the record that portion from the German which correspondents to "Our losses" in the English document book.

THE PRESIDENT: If that is acceptable to counsel for the defendant in question, you may do so. Will you kindly hand it to the interpreter?

MR. FENSTERMACHER: I believe Major Hatfield is getting the official document now, Your Honor.

THE PRESIDENT: The document is not here at the present time, and will be brought in shortly; and in the mean time, counsel now before the desk may present any statement he cares to.

DR. HINDEMITH: (Substitute for Dr. Rauschenbach, counsel for the defendant Foertsch):

May it please Your honors, the part that has just been mentioned, I'd like to voice a somewhat different opinion. The defense counsel, Dr. Menzel, said that documents should only be read by the prosecution which contain the same contents as in the German version. I believe that this does not quite correspond to the matters as they should be.

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The documents which are being presented by the prosecution are being presented as incriminating as a whole, without consideration as to whether it is being read as a whole or not, that is, also the parts which are not being read have the evaluated by the Tribunal. It does not help the defense, therefore, if only those parts are read which are contained in the German version of the document. The defense thinks that it should be ascertained in each case that the whole document, as it is in the English version, should be presented to the Tribunal, and it should be presented to the defense in just the same version. Only on the basis of this assertion, the defense is in a position to ascertain what it has to object to and should defend again.

THE PRESIDENT: If the Tribunal is correctly informed, the defense counsel has access to all material which has been presented by the prosecution, am I correct in that, Mr. Fenstermacher?

MR. FENSTERMACHER: You are correct, Your Honor.

THE PRESIDENT: Well, that being true, can you not ascertain such parts to which you might object, counsel?

DR. HINDEMITH: Mr. President, the fact that in individual cases it has been ascertained that in the German version not the whole text appears, makes us a little doubtful since not all documents are being read into the record; and if necessary, one has to count on that fact that in the English version of the document there is a larger part of the contents than in the German version. Therefore, most defense counsel find it difficult on the basis of the photostats to make sure what is contained in the document. The defense, in my opinion, has to assume that everything is contained in the German version that the prosecution presents as evidence.

MR. FENSTERMACHER: If Your Honors please, I can assure this Tribunal and the defense counsel that we make every effort that is humanly possible to have the English document book correspond one hundred percent to the German Document Book; but when two different staffs of people, one staff typing up and stenciling the English version and another staff typing up the German version, are involved there is bound to be some error.

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Sometimes the English typist in typing up the English translation will omit a line or two, or a figure which appears in the German document book; and on occasion, as has happened here, that may happen the other way'round. But we do everything that is humanly possible to have the English document book and the German document book correspond to the Nth degree.

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THE PRESIDENT: This Court and Tribunal is of the opinion that if prosecution fails to show such matters as the defense counsel feel should be shown that the defendants can and it is their privilege and right to do so later in the trial of this case. We are taking for granted that the translations as presented in English are the same as presented to German counsel and if that is not true counsel can so indicate it in their presentation of their defense.

JUDGE CARTER: Counsel for the prosecution, I think they are objecting to the fact that they can't tell what part they have of their document book is being offered by you; in other words you are not offering as much as they have in their book and they can't tell which part is being offered by the prosecution. Is that the -

MR. FENSTERMACHER: Well, if your honors please, I think the problem here is the section on "our losses" which appears on page 91 and does not appear in the German document.

JUDGE CARTER: I think that is the object made by the first counsel but I think this counsel is distinguishing between your exhibit offered here and the part in excess of that in his German document book.

MR. FENSTERMACHER: I think the answer to that, then, your Honors, is simply that we are not reading into the record everything that appears in our book, the English as well as in theirs, the German.

JUDGE CARTER: I think that is what he is complaining about.

DR. HINDEMITH (Counsel for defendant Foertsch): Your Honors, may I add something? I was less concerned with this individual case than this individual case just caused me to generally point out that the defense finds it necessary that it can assume that the version of the copies of the document which they received correspond with the version of the documents which are being presented in English. They have to -they can only form their own picture on the basis of the documents which they have in front of them and they can only thus ascertain what they have to defend again.

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Not all documents are being read completely. The fact that when the documents are being read it has been found out that some parts are not contained in the German text, this very fact lets us doubt whether other documents which are not being read at all are only in part might also contain such discrepancies.

MR. FENSTERMACHER: If Your Honors please, again, I can only say that we make every attempt to have the defendant and English document books correspond. We have members of your staff sit with an English version on one side and the German version on the other and they compare them and I believe, except for very, very rare errors, such as this one, which has been called to our attention, there are no cases in which the English document book and the German document book do not 100% correspond.

JUDGE BURKE: Just one moment, please. Your present objection is based largely upon a inference then, is it not?

DR. HINDEMITH: Your Honors, this particular event causes me to make some general remarks. I believe that it would be fair if -- the prosecution would assume that the German and the English text should correspond. However, this individual case shows us that in this particular case it was not the case. Now, not all documents are being read in total, only excerpts, parts, or certain documents have been passed over completely. They were only taken judicial notice of. The defense therefore has no possibility to ascertain that these documents correspond in the English and the German version but the fact that in this particular case, where the document has been read and where there was such a discrepancy leads to doubts whether such discrepancies are not also the case in documents which are not being read at all or which are only being read in part.

THE PRESIDENT: It seems to this Tribunal that this is a matter which should be checked through the defense center and we are taking for granted that the matters as presented here are authentic and are correct and we trust that the parties who are presenting these matters are doing so in good faith.

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Counsel can check with the defense center and through the interpreters and translators and if you have any doubts about these matters it is your privilege and right to present them in such way as you see fit.

I believe that ought to dispose of the matter at this time. We do not want to limit you. We, however, that that is a matter which should be presented by defense counsel in such way as they see fit. That's your privilege and right and we want you to make use of it; but this particular question -- we cannot make any definite ruling until you have raised some particular question as to some particular document.

Now, as to this one document, I think it is now in the courtroom and we can give consideration to that and have it translated by the translators and interpreters.

DR. HINDEMITH: This particular document I am not interested in. I was interested only in the general aspect of the matter and I wanted to make it clear for once that there should be -- that the German and English versions should always correspond when both of those documents are being read to the Tribunal.

THE PRESIDENT: I think I have expressed the attitude of the Tribunal. We want you to have every right that's due you as counsel and due to the defendants but it's a matter which you will have to check through the defense center and the interpreters and the translators.

DR. HINDEMITH: Very well, I follow you, Mr. President.

DR. MENZEL: (Counsel for defendant Kuntze): May I point out that we have now the original or, rather, the photostat of the document in question and from this I see now the version as the representative of the prosecution presented it corresponds with the photostat. Therefore, it was merely a mistake in the German translation.

I thank you.

THE PRESIDENT: Is there any necessity -- is there any necessity of having it translated by the translator and interpreters here into the record?

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DR. MENZEL: I don't think that necessary. There are only a few figures and we can add them in our copy.

THE PRESIDENT: They are not on our document, are they? Oh, very well. Mr. Fenstermacher.

MR. FENSTERMACHER: Yes, Your Honor.

THE PRESIDENT: As I understand it, the defendant documents books contain more information than the English.

MR. FENSTERMACHER: No, Your Honor. The defendants' document books correspond 100%, within the margin of human error, to the English document books but the actual photostat copy of the document of which we only use excerpts is only in the possession of the defense information center, to which all the defense counsel have access and it is only that photostat copy of the document of which we are only using excerpts that contains a good deal more material than we actually use.

THE PRESIDENT: So they have exactly the same exhibit you are offering here and no more or no less.

MR. FENSTERMACHER: That is right, your Honor.

THE PRESIDENT: All right.

MR. FENSTERMACHER: For the record then I should like to state that the text "Our losses," which appears on page 91 of the German book will now be market in the German document book on page 74 and inserted should read:

"Our losses: Dead 14 Wounded 35 Captured (blank)" Your Honors will recall that yesterday we were dealing with Document Book No. VI which contains various orders and reports covering a period of time from November and December 1941 during which time General Boehma was Plenipotentiary Commanding General in Serbia, subordinate to the defendant Kutnze who was at that time Commander in Chief, 12th Army, and Wehrmacht Commander Southeast and his Chief of Staff, the defendant Foertsch.

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Turning next to page 93 of the English Document Book and page 75 of the German, Document [NOKW-474](#) is offered as prosecution Exhibit 159. This is a statistical report dated 20 December 1941, apparently compiled by the Plenipotentiary Commanding General and Commander in Serbia. I say "apparently" because there is nothing other than the pencilled notation at the top of page 94 in the English and page 76 in the German to indentify this document. It reads:

"Reprisal measures carried out from the beginning of the insurgent movements in Serbia up to 3 December 1941.

"With the transfer of the affairs of the Plenipotentiary Commanding General in Serbia from the XVIII to the XXXII Infantry Corps, the reprisal measures completed up to this period of time should be

summarized. The basic orders are attached in the file Qu 2 (Plenipotentiary Commanding General in Serbia VIII &). On the basis of the troop reports, the following final numbers are given."

And then there follows a table broken down into the various units subordinate to the Plenipotentiary Commanding General in Serbia the 125th Infantry Regiment plus the 1st Battalion, the 342nd Infantry Division, the Commander of Serbia Administrative Staff, the 113th Infantry Division, the LXVth Corps and the III rd Battalion of the 697th Regiment, as well as the 220th Artillery Regiment.

Your Honors will note the table "Own Losses." Under "a" -

"Dead 11, 32 and 117" which I should like to call to your Honor's attention is a total of 160.

Under "Wounded" there are entries of 30, 130 and 218, which is the figure "218" when added the total of 160 for the above and gives a total of 378. That figure will appear later, if your Honors will please keep it in mind.

Then the table goes on with "Enemy Losses" with these various entries of 369, 923, 24 and 2,246.

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Then the entries for "Reprisal Measures": 214, 2,685, 3,616 and 4,649, together 11,164.

"According to the basic key of 1 to 100 and 1 to 50, the following is given as reprisal measures to be executed:

"160" which your Honors will remember is the total for German dead times "100" equals "16,000."

"378", which your Honors will remember is the total for German wounded, times "50" -- "18,900," or a combined total of "34,900."

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Turning to page 94 of the English, page 76 of the German, "Reprisal measures executed 11.

164, which is the figure given on page 93 of the English, and page 75 of the German as the total for enemy having fallen in battle, and Reprisal measures then estimated, enemy dead, 3,562. The quota, enemy dead, 34,900 and then by subtracting 3,562, the enemy dead from the established quota, one gets a remainder of 11,338. Thus there would be due for further reprisal", and then the figure 11,164 is subtracted from the total 31,338, or a remainder, of persons due for further reprisals of 20,174.

Paragraph (5) of the memorandum continues:

On 16 Dec. in the forenoon the data was still lacking for this report on the 718th Inf. Div., the III Battl. 697th Inf. Regt., and 113th Inf. Div.

Captain von Haacke and Captain Schuster were asked for a telephone report. Nothing was effected in the case of the 718th Inf. Div.

It is confirmed definitely that the reports of the subordinate units are incomplete and inexact since at first, at the start of the insurrection, the executions took place without written record and reports made later must be inaccurate. The alleged number 11, 164 is to be evaluated as an approximate number.

In order to establish clear conditions in the field of reprisal measures, the issuing of a new order, which establishes clear reporting terms, is essential. It is already worked out and now being printed.

On page 95 of the English, and page 77 of the German, this document NOKW 342, which is offered in evidence as Prosecution Exhibit 160, Your Honors will recall that on the 5th of December, General Paul Bader, who had been the commanding general in Serbia, replaced General Boehme, the Plenipotentiary Commanding General in Serbia, and assumed the title which Boehme had of the Plenipotentiary Commanding General in Serbia, and assumed the title which Boehme had of the Plenipotentiary Commanding General in Serbia.

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The document which we now have before us is a report from General Bader in his new capacity, dated 22 December 1941, a report sent to the Administrative staff, Branch Ia, which Your Honors will recall is the operations staff.

The subject of the report is given and then the text:

"I command, that from 5 Dec. 41, in reprisal measures for German Wehrmacht members and "Volksdeutsche" killed, the following basic reprisal quota be imposed:

For 1 dead: 50 reprisal prisoners.

For 1 wounded: 25 reprisal prisoners."

The report is signed, "Bader".

Your Honors will note that the date, "22 December 1941", when it established reprisal quotas, they are reduced by General Bader.

Turning next to page 96 of the English, 78 of the German, Document NOKW 840 which is offered as Prosecution Exhibit 161, this is a basic directive of General Bader dated Belgrade 20 December 1941:

"Subject: Basic orders for the Winter".

With the commencement of the warmer season of the year, a flaring up of the unrest and the franc-tireur movement has to be taken into consideration, especially if the overall situation should make a withdrawal of large bodies of troops necessary.

All military and civilian offices have to adjust themselves to this possibility. The calm - perhaps only temporarily - must never lead to a slacking-off of security or too carelessness! Security and Conduct of Battle:

The divisions bear the responsibility that the installations to be protected remain undamaged and in working condition under all circumstances. They are to determine the strength of the occupying forces and provide for regular relief. The unit is not to become over-tired;

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only salert guards fulfill their mission. Strong mobile reserves must always be ready to be thrown quickly into the threatened positions. Accordingly, the most important roads are to be kept free, also in Winter (snow !)

Surrounded units must break through by the concentration of all forces at their disposal. There is to be no negotiations with the enemy! The German soldier never surrenders to insurgents!

The completion of protective structures (guard towers) is to be pushed forward by the unit. They are to be occupied as soon as possible. The speedy completion of sufficient impediments (barbed wiring) is important.

The previously named security missions must in no case lead to waiting and passive conduct! It must be clear to each German soldier in Serbia that attack is the best protection against bandits who crop up. Therefore, wherever insurgents are confirmed, they are to be attacked, after thorough preparation. With sufficient forces, without order of Corps Command authorities, if possible, they are to be destroyed by sudden encirclements, but at least, however, to be scattered. Only thus can the organization and assembly of the enemy bandits be prevented. The insurgents must not even rest in Winter!

Such attack operations also afford as well the best opportunity for the schooling of officers and troops and must accordingly be taken up cheerfully for psychological reasons. Execution is to take place according to the directives for "Combatting Partisans".

Billeting itself is to take place everywhere according to warlike points of view. The quarters are to be erected basically for defense. An officer is to live in the range of each unit constantly.

The following directives are given for the treatment of the Serbian population:

The Serbian population must be so educated and influenced that it endures no insurgents of any kind in its spheres.

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It must learn to see its own greatest enemy in insurgents of all kinds.

In case of irregularities, the families, households, communities, etc. must be brought to responsibility ruthlessly.

All Mihailovic members are to be treated as insurgents and may not be given special treatments. The Serbian government is striving to make impossible a severe blow against the Mihailovic followers allegedly only forced - or at least to ameliorate it. This must be prevented.

In the same way, everything must be done in order to exclude a changing-over of Mihailovic followers into the legal Serbian organizations.

I call particular attention to the abstinence of all German Wehrmacht members from national – or other political questions – for example, relationships with Albanians or neighbouring states. In this territory, no soldier is to occupy himself with any sort of politics or propaganda which only leads to misunderstandings or to questionings of the highest authorities.

propaganda and ideological care:

Propaganda will be directed uniformly by the competent authorities of the Plenipotentiary Commanding General in Serbia.

It is of primary importance to seize the credible Serbian national population in the territories which have been re-occupied recently by our troops.

Through corresponding explanations in word and picture, suited to the mentality of this population – radio, press, leaflets, posters, etc. – a considerable pacification and a reasonable attitude of these classes of the people may be attained.

Last but not least the unit must try to gain the respect of the population through a determined unobjectionable and just appearance.

I refer to the ideological education and care of our soldiers during the Winter months. Its pronounced main effort must lie with the unit in the field where quarters are bad, variety and possibility of amusement are restricted.

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I think we need not read the rest. The order is signed, "Bader, Lt. General Artillery".

DR. HINDEMITH for DR. RAUSCHENBACH (representing the defendant General Foertsch):

When this document was read by the representative of the Prosecution, at the point under figure (3) -- that is the last but one paragraph -- I saw that in the German version, after the sentence, "The execution has to be carried out according to directive for partisans", the part in parenthesis, (Commander in Chief of the Army General Staff of the Army Training Branch IA, No. 1900/41 from the 25 Oct. 41) – was not read. This reference seems important to me, since thus we can see that it was only the execution of an order which had been given from above, I do not know whether in the English version this parenthesis is contained. When it was being read this parenthesis was omitted.

MR. FENSTERMACHER: If Your Honors please, the phrase which Dr. Hindemith refers to is in the English version. I neglected to read it. Perhaps in the future when I omit any version of the document, I will specify that I am omitting that portion.

DR. HINDEMITH: That is sufficient for me. I am now convinced myself that the parenthesis is contained in the English version and I am satisfied.

MR. FENSTERMACHER: The document which we have just been reading is signed, "Bader, Lt. General, Artillery".

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MR. FENSTERMACHER: Turning next to Page 100 of the English and Page 81 of the German Document Book is Document No. [NOK W-610](#), which is offered as Prosecution's Exhibit No. 162. This, if Your Honors please, is an enclosure of the Plenipotentiary Commanding General in Serbia. It is of such importance. If Your Honors please, I withdraw that. On Page 100 we continue with the previous Exhibit No. 161, which is an enclosure to the order of General Bader from which I have just been reading. We will hold the Exhibit No. 162 until the next document. The subject of this memorandum is seen from the middle of Page 100 in the English and Page 81 in the German, "Seizure of prisoners for reprisal measures.

Seizure of hostages, and Other prisoners."

Your Honors will note the first reference which is to the order of the Plenipotentiary Commanding General in Serbia, with the familiar code No. Ia No. 3848)41 secret, of October 10, 1941.

The hard, ruthless and vigorous action of the units in regard to reprisal for human lives, which was ordered by the highest German authorities, has led in the main to quick and successful suppression of the insurgents in Serbia. The reports of completion of the Corps commands and the divisions show that the Fuehrer order concerning reprisal measures has been carried out fully up to 5 Dec. 41.

The reprisal measures will be continued further. In order to exclude any existing doubts concerning them, I am referring to the fact that three groups of prisoners are to be differentiated:

1) Reprisal prisoners are persons who for reason of their attitude and conduct are destined as reprisal for German human lives, for example, Communists not encountered with weapons, Gypsies, Jews, criminals, and the like.

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2) Hostages are persons who play a role in public life and on the basis of their personalities exercise a certain influence on the population in their realm of activity. They are composed from the most varied strata of the population. They guarantee with their lives the public peace, order and security in their part of the country.

3) Prisoners of the unit are persons who are taken in the course of an operation as suspicious. They require a further examination by the administrative sub-area headquarters authorities. They will either be released or transferred to the reprisal prisoners.

Treatment for various prisoners:

1) Prisoners are to be transferred by the unit after a short interrogation, together with the results of the interrogation to the nearest competent district of Administrative sub-area headquarters. This district headquarters have to send them on to the administrative sub-area headquarters. After examination in the administrative sub-area headquarters, they are to be held as reprisal prisoners in readiness for revenge measures in the competent camps, or to be released.

2) The seizing of hostages is the task of administrative sub-area, district and local headquarters. The unit has only to concern itself in exceptional cases and then only in cooperation with administrative sub-area,

district and local headquarters. It cooperates in the seizure of hostages only on demand of the local administrative offices.

The hostages are to be held in readiness in camps. The recourse to reprisal measures as well as their eventual exchange is to be decided separately by the chief of the administrative staff of the Commander in Serbia.

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3) The administrative sub-area headquarters maintain camps of the necessary extent for this purpose. In Belgrade, the administrative sub-area headquarters turn over their prisoners to the already existing camp of the special purpose unit of the SP and the SD. In Kraljevo, a corresponding camp is to be erected at once. All camps are subordinated to the Chief of the Administrative Staff of the Commander in Serbia. The camp direction is the affair of the SS-Fuehrer assigned at the time to the administrative sub-area headquarters. Guard is the business of the administrative sub-area headquarters.

Inspection and examination of all prisoners is exclusively the task of the SS Fuehrer assigned to each camp. 4) If Wehrmacht losses occur (dead and wounded), they are to be reported, as well as by way of the IV b channel, with the daily reports to the Plenipotentiary Commanding General. In combat losses, how many enemy fell in the course of the battle is to be given. Basically, the insurgents, including Mihailovic followers, encountered with weapons in combat actions are to be shot. They have nothing to do with seizing of hostages, but count nevertheless on the quota ordered for the reprisal measures.

5) Reprisal prisoners and hostages may from now on be shot only on my previously-given written order, which is to be obtained for each individual case. The principle is that the unit is to avenge its losses itself, if at all possible. Since, however, the reprisal prisoners are collected in few camps, this principle cannot always be followed; therefore, troops must be used accordingly for the execution, troops which have nothing to do with the case and are only in the proximity of the reprisal prisoner's camp.

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6) Decree reference 2 is valid for the carrying out of executions; for special seizure and reporting, decree reference 3. Reports of completion pertaining to orders for shootings are to go through the Plenipotentiary Commanding General with the daily reports.

The mission of the unit is fulfilled with the handing in of the nominal roll of those shot to the competent administrative sub-area district, or local headquarters.

7) Dead and wounded Volksdeutsche (men, women and children) are to be determined from the Chief of the Military Administration and to be avenged for by the SD upon written order (suggestion by the Administrative Staff).

8) Dead and wounded of the Serbian gendarmerie and auxiliary police do not fall under reprisal measures. Therefore, they have to be entered in the loss reports separately.

9) The administrative sub-area headquarters are to report the reprisal measures carried out for German soldiers for the last month; likewise the SD, for reprisal measures carried out for Volksdeutsche, by the

5th of each month to the Plenipotentiary Command General in Serbia/Chief of the Administrative Staff, who makes a survey and reports to me.

10) Reprisal measures carried out are to be publicized by the competent administrative offices primarily in those territories in which German sacrifices are to be avenged."

MR. FENSTERMACHER: Turning next to Page 104 of the English and Page 84 of the German is Document No. [NOKW-610](#), which is offered as Prosecution's Exhibit No. 162. This is a 10-day report from General Bader, as Commanding General Plenipotentiary in Serbia, dated Belgrade 20 December 1941. The subject is "10Day Report."

"I. General and Enemy Situation - generally unchanged.

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Mihailovic followers no longer offer battle. It seems that the national group of insurgents has actually been smashed. Attempts of the Mihajlovic people to disappear in the Serbian gendarmerie and in the Cetnik units of Kosta Pacanic have again been reported. It has been confirmed that a member of the government has attempted to establish connection with Mihajlovic via the Serbian auxiliary gendarmerie. A court martial procedure has been started against 4 Serbian gendarmerie and on Cetnik officers. Will report results. The 2 staff officers of Mihajlovic, Colonel Misic and Major Fregel were shot to ...

MR.FENSTERMACHER: (I believe the word death should be inserted) "according to martial law on 17.12.41" III. Losses from 6. to 15.12.41, 1

2. Enemy Losses:

a)

b) Shooting of hostages:

(as per reports up to now up to 5.12.41) total 11.

164 of which by units 7.548 these figures are incomplete.

c) Concentration Camp:

Total number of inmates on 6.12. 3.625 persons Delivered during the time covered by report 839 " Released 824 " Shot to death 558 " Losses by other means 11 " Total on 15.

12.41 3.071 persons 5.281 persons were delivered to the newly constructed Jew and gypsy camp in Semlin up to 15.

12.41."

MR. FENSTERMACHER: Turning to the last document in Document Book VI, Page 107 on the English and Page 86 of the German, Document No. NOK -725, which is offered as Prosecution's Exhibit No. 163.

This is again a 10-day report, sent by General Bader as Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southeast, who at this time, 31 December 1941, was the Defendant Kuntze. The report begins with a review of the general situation in Serbia.

"Prime Minister Medic was informed on 29 Dec of immediate occupation of a part of Serbia by Bulgarian units. A memorandum of the Ministerial Council presented concerning this maintains that this measure is unbearable for Serbia and contains a request for alteration. It remains to be seen whether the government will remain in office.

The occupation of Serbian territory by Bulgarian units has a strong effect on the Serbian national sentiment. Encroachments of Bulgarian soldiers on Serbs in the previously occupied territories and Serbian acts of sabotage against Bulgarians are continuing. An increase of these hostilities must be taken into consideration, if the occupation is extended.

Quiet prevails in the middle of the Serbian area. The territories near the border Nis-Lebane, the area south of Loznica-Krupanj, region of Pozarevac, and the border territory SW of Uzice remain places of unrest and centers of sabotage. Successful smaller operations of the unit and the Serbian gendarmes and auxiliary police lead to a further scattering of resistance units.

(The report of General Bader to the Wehrmacht Commander Southeast also contains a section on Croatia)

b) Croatia The general situation is tense.

Unanimity of the Ustaci movement standing behind the government must be doubted. The combat value and the reliability of the Croatian units is small. Without efficient help of German units, they will not be able to destroy the resistance movement which has increased strongly in the last few weeks, especially in the eastern part of Croatia.

2.) Enemy

a.) Serbia Enemy situation in the main unchanged.

Dispersal movements of the insurgents into the out-of-the-way border areas, especially of the Serbo-Croatian border area continue. Surprise attacks and sabotage acts have increased from 25 in the last report period to 53 since the 15th of December. Enclosure 1 For details, see Enclosure 1.

The territories of unrest are (compilation of previous reports):

aa) Area Nis-Lebane The operations of the 717th Infantry Division at Lebane did not clear up matters.

An operation of the Serbian gendarmes is in progress. Division of the enemy group of about 3000 men in strength is apparent. One group (strength about 1000 men) appears to have withdrawn to the South over the Serbian-Bulgarian border, a second (strength about 2000 men), to the region Prokuplje-

Kursumlija. The conditions in this territory have been obscure for sometime, since the influence of Kosta Pecanac appears to be vanishing.

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Area south of Loznica-Krupanj.

No important changes. Dispersal of insurgents to the Croatian territory continued to be observed. With the exception of one surprise attack, the enemy was quiet.

Area around and east of Pozarevac.

Small enemy groups in strength of 20-30 men continue to be active 2 successful cleaning-up actions of the Serbian auxiliary police. The impression exists that the enemy has taken to winter quarters.

Border area southwest of Uzice.

Enemy group about 3000 men strong. Dispersal of insurgents from the Croatian back to the Serbian territory observed. The impression exists that the enemy is considering wintering with strong forces in the out-of-the-way territories of the Zlatibor and Murtenica Mountain Range.

Croatia.

Increasing aggravation of the situation. Further increase of insurgents from Serbia. Mihailovic has taken over the leadership of the struggle in East Croatia. The unrest around Doboj, Sarajevo, and Tuzla, which shows strong Communistic direction, is continuing.

The Centik leader Dangic operating there, allegedly does not wish to subordinate himself to Mihailovic and fight against the German Wehrmacht. He only wishes to protect the Serbs against Croatians and Communists.

.....

Then paragraph 7 of Bader's report to General Kuntze, Enemy losses.

The enemy lost 132 dead (of these, 37 from reprisal measures) and 372 prisoners in the period from 16-25 December.

.....

The report is signed For the Plenipotentiary Commanding General in Serbia The Chief of the General Staff Your Honors will note the distribution list on the back.

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The first copy of the report was sent to the Wehrmacht Commander Southeast. This, if your Honors please, concludes the introduction of the documents in Document Book No. 6. Mr. Denney will continue with Document Book 7.

MR. DENNEY: May it please your Honors, with reference to the statements of the prosecution as to the counts on which exhibits are offered and the defendants against whom they are offered, we have

found some omissions and it was also necessary to make some deletions in Book III; so we have had the stencil rerun and now submit three copies of the new stencil to your Honor, which should be substituted for the old one in Book III. We also have 24 new copies for defense counsel. This will be substituted for 16 -- that is, it will be put in at page 169-A and be given the number which the present one has of 114-A, and we have copies for the reporters and the interpreters and for Major Hatfield.

I believe defense counsel understands this is just being substituted for the one we gave yesterday. We found that we had included one of the defendants in several counts where he should not have been included so we felt it was better to submit a new copy if that is agreeable with your Honors.

And with reference to Book IV, three copies for the Court and copies for the defense counsel --24. This should be inserted as page 171-A in Book IV and the last exhibit is 124, so this will bear the identifying numbers of 124-A. Copies for the reporters, the interpreters, and Major Hatfield.

THE PRESIDENT: May I ask again what page number you gave this?

MR. DENNEY: 171-A, sir. At the end of Book IV.

And for Book V, three copies for the Tribunal. This should be 160-A page and the identifying numbers are 131-A after exhibit 131, which is the close of Book V, if your Honors please. 24 copies for the defense counsel, copies for the interpreters, the reporters and Major Hatfield The prosecution now offers Document [NOKW-922](#) which appears at page 1 of the English and German in Document Book VI as prosecution's Exhibit 164 in evidence.

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THE PRESIDENT: You mean Document Book 7, do you not?

MR. DENNEY: Excuse me. Thank you, your Honor. Document Book VII, page one of the Document Book VII, Exhibit 164 in evidence. This exhibit is a directive from Bader, General of Artillery, as the Commanding General Plenipotentiary in Serbia, dated 3 January 1942, with reference to the combat against insurgents.

The insurgents have taken up winter quarters in the eastern part of Croatia. (See enclosed sketch.) From their villages they press hard upon the Croatian troops and commit continuously acts of sabotage. They press forward more and more towards important thoroughfares and towards the objects that are economically important. For details see enclosure 1.

To stop this enemy activity the 342nd Infantry Division and 718th Infantry Division shall attack the enemy on 15 Jan 1942 in the Southeastern part of Croatia and will destroy him. In this operation the German troops will be aided by Croatian troops, in order to set free the 718th Division for the duration of the operation, Croatian troops will take over the security duties, which the Division has had to fulfill up to now.

All German and Croatian troops assigned to the above mentioned operation will be subordinated as of 12 Jan 1942 to the Commander of the 342nd Infantry Division Brigadier General Hoffmann.

Then appears the distribution order to the Divisions involved, the 342nd and 718th, the Croatian Battalions, and various other supporting and service units, followed by the signature of Bader.

Then further distribution to the Corps Headquarters and the other units listed therein with some additional ones including the 113th Infantry Division.

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Then follows a recital of the -- excuse me, the stamp of receipt by the 718th Infantry Division in at the bottom of page 2 of the English and at the top of page 3 of the German, "Received on 4 January" and the enclosure which is cited at the top of page 3 in the German and on the bottom of page 2 in the English contains a report with reference to the units which are in the area of Croatia.

Page 3 in the German and English ---

Insurgent groups in frontier area of Croatia

1.) Southwest of Bijeljina Strength:

400 Armament:

Unknown Leader:

Hodzic Political Attitude:

Communists (numerous Mohammedans) Activity:

Raids around Bijeljina since the middle of Dec. Probably also sunk the Save tug "Pancove" on 29 Dec.

The Second Group:

Majevisa mountains north of Tuzla Strength:

1000 Armament:

1 gun Leader:

"S p a n a c" (a Turk from Bijeljina his real name Muhadinovic) Political Attitude:

Communist Activity:

Continuous threatening of Tuzla The Next Band:

Czren Mountains southeast of Doboj Strength:

1500 Armament:

Unknown Leader:

V u j a t i n o v i c Political Attitude:

Dangic - Cetniks Activity:

attacks on Maglaj, sabotage of traffic and communication installations.

Page 636

4.) South of Kladanj Strength:

500 Armament:

Trench mortars and guns.

Leader and Political Attitude: Unknown.

Activity: Acts of sabotage, attacks on Kladanj that were repulsed and repeated artillery fire on vital enterprises in Kladanj.

Page 637

"5) East of Zavidovici Strength:

500 Armament:

Unknown Leader:

Unknown Political Attitude:

Presumably Dangic-Chetniks Activity:

Sabotage of traffic and communications on the line Zavidovici-Olovo, raid on moving train, occupation of Krivaja in the Krivaja valley east of Zavidovici. Possibly connection with insurgent villages on left bank of Bosna around Zepce southwest of Zavidovici.

"6) Around Olovo Strength:

300 Armament:

Two mountain guns and mortars Leader:

Todorovic Political Attitude:

Dangic-Chetniks Activity:

Occupation of the town Olovo after having driven off the Croatian troops in the direction of Vijaka (northwest of Olovo) following up of the Croatian troops and occupation of Vijaka after again having driven off the Croatian garrison on 19 and 20 Sept 1941. Since then threatening of Vares and movement of troops with artillery on railway in direction Krivaja.

"7. Romanija Mountains east of Sarajevo Strength:

3000 Armament:

Two mountain guns Leader:

Cica (nickname of a Jew named Weinert, engineer from Sarajevo) Tito, officer in the General Staff of the National Liberation Party Department Yugoslavia before the detachments were dispersed in west Serbia at the end of November 41.

Page 638

Political Attitude: Communist (numerous Mohammedans) Activity:

Continuous serious harassing in the area northwest of Pale, threatening of Pale and harassing of the connection from Sarajevo to Mokro and Pale.

"8) Southeast of Sarajevo Strength:

250 Armament:

Two mountain guns Leader:

Unknown Political Attitude:

Presumably Chetniks Activity:

Repeated in part successful attacks against water works Bistrica southeast of Sarajevo.

"9) West Visegrad Strength:

2500 Armament:

Unknown Leader:

Unknown Political Attitude:

Communist, probably from Serbia Activity:

Threatening of Visegrad from the south, dispersed by Italians on 30 December, whereupon crossing of the Drina in area west of Visegrad."

On page 6 of the English and page 6, I believe, of the German document [NOKW-1124](#), which I believe we can pass because this entire document appears in the next document. It is an order by General Hoffmann, Commanding General of the 342 Infantry Division and I request that Your Honors ignore this because it all appears later and I will make the same request of defense counsel. It appears in the next document.

Turning then to page 8 in the German text and page 9 in the English, Document [NOKW-1067](#) which is offered as Prosecution Exhibit 165 in evidence. I wonder, Major Hatfield, if I might see the original. Thank you.

DR. HINDEMITH (Counsel for defendant Foertsch): Mr. President, in one of the previous sessions it has been ruled that defense could insist that parts which were deemed important to the defense but which were not being read by the prosecution could be read by the defendants on their part.

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Therefore, I would first like to ask, to tell me, whether I am right as to this ruling of the Tribunal and whether the Tribunal upholds this ruling.

THE PRESIDENT: That was a previously announced ruling of the Tribunal and we adhere to it.

DR. HINDEMITH: Therefore, in connection with the document which has just been read I'd like to read the part, enclosure 1, which had been a part of this document, which is in addition to this document, which belongs to Exhibit 164, [NOKW-922](#), the first enclosure to this document.

THE PRESIDENT: Found on what English page?

MR. DENNEY: The exhibit, if Your Honors please, is on page 1. Counsel is reading from the photostatic copy which as Your Honors recall is the complete document put in evidence. We have not translated the section which he wishes to read.

DR. HINDEMITH: This enclosure reads as follows:

"Heading I-6. 10-6-2. Top Secret. Enclosure 1 to 9/42, Top Secret, of the 3rd of January 42, handwritten, Plenipotentiary Commanding General Serbia.

"The insurgents in the eastern part of Croatia (see sketch) have gone to winter camps. The fighting troops will probably, in their quick march cleverly camouflaged, have the enemy in front, only selecting the districts west of the Drina as quarters because they are not occupied by German or allied troops. The enemy again will, similar to east of the Drina, try to deceive the troops camouflaged as peaceful farmers, and will attack the troops from behind later on in a different part, All the people not familiar with the district have to be counted as enemies. In addition even local people cannot be trusted. In the quick advance these directives can only be regarded as general directives. The troops, supported by Croatian liaison men, must according to circumstances try to ascertain foe or friend locally. A survey of the nonenemy troops is added, also Croatian insignia and uniforms of Croatian units which may be recognizable are added too."

Page 640

The document closes with a stamp, "718 Infantry Division, received on the 4th of January 1942, Top Secret, No. 742. Top Secret."

MR. DENNEY: If Your Honors please, there are some figures in the next document which present somewhat of an accounting problem and perhaps if we could take them up all at once.

THE PRESIDENT: We will take our morning recess at this time.

MR. DENNEY: Thank you.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

MR. DENNEY: Exhibit 165 which is [NOKW-167](#), page 14 in the English and page 13 in the German -- if your Honors please, this actually -- the page which appears first should be page No. 6 in the English copy. They are a little bit out of order. Perhaps it is not in Your Honors' document book but at least it was in mine. The first page is page 9 in the English and page 8 in the German.

JUDGE CARTER: Our book seems to be in the proper order.

MR. DENNEY: Thank you, Sir. This is a report of the 342nd Infantry Division dated 10 December 1941, and it is a 10-day report to the Commanding General Plenipotentiary in Serbia with a reference to a communication received from him on 29 September 41. which directed--these reports. It is signed by Hoffman, the Division Commander, and it has an enclosure which sets out losses and booty during operations for the period 25 November to 4 December; their own losses: 10 dead, 22 wounded, released from captivity 1 officer, 315 non-commissioned officers and men; enemy losses 707 dead, 93 shot to death, 312 arrested, beside numerous dead and wounded taken along by the enemy.

And then on page 10 of the English, still on page 9 of the German, an inquiry to the 3rd Battalion of the 769th Regiment: "Where were the 11 Communists arrested? Communists are to be shot to death after a short interrogation as a matter of basic policy."

Then coming down to "Pacification," Enclosure 2, dated 14 December 1941:

"See directives of the Commander-in Chief of the Army, 25 October 41, for combatting of partisans, Part C, Paragraph 3, released down to companies.

"Measures of law and order. Reliable Mayors are to be put into office who are liable with their lives and their possessions. Non residents and wood squatters are to be arrested and deported.

Page 642

Communists are to be shot to death. Control of residents is to be established according to lists with identification papers. Whoever leaves the village without authorization loses life and possessions. No interference of any sort in the measures of the Serbian Auxiliary Police."

And then for the 16th of December daily reports of the 3rd Battalion of the 697th Infantry Regiment from 10 November to 15 November: "Advance of the Battalion from Sabac to Loznica surrendered by the Cetniks on 15 November. Communists are withdrawn."

16 November to 5 December: "Combing through of the terrain along Loznica. During this operation, appropriation of vital plants in Koviljaca and Zajaca, cooperating with the 1st Battalion of the Russian protective corps. Repeated contact with the Communist enemy.

"Enemy losses: about 220 dead, 345 prisoners (of which 25 were shot to death). Own losses: 2 dead, 16 wounded, 16 losses."

And then the further report of the 342nd Division, dated 17 December 1941, "Reports on Shootings to Death, Arrests and Reprisal Measures," directed to the Commanding General Plenipotentiary in Serbia:

"Enclosed, the Division submits reports on shootings to death, arrests and reprisal measures for the period from 6 December to 15 December 41 including Group III, 697 Infantry Regiment (26 September to 15 December 41 inclusive)." and the Group III is submitted as 3rd Battalion of this regiment. "Accordingly, the Division had a total of 4189 hostages at this disposal."

"Of these 3618 were transferred to Concentration Camp Sabac, 343 were transferred to Collecting Camp Belgrade, 70 to the Serbian Auxiliary Police Valjevo (Lukic), 75 were released."

And then, if your Honors will add those figures, they will total 4,106; and, subtracting 4,106 from 4,189, the figure given is the total number of hostages at the disposal of the Division.

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The next line: "so that a total of 83 hostages is still available.

"For the Divisional Command: The 1st General Staff Officer."

By "(illegible initial) Captain" And then on the 18th this enclosure is sent along, dated the 18th:

"Report as per 15 December inclusive on shootings to death, arrests of hostages and reprisal measures" during the period from 6 to 15 December incl. measures of Group III, that is the 3rd Battalion of the 697th Regiment -- "during the period from 6 December to 15 December 41".

Then turning over to page 12 in the German and page 13 in the English text:

"Own Losses: period of the report, dead (3)" in brackets and "wounded (19)" in brackets with a little cross after it, and on the original there is a note at the bottom which indicates that figures in brackets signify the Group III, 697th Regiment which is subordinate to the 342nd Division which is in turn subordinate to the Armed Forces Commander Southeast. These figures in brackets signify this group which is included in the total; and the next figure, "Losses not retaliated preceding the period of the report, 7,098--now, if Your Honors will take that figure "7,098" and add to it the figure of 1250 which is arrived at by multiplying 3 by 100, and 19 by 50, a total of 1250 is reached and that equals 8,348, the next figure.

Excuse me. I am sorry. That is an error, if Your Honors please. This figure is -- I made the wrong computation here. This figure "losses not retaliated preceding the report" is 7,098 and then "Shot to death during the period of the report: Insurgents during combat action 8" with a figure in brackets for the 3rd Battalion of the 697th, 417, that is, in addition.

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The next, "Hostages as reprisal measure 2" with a figure in brackets "(389)", which are the figures for the 3rd Battalion of the 697th.

Now, if these figures under "2" -- 8, 417, 2 and 389 -- are added they total the next figure which is 816; and then, if 816 is subtracted from the figure 8,348, the total for number "3", "Therefore the total as yet unretaliated 7,532," is reached.

Page 645

Then the number of hostages at the start of the period of this report, 87; arrested during the period of this report, 484, and then in brackets the figure 4,009. The 4,009, it is submitted, is the report for the 3rd Battalion of the 697th, and the great difference in the two figures is based on the fact that their report is for 26 September to 15 December, whereas the report for the figures not in brackets, for the 342nd,

other than this one battalion, the 3rd, of this one regiment, the 697, are only for the 9-day period 6 to 15 December.

The next entry consequently still available after deduction of people shot to death under 2b is 4,189, and the figure which they subtract under 2b is 816, so that the number of people still available are 4189.

Turning over to the next page, this sets out in more detail the activities of the 3rd Battalion of the 697th which can be checked back into the earlier figures, dated the 18, and is a report for the 15 December inclusive, on the shootings to death, arrests of hostages and reprisal measures during the period from 6 to 15 December, 1941 including measures of Group III/697, during the period from 26 September to 15 December, 1941.

Our own losses for the period of the report, "Dead 3, wounded 19", the same figures which appear in brackets on the preceding page.

"Losses not retaliated preceding the period of this report, none" so the totals are 3 dead and 19 wounded.

"Shot to death during the period of the report:

Insurgents during combat action 417 Hostages as reprisal measures 389."

a total of 806.

"Consequently total still unretaliated 444" That figure of "444" is arrived at by taking the number of dead "3" and multiplying it by "100", which is "300"; taking the number of wounded and multiplying it by "50", which is 950.

Adding the two figures makes a total of 1250, and then subtracting from 1250, 806 the total of hostages shot as reprisals, and the insurgents shot during combat, the remainder is 444, which is the total number of retaliations that are yet to be carried out.

Page 646

Dropping down to 4, the number of hostages, they set forth at the start of the period of this report, "None"; "Arrested during the period of this report, 4009; consequently still available after deduction, according to 2b," -- that is, hostages shot as reprisals, -- "3620". The figure 4,009 less 389, -- if that is performed, the figure 3,620, which appears under 4d, in the result. There are two notes in connection with these numbers, the first, that 246 of the 4,009 "Milhailovic-Cetniks", and the second, that 3,620 were transferred to the concentration camp at Sabac.

Now this figure, "4,189" is arrived at by taking, -- if to that is added the figure "87" which is the number of hostages available, -- this is on page 12 of the German, 13 of the English -- which were the hostages available at the start of the period, subtracted from that a total of 4,102 is reached, and if to that is added 391, the hostages shot as reprisal measures, taken from 2b, the total, 4,493 is reached, so that this last figure, on page 12 of the German, and 13 of the English is computed that way.

It does not include the hostages shot as reprisals, and the 87 is also part of that figure.

Item 5 of the report, turning to page 14 of the German and 15 of the English:

"Further shot to death during the period of the report:

As reprisal measure for losses of other troop units by.....

By virtue of special orders"

Then on page 12 of the original is a report, or rather a communication from Bader, dated 30 December 1941, and it is directed to the 342nd Infantry Division:

In accordance with application, The Commanding General-Plenipotentiary has ordered that the reprisal measure is to be carried out by shooting to death 25 persons as well as a levy of 500,000 Dinar by the 342nd Division.

Page 647

Hostages are to be selected from that group of insurgents who committed the kidnapping and mistreatment. Both groups participated, hostages are to be selected equally from both groups.

It is signed "Bader, Lt. General Artillery".

Below is a reference to an oral report commanding officer, 342nd Infantry Division, dated 26 December 1941, and has to do with a 2nd Lt. Lange, who appears is from the 2nd Battalion of the 699th Regiment:

"Commanding General Plenipotentiary in Serbia:

Enclosed, please find report by Infantry Regiment 699 concern ing the attack of Lt. Lange, Company Commander 2nd Company, 699th Infantry Regiment on 25 December 1941, about 2000 hours. The report could not be submitted earlier because Lt. Lange was not fully able to answer questions. Reprisal measures ordered by teletype, Commanding General-Plenipotentiary in Serbia No. 4825/41."

And, if your Honors will recall, that is the number of the commuication from General Bader to the Division which is on the previous page.

"secret, 30 December 41: Shooting to death of 25 persons, Levying of 500,000 Dinar was carried out."

27 Dec. '41 While combing through the area North and West of Sabac by Units II and III of the 697 Infantry Regiment 8 Communists were shot to death and 4 prisoners captured,30 Dec.

'41 In reprisal for the company commander of the 2nd Company of the 699 Infantry Regiment attacked on 25 Dec.

25 Communists were shot to death and 500,000 Dinar were levied on the municipality of Valjevo.

Then we turn to page 17, and quote the text. This is the order which your Honors and defense counsel were asked to disregard earlier:

Page 648

"342nd Division, 6 January, 1942. Order for the annihilation of the enemy in Southeast Croatia."

Then it gives the scale of the map which accompanies the order:

1) Enemy:

Insurgents - including Mihailovic men - in Winter Quarters in the Eastern Part of Croatia west of Drina. Milhailovic himself is alleged to have taken over command in the area of Rogatica.

Enemy situation on 10 January 1942 will follow.

2) Mission:

The enemy is to be attacked and annigilated wherever he appears; he must not have any chance to revolt again in Spring.

Notwithstanding the inclemency of the weather the troops will complete this mission.

3) Troops

a) By virtue of the order of the Commanding General-Plenipotentiary in Serbia beginning 12 January 1942 at 1600 hours.

All committed troops--the 332 and 718 Infantry Division as well as participating Croatian Troops.

The latter with 7 Battalion, 9 Batteries, 3 Engineer Companies and one railroad company are under my command.

"The troops with the means at their disposal must do their utmost to supplement the special measures carried out by the Division. This is essential to the success of the impending operation."

It is signed, "Hoffman, Brigadier General and Commander. It has enclosures of, "Organization of Groups; and Combat Directive."

Combat Directives

1) General The impending operations comprise an extremely large and difficult territory.

There is little news from the enemy. Identification of the enemy again is difficult, particularly because various Yugoslav nationalities are living together. (Croatians, Serbians, Turks) The situation requires in particular an organized employment of troop interpreters, very extensive use of civilians acquainted with the country, in particular Croatian Administrative Officials.

Page 649

The Division has applied for a certain number of Croatian Administrative Officials to assist the troops. But the latter will have to help themselves essentially. The enmity of the different tribes based on racial differences is to be exploited usefully.

Not to be considered as enemy are Soldiers of the Croatian Wehrmacht in uniform.

The insignia on the cap is a large round badge;

Soldiers of the Croatian Ustascha in uniform, Cap insignia U, Civilians (sometimes wearing military overcoats) with arms permit of the Croatian Wehrmacht.

To be considered as enemy are All non-residents and residents who according to reports have just returned recently:

All recognizable Mihailovic men with and without arms and ammunition.

All recognizable Dangic-Cetniks enemies of the Croatians with or without arms and ammunition; all who in any way are recognized as Communists with and without arms and ammunition; all those who shelter or feed non-resident Mihailovic and Dengic men or Communists.

All those participating in the signal communications service of the enemy.

Here one must not differentiate between the members of different nationalities.

Page 650

And the second enclosure to the order of General Hoffmann:

"In order to identify the enemy who frequently will not appear armed, surprise searches and interrogations are to be carried out.

"Refugees are to be pursued immediately, particularly since frequently they turn out to be leaders.

"The division will reward especially the capture of Draja Mihailovic who it is assumed is wearing civilian clothes. Compare distributed photos.

"4) Treatment of the Enemy "Communists in any case will be shot to death after a brief interrogation and only in special cases will be turned over to the division.

"Whoever participates in combat or is active in signal communications will be shot on the spot after a brief interrogation.

"Whoever offers resistance or escapes will be shot to death on the spot.

"Women and children will not be shot to death nor will they be taken along unless they have participated in combat or have been active in signal communications service.

"All communities must turn over arms and ammunition to the troops.

"Individuals bearing weapons are to be disarmed, captured and taken along by the troops as carriers. Prisoners unemployable as carriers are to be evacuated in the direction of Zvornik and Uzice.

"Houses showing defense installations or from which shots were fired are to be burned down. Beyond that nothing is to be burned down because of the need for billets.

"5) Croatia is a Friendly Country "The troops must be conscious of that fact and must avoid any excess in performing their task.

"Regarding the rations of the country, attention is called to the directives issued by branch Ib of the division."

DR. MENZEL: Dr. Menzel for the defendant Kuntze. In Document No. 1067 I would like to point out two things. At the beginning of the document, on page 9 in the German and page 10 in the English, there is a conclusion that 11 communists were arrested, and they are to be shot to death after a short interrogation as a matter of basic policy.

Page 651

If I heard correctly, the word "grundsatzlich" is translated in English, "as a matter of policy". This term, in my opinion, is too strong, and it is not a proper translation of the word "grundsatzlich". "As a matter of policy" would mean that is a direction of policy, which is more than this word "grundsatzlich".

THE PRESIDENT: In keeping with the previous policy of this Tribunal, may I suggest that the original be handed to the translator for her translation, stating the page that she is reading from in the German and in the English.

INTERPRETER: Page 10 in the English and page 9 in the German copy, "Where were 11 Communists arrested? Communists are to be shot to death after a short interrogation as a matter of principle."

THE PRESIDENT: Does that satisfy counsel?

DR. MENZEL: Yes, Your Honor. And I have to say something else about this document. May I have the document back please? In this document on page 13 they speak about shooting twenty-five people and a contribution--

THE PRESIDENT: Pardon me. On what page of the English?

MR. DENNEY: That is on page 15 of the English, if Your Honor please. He is referring to the communication from General Bader to the 342nd Infantry Division, dated 30 December 1941.

DR. MENZEL: From another part of the document one can see that Lieutenant Lange is concerned here, about whom it is said -- first of all, he wasn't completely capable of being interrogated. On this point, if the Tribunal allows, from the supplement which is mentioned here I would like to read a part of this which hasn't been read by the prosecution.

MR. DENNEY: Perhaps the easiest way, Your Honor, would be for the Doctor to indicate what he wants read in the German copy and then hand it to the translator, and it will be easier for her.

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THE PRESIDENT: I think that it will be a good way to proceed.

(Mr. Scharf, German interpreter, read the passage in German.)

MR. DENNEY: This will be the same now for the record in English. It has been read in German, and counsel has agreed that is the part which he wishes read, if Your Honors please, and now the English interpreter will read it into the record.

INTERPRETER: "The company commander of the 2nd Company, 699th Infantry Regiment, was attacked in the town area of Valjevo and kidnapped. After numerous maltreatments he succeeded in freeing himself and going back to Valjevo."

DR. MENZEL: I asked that this part be read because from this it can be better understood why these shootings took place, especially in connection with the comment on the report of the 30th of December 1941, according to which Lt. Lange was not yet capable of being interrogated. Thank you very much.

MR. DENNEY: In view of the counsel's comment with reference to the portion which he has read, I believe it is also proper to direct the Court's attention to the fact that Lt. Lange was still alive at the time that this action took place. Turning now to page 22 of the English, page 21 of the German, Document No. [NOKW-1094](#) is offered as Prosecution's Exhibit No. 166 in evidence. This is substantially the same as the orders contained in the previous communication from the Commanding General of the 342nd Division; however, here we have another division involved - the 718th. And there are one or two minor changes which might be called to the Court's attention. The Court will recall in the earlier document that the statement about shooting after interrogation applied only to Communists. However, here on page 21 of the English and 22 of the German, under entry "4", "After a short interrogation Communists and Serbian Chetniks will be immediately shot to death." "Serbian Chetniks" have been added here. And then down a little farther they put in the words "halt" and the equivalent that is to be used, "stog", in the area of operation.

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And the rest of the order is the same as that before, concluding with the last paragraph beyond that, referring to the prior burnings, "Nothing is to be burned down in consideration of billets for the troops." And this is signed for the divisional headquarters by Dr. Ehlich, a major.

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Then turning to page 24 of the English and page 22 of the German, we come to Document [NOKW-1092](#) which is offered as prosecution's Exhibit 167 in evidence. This is a report of 9 January 1942 from the 1st Battalion of the 750th Infantry Regiment to its parent organization, the 718th Infantry Division; and it is stamped "Received by the Division on 10 January 1942."

It recites:

"The group advancing along the forest path on flat top trucks with heavy trench mortars and heavy guns made relatively slow headway due to the snow situation, notwithstanding the fact that 80 civilian auxiliaries of the plant had been employed for removing the snow from the path. At 1200 hours of 8 January, the mill East, Southeast of letter 1 of Lovnica Mus 1 was reached. In the course of the continued advance our spearhead encountered an enemy reconnaissance detail of 3 men who opened fire immediately. During the reply to the fire, one Chetnik was wounded, the two others escaped. The

wounded man, a Serb equipped with Chetnik cap, rifle and ammunition was shot to death. During further progress the received strong fire from Cardak which was taken under fire with heavy trench mortar."

And it bears the legible initials of a Captain who was the Battalion Adjutant of the unit.

Then turning to page 26 in the English which is page 23 of the German text, Document [NO-3338](#) which is offered as prosecution's Exhibit 168 in evidence; here again we have a report from the Chief of the Security Police and of the SD in Berlin, dated 19 January 1942. 65 copies were made, of which this is the 57th.

Under Roman Numeral III:

"III. Reich and Occupied Territories:

"The Chief of the Einsatzgruppe of the Security Police and of the SD in Belgrade reports:

"Arrests made by the Einsatzgruppe of the Security Police and of the SD. 12 persons for Communist activities, 2 persons for evasion of currency control, one person for unauthorized crossing of frontier.

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The Serbian Special Police arrested: 58 persons for Communist activity, 2 persons for actively working with the insurgents. In addition, the names of 926 former regular Yugoslav Officers were listed. 440 of these can not be found, 79 were released for illness, etc., 407 officers were arrested by the municipal police and transported to a prisoner camp in the Reich. In the Banat 150 Communists were shot to death in reprisal for the murder of 3 Volksdeutsche field guards and in the camp Sabac, 100 Communists were shot to death.

Communism:

An active group of the Skoj in Belgrade was raided. 9 Serbs, mostly students, were arrested. The purpose of the group was the organization of Communist cells and the building of the Communist youth.

"An afternoon tea party, held by Communists, was raided. 30 arrests. All prisoners belong to small Communist sub-groups. Purpose of the camouflaged meeting: Reading of leaflets, collection of money, preparation of sabotage.

"On 5 January 1942, murder of a member of the Russian Factory Guard. The murderer, high school pupil Graga Radic, 18 years of age, was hanged publicly on 14 January 42. Two accomplices were shot to death. Investigation established that the three culprits are members of a larger-sized terrorist group and that they acted on orders. Up to now, 16 persons arrested, mostly adolescents and members of the Skoj. Aim of the group: recruiting workers and adolescents for the Skoj and for terrorists acts in Belgrade. The persons arrested included employees of the Belgrade municipal administration who issued forged papers to members of the activist group.

Partisan.

"Acer Vucuvic, the Commanding Officer of the 3rd Communist Company from Uzice arrested during the fighting of Serbian armed units. Two boxes of Italian ammunition were found among the loot.

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"A 1st Lieutenant in the Serbian regular army was arrested. He was a member of the Staff of a Chetnik unit, loyal to the Government. He was convicted of having joined the unit by order of the band leader Mihailovic and of maintaining communication with Mihailovic.

"A major of the former Yugoslav Army was arrested. He was convicted of and confessed to having issued blank identification papers of the refugee commission to followers of Mihailovic.

"A confidential agents report established that Mihailovic insurgents attempt, in an increasing extent, to join Serbian armed units.

"Several confidential reports state that a Balkan revolt is planned. Communists, Nationalists and all other groups, though differing on interior politics are averred to have agreed on fixed time.

"It has been reported confidentially that the Communists intend to mine buildings containing German Offices in order to blow them up at the proper time."

Then turning to page 30 which is page 27 in the German, we offer Document [NOKW-1361](#) as Exhibit 170, in evidence. These are daily reports by the Plenipotentiary Commanding General in Serbia to the Armed Forces Commander Southeast, covering the period 4 January, to the end of the month. We have only used a few of them. On 4 January, the Plenipotentiary Commanding General in Serbia, General Bader, reported to the Wehrmacht Commander Southeast, General Kuntze, "In Belgrade 3 January 20 arrests. Local Administrative Headquarters Cacak 10 January 12 Communists shot to death."

On the 6th of January - Major Hatfield has just called to my attention that I have given this Exhibit No. 170 and it should be Exhibit 169. Thank you. This is Document [NOKW-1361](#) at page 30 in the English, 27 in the German, and it is offered as prosecution's Exhibit 169. It had been improperly offered earlier under a different number.

Returning to the portion of the Exhibit which deals with the report of the 6th of January, "On 3 January during operation southwest of Belgrade 6 Communists shot to death, 5 hostages arrested.

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"On 3 January in Kikinda 9 Communist murderers shot to death and hanged. On 3 January 8 arrests in Belgrade."

Report for the 7th of January, "Reprisal measures for the murder of Russian factory guard. 1 of the perpetrators hanged, 5 shot to death." That is an incident which was referred to in the prior Exhibit 168.

The report for the 10th of January, "In connection with the murder of the Russian guard up to the 10 January further 39 Communists arrested." That is, it is submitted, the same incident that is referred to in the report of the 7th.

"Extensive inquiries are in progress. In Belgrade 52 arrests. As reprisal for murder of 3 German Nationals (Volksdeutsche) in Kikinda 150 Communists shot to death."

In the report of the 14th, still from the Commanding General Plenipotentiary in Serbia, General Bader, to the Wehrmacht Commander Southeast, the defendant Kuntze, under "5", "In Vlaska 10,000 detonators confiscated. On 13 January in Belgrade 23 arrests. On 14 January reprisal measure for murdered factory guard carried out, 1 perpetrator hanged, 2 others shot to death."

And for the "6th to the 16th of January in the prison camp Pozega 10 Communists shot to death. In Belgrade 5 arrests."

Report for the 19th or rather the 20th, at the top of page 30 of the German text, bottom of page 33 of the English, "Operations on 19 January: In Regatice 300 Alpini from Visegrad joined the group. Supplement enemy losses on 18 January: 35 dead, 61 prisoners, 29 men shot to death."

Report for the 21st of January, "Operations on 20 January: Group 697 with 1 Battalion occupied Han Pijesak without combat. 8 insurgents were shot to death."

Then there is an additional report concerning losses only in the original of the teletype message which is handwritten.

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And the last report in this entry, the report from General Bader to General Kuntze, 30 January 1942. "On 29 January in Sabac attempt of imprisoned Communists to escape by night 4 men escaped, 21 persons accessories shot to death."

Signed by Bader, as the Commanding General Plenipotentiary in Serbia.

THE PRESIDENT: We will adjourn at this time until 1:30 this afternoon. In announcing this adjournment, the Tribunal wishes to state that we are desirous of starting on time, and we ask and request and direct that all parties be here so we can start on time. Possibly on some occasions the Court has been tardy, but we trust that those occasions have been the result of necessary conferences.

(The Tribunal recessed until 1330 hours 23 July 1947)

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AFTERNOON SESSION

THE MARSHAL: The persons in the Court room will be seated.

The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. DENNEY: May it please Your Honors, one of my associates has indicated to me that he did not think the explanation made by me to Your Honors was sufficiently clear in reference to, -- sufficiently clear from the standpoint of my explaining it, if your Honors please. Page 13 of the English and page 12 of the German, Document [NOKW-1067](#) which is Exhibit No. 165 in evidence and I would like to very

briefly go over that portion of the document with reference to the figures so that there is no doubt about our contention with reference to them. If Your Honors will turn to that page, and in order that the procedure might be a little more clear, I suggest that we number the lines of figures which appear to the right and defense counsel can do as well if they wish, that is lettering them. The first line under "1", period of report, opposite the letters 3 and 19 if we would put A; then opposite the figure below, 7098, if we would put D opposite 8348C; opposite 8 (417) D; E opposite 2 (389); F opposite 816; G opposite 7532; H opposite 87; I opposite 484 (4009), and J opposite 4189; and it is to be remembered that the figures in brackets represent the report of the IIIrd Battalion of the 697th Regiment of the 342nd Division which goes back to the 26 of September and is inclusive to the 15 of December. Whereas, the figures not in brackets, to the left of those where brackets appear, are the figures from the 6 to 15 of December for the balance of the Division, on line A, for the period of the report German losses: 3 dead and 19 wounded; and that is from the IIIrd Battalion of the 697th. Losses not retaliated proceeding the period of the report, 7098, opposite B. Now, if to figure B is added at the current ratio the figure of 1250, which is obtained by multiplying 3 for those dead, by 100; 19 those wounded by 50, the figures 300 and 950 are obtained and if they are added together a total of 1250 is reached.

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If that total is added to figure B, then C 8348 is arrived at. Now, that is to be noted as under their own losses and includes the figure 3 times 100 and 19 times 50. Then dropping down to the next section of the report, figure 8 (417) on line D, those are insurgents shot during combat. The 8 represents the period 6 to 15 December and 417 represents the figure for the IIIrd Battalion of the 697th Regiment from 26 of September to 15 December and hostages shot as reprisal measures E to during the December period 6 to 15 by the Division and 389th by IIIrd Battalion of the 697th Regiment. Then if all of D and E, both the bracketed D and unbracketed D material are totalled the figure at F is reached which is 816. Then if F is subtracted from C the figure 7,532 or G is arrived at, which is the total as yet unretaliated. In short they deduct the hostages which have been shot from the line C and reach the line G, a total of 7,532. Then dropping down to number of hostages, paragraph 4 of the report, at line H, they have a hold-over of 87 in the period at the beginning of this period. Then that is at line H; then line I shows those arrested during the period, 484 by the division and in brackets 4,009 by the IIIrd Battalion of the Regiment. Now, if those two figures on line I are added together, a total of 4,493 is obtained. And, if from that 4,943 the total of the two figures on line I there is subtracted the total of the two figures on line E, 389 and 2, which is 391, hostages shot to death as reprisal measures, subtract the total of line I and a remainder of 4,102 is obtained. And, if to that remainder of 4,102 is added the figure for line H, 87, we reach the final total of line J, 4,189 and the number of hostages still available for retaliatory purposes.

Returning now to page 36 of the English and page 32 of the German, Document NOKW-1256 which is offered as Prosecution Exhibit 170 in evidence.

This is a collection of ten day reports from the Plenipotentiary Commanding General in Serbia Bader to the Armed Forces Commander South east, defendant Kuntze.

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The first one is dated 10 January and is addressed to the Wehrmacht Commander Southeast. And, this is the same, in substance, as the report on page 26 which comes from the, Your Honors will recall, is part of the exhibit 168 which is from the Einsatz or Security Police SD in Berlin, reports of their action in Serbia. This covers the period from 26 December 1941 to 5 January 1942:

"Enemy Losses: 504 dead, of these 252 by reprisal measures; 50 captured. 160 arrests in Belgrade.

"In addition, out of 926 active Serbian officers listed 486 were arrested. The rest could not be found.

"79 were released for health reasons etc. and 407 reported to the Reich.

"Own Losses: 1 German officer wounded. 1 Russian Factory guard shot openly in a Belgrade district. Here, the six murderers were hanged, resp. shot.

"Strength of Camps: On 5 January 1942 a total of 7,582 prisoners were held in detention camps."

And it is signed by Bader as Lieutenant-General of Artillery.

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Then the report for the 20th from the same source addressed to the same persons: "In the boarder areas of Croatia our previous conception of the enemy situation was confirmed by the current operation being conducted there. An offer by the Bosnian Cetnik leader, Major Dangic, to the 342nd Infantry Division to conclude a kind of a non-agression pact was refused. Units of Dangic-Cetniks, 500 men strong, voluntarily reported to the German forces. Small groups offered resistance, the majority, apparently by order, avoided fighting contact with the German unit. Undisciplined Toiror Ustasca members are also forcing an increasing number of Croats to join the Cetniks by means of terror. 4. Own and enemy losses: (for the period 6 to 15 January) Own losses 9 dead, 48 wounded. Enemy losses: 191 dead, of these 185 by reprisal measures, 247 arrested in Belgrade." And the distribution list is included here: the Wehrmacht Commander Southeast, the 65th Corps Command, and so on.

30 January 1942, the last of these three reports. The third ten-day period, again to the Wehrmacht Commander Southeast, on page 34 of the German and 39 of the English. "Losses and Booty from the 16th to the 25th of January. Own losses: Germans, 25 dead, 125 wounded, 1 missing 64 sick, 337 from exposure to the cold," and the totals which I need not read, which appear on the next line. "Enemy losses: dead 761, wounded 33, prisoners 1,471, of these (25)...." and on the original, there is the notation "S" equals reprisal measures. "Liberated prisoners: Croats, 168, Italians 104. In Belgrade from 16 to 25 January 1942, 107 arrests. Distribution on the draft:" and it is signed by General Bader.

Turning then to page 35 of the German text and 40 of the English, NOKW-1093, which is offered as prosecution's Exhibit 171 in evidence. This is a radio message from the 718th Division to the 697th Infantry Regiment, dated 1 February 19 -- dated 31 January '42 and received the following day, 1 February.

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"All men in this region are to be considered insurgents, and insofar as they do not carry arms they are to be handed over to the Croatian Wehrmacht."

And page 42 of the English and 36 of the German text, [NOKW -887](#), becomes prosecution's exhibit 172 in evidence. This is a report of Enemy losses in Croatia for the period 1 September '41 to 15 January 1942, and based on Daily or 10-Day Reports. "Killed in Combat 7,904, reprisal measures 12,196, Booty: rifles 3,903, guns 9, machine guns 88, tanks 3, horse drawn vehicles 85, motor vehicles 28, motorcycles 6. Large amounts of ammunition, other equipment, crude metals, fuel." And it is signed by Pfafferott, and below the signature, bears the stamp of the 12th Army, received on the --excuse me a moment. And it appears to be 7 February, 1942. It may be 17, I don't know. We will pass it up to Your Honors. And it is submitted that the defendant Foertsch has placed his initials on the top of this report, his name. That is the signature which Your Honors have seen before. Whether it is 7 or 17, I don't know. I think it is immaterial. It says 7 in the English, and I believe there is just as much basis for arguing one way or the other. The "1" does not appear to be sufficiently close to the "7", and it looks as though it may be the edge of the rubber stamp. In any event, it was stamped by the high command of the 12th Army as received no later than the 17th.

JUDGE BURKE: You made a slight error in the pronunciation of the name of the signatory.

MR. DENNEY: No, sir, I did not maintain that it was signed by Foertsch. I said that the signature----

JUDGE BURKE: I am referring to the name "Pfaffmatt", and you pronounced it "Pfafferott".

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MR. DENNEY: I am sorry, sir, it had been changed on mine from "Pfaffmatt" to "Pfafferott", and the German original shows that the order of the battle officer in question is named "Pfafferott", not "Pfaffmatt".

JUDGE BURKE: That should be changed?

MR. DENNEY: Yes, Your Honor. I thought that had been done in your books. (Spelling) P-f-a-f-f-e-r-o-t-t.

Then on page 37 of the German text and 44 of the English, NOKW - 1095 is offered as Exhibit 173 in evidence. This is a report -- excerpts from a report of the Commanding General Plenipotentiary in Serbia to the Wehrmacht Commander Southeast. Daily Report of 4 February 1942: "Combat activity of the 718th Infantry Division Group Ease arrived at its target of the day. On 2 February, 62 suspect persons were arrested, on 3 February, 69 prisoners were taken, two Cetniks shot to death, booty consisting of light arms and ammunition. Cetniks flee individually into the mountains. 3 February, 12 arrests in Belgrade. In the month of January 449 reprisal prisoners shot to death. As reprisal for German losses 3,484 shootings ordered, carrying out to commence immediately. Temperatures around zero, showing at times, traffic situation unchanged."

And then on page 38 of the English and 45 of the German --38 of the German and 45 of the English-- is NOKE -945, which is offered as Prosecution's Exhibit 174 in evidence. This is a teletype from the

Armed Forces Commander Southeast, the defendant Kuntze, to the Commanding General - Plenipotentiary in Serbia, dated 6 February 1942. "All subordinate units including the Bulgarinas are to be instructed that all reprisal measures and / or counter measures taken immediately or intended are to be included in reports regarding sabotage attacks, and so forth. The treatment of prisoners in the course of operations requires application of a more severe criterion.

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Prisoners taken in combat can not be innocent. People who loiter in the combat terrain and are not in their residence..." first the words "must" were there, then it was edited and the words "will be mostly" were inserted..." considered as having participated in combat and consequently...." first the words "will be" were there, and they were edited and "must accordingly" was written in..." be shot to death. The main conception of the troops is to be combatted most rigorously in view of the same conception during the past summer and the ensuing consequences." Then below that are some initials which are illegible, and then typed below that is: General of Engineers, Wehrmacht Commander Southeast, AOK, Army High Command, 12th, and then the numbers "431 slash 42."

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And the second page of the document appears to be a later copy and if your Honors will compare them you will see that it has been edited according to the crossing out and handwriting editions which were called to the Court's attention in the first instance. I do not think there is any need to reread the document but it bears at the bottom of it: "Signed in draft" in type, and then is typed the word "Kuntze", Lieutenant General (Engineers), the German "General der Pioniere," and "Wehrmachtsbefehlshaber Suedost AOK 12" and the order number "431/42" and over to the left is typed, "Certified true copy," and then a signature which says below it "Hauptmann" or "Captain."

Then on page 39 of the German text and 48 of the English Document NOKW-1102, which is offered as prosecutions's exhibit 175 in evidence. This is an order from the 704th--714, seven one four, Infantry Division, 15 February 1942. The subject is: "Reprisal Measures for Sabotage and Attacks." It refers to a prior order of the Division issued on the 28th of December 1941 and a prior order of the Commanding General Plenipotentiary in Serbia issued on 8 February 1942.

"The strict execution of reprisal measures" -- and it says in brackets under that "not transmitted" -- "The strict execution of reprisal measures has been shown to be the correct measure. The more successful we are in hitting those who are actually guilty, the more impressive the effect of the punishment.

"The basic directives regarding reprisal measures are treated in enclosure 3 of the directive referred to.

"Particular attention is called to the following points:

"In cases of sabotage and attacks all participants and accomplices are to be shot to death at the locality of the incident by the troops committed there under the responsible command of the commander and or company commander - i.e. in so far as the interrogation of individuals is not deemed important.

Hanging at the locality of the incident has a particularly intimidating effect.

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Persons who are encountered in the combat terrain during the fighting are to be arrested and to be investigated (to be Interrogated). Depending on the result of the interrogation they are to be released or sent to the competent district headquarters as prisoners for the reprisal measures (copy of interrogation to be sent along).

"Prisoners can be taken only in exceptional cases since every insurgent and or a person supporting the insurgents is to be shot to death.

"Women participating actively in combat - with or without weapons are to be treated like male insurgents. Women who are suspected of having supported the fight are to be detained for court martial sentence.

In cases of sabotage or attack the reprisal measures taken are to be reported immediately in the daily reports. I expect careful observation of this directive."

"Signed in draft" -- the signature is illegible. That is withdrawn. It says: "Signed in draft," printed "(Signed) Stahl." There is no "illegible signature" there. That is a mistake -- and then to the left: "Certified true copy, (Signature illegible) Major," and "Distribution" lists the two regiments, artillery battalion, and so forth.

And then, turning to page 41 in the German and page 51 in the English, [NOKW-1098](#) is offered as Exhibit 176 in evidence. This is an except from daily reports from the Plenipotentiary Commanding General in Serbia Bader to the Armed Forces Commander Southeast, the defendant Kuntze, the Daily Report of 14 February 1942:

"12 February. 147 inmates of reception camp Nish have broken loose. 42 shot, 105 escaped. 1 guard dead.

"13 February. Attack with explosives on line Moravic - Visnicevo."

"(Signed) The Commanding General Plenipotentiary in Serbia."

Then the report of 15 January 2, 1942: Assault squad of armored railroad train 23 searched Markovac and Crkvine, seized ammunition and burned down houses. Serbian volunteers in combat with about 200 insurgents East of Lom.

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10 Enemy dead, 1 volunteer wounded."

And then the report for the 18th of February -- these signatures here are all typed:

"718 Infantry Division: Reinforced Infantry Regiment 750, early today started advance from Dudica against Prijedor. First contact with the enemy already 2 ½ kilometers South of Dubica. Bulgarian mopping up operation in the area South of the Prokuplje-Doljevac is being continued. Additional

losses: Bulgarians: 11 dead 14 wounded, 3 missing. Enemy: 68 dead, 36 arrested. Arrestees shot to death after interrogation. During the withdrawal the insurgents took along all wounded and a large number of dead. On 16 February Serbian Auxiliary Police action against insurgents South of Bukuljabex. 17 enemy dead, 60 badly and slightly wounded and six prisoners shot to death. Pursuit of the band in a Western direction taken up by III Battalion 721 Infantry Regiment. Attack under way on the band encircled in Planinica 741 Infantry Regiment made search of village and district of Valjevo, 1st Company of the 721 Infantry Regiment Pinosava, 11 Company/721 Infantry Regiment Gorovic 41 suspects arrested and turned over for martial law investigation.

Near Kumane and Milinci 2 acts of sabotage. 1 culprit shot to death immediately, 93 arrests by police organs for the execution of reprisal measures. 17 February Belgrade, 43 arrests."

And again, as in all three of these reports, the signature is typewritten.

On page 43 of the German and page 54 of the English is [NOKW-1255](#) which is offered as prosecution's exhibit 177 in evidence. This is again a series of reports from the Plenipotentiary Commanding General in Serbia to the Wehrmacht Commander Southeast. Under date of 10 February 1942 he reports:

"Croatia: Worth considering seems to be the parachute jump during the night 4/5 February near Kosutica by an English Major and an English as well as two former Yugoslav Sergeants from a British plane which supposedly flew from Alexandria.

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It was possible to capture the parachutists. Material dropped could be secured.

5) "Losses during the period 26 January 5 February 1942: Germans: 8 dead, w7 wounded; Croats: 4 dead, 7 wounded; Enemy: 128 dead, 318 arrested, in Belgrade 152 arrests, 3484 retaliations ordered."

And then the distribution list.

And then again for the 20th from the same source to the same addressee: "Losses during the period 6 -15 February 1942"; the German losses 5 dead, 2 wounded; Croatians: 60 dead, 92 wounded, 229 missing; Bulgarians: 4 dead, 7 wounded, 783 dead; 281 arrested, 181 arrests in Belgrade, 3484 executions by shooting are being carried out."

Then turning to page 45 in the German and 57 in the English Text is Document [NOKW-1147](#) which is offered as prosecution exhibit 178 in evidence. This is an appendix to the operational report of the 718 Infantry Division with reference to the treatment of elements of the population. It is dated 20 November 1942 and was received 20 February 1942.

I believe there's an error in the text, if your Honor pleases --yes, the figure on the date should be 20 February. They have used the Roman numeral "II" for the month and if your Honors would care to look at the figure "1" appearing in "1942" it is obviously an Arabic figure and the figures "II" appearing for the month are Roman numerals. It should be 20 February 1942, the date as in the upper right hand corner, if your Honors please -- the day, then the month, and then the year.

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THE PRESIDENT: The interpretation should be February 2, 1941?

MR. DENNEY: If Your Honor please, I believe it is 2 zero, roman numeral II, 1942, is it not? I had read it into the record "November" which I believe appears in Your Honor's book, and which I believe is an error.

THE PRESIDENT: It is February in our book.

MR. DENNEY: Over to the left appears the stamp of the 718th Infantry Division received 20 February, 1942:

Insurgents destroyed the railway line Banja-Luka-Prijedor at several places. Thereby the task of the Landesschuetzen Battalion 923 has come to nothing. So as to get the Landesschuetzen 923 out of Prijedor the 718th Infantry Division shall make an attack from Dubica on Prijedor.

I shall take over leadership of this operation as soon as I arrive in Dubica.

Instructions for battle: Cleaning up of the area is to be carried out only in so far as it is necessary for the given task.

Detection of the enemy is made difficult also in this operation by the known circumstances. All male Serbian inhabitants from 16 to 60 years of age are to be treated as if they were found in combat with us arms in hand. The Serbian villages on both sides of the road of advance are to be burned down - if we do not need them any longer as accommodations.

The report is signed, the signature is illegible, but Your Honors can see that there is some signature on it, and it is submitted by the prosecution, that it is that of the Commanding General of the 718th Infantry Division, one, "F-o-r-t-n-e-r".

On page 46 of the German, and page 59 of the English text, Document NOKW 1197, offered as Prosecution's Exhibit 179. These are some additional daily reports from the Commanding General Plenipotentiary in Serbia to the Wehrmacht Commander Southeast, all bearing dates in February, 1942.

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The first one, 21 February, 1942:

"Within the framework of the reprisal measures ordered 570 Communists were shot to death in the area Maljene Suvobor by the Serbian Auxiliary Gendarmerie.

On 19 and 20 February in Belgrade 20 arrests were made."

On page 46 of the German, page 60 of the English:

"Final report of the operation south of Prokuplje: Bulgarians 16 dead, 14 wounded; Enemy, 302 killed in combat, 403 prisoners shot to death. Enemy losses are probably considerably higher."

"In Gr. Strzava 36 Insurgents shot to death. On 21 and 22 February in Belgrade 16 persons arrested."

Under date of 25 February 1942:

"In Grn. Tresnjevica, 110 Communists were shot to death within the framework of reprisal measures."

Under date of 27 February, 1942:

718th Infantry Division: 3rd Battalion 741st Regiment, 9 Insurgents taken prisoner among them the bandit leaders Boruta and Simic, for purpose of interrogation not yet shot to death. The Insurgent Group Gvozdenovic was destroyed by the 3rd Battalion of the 741st Regiment. 107 enemy dead, among these the bandit leaders Soda, Popovic and Mile. 18 prisoners, for purpose of interrogation not yet shot to death. Booty: 5 light machine guns, rifles and ammunition, copious amounts of written matter. From 1 to 26 February enemy losses caused by the 714th Infantry Division were in all 679 dead!

And these again are just typewritten copies. There is nothing to show that there is a signature on them.

Then on Page 48 of the German, and 62 of the English, [NOKW 1125](#), which is offered as Prosecution Exhibit 180, this is an activity report, extracted from the War Diary of the 704th Infantry Division for dates in January and February, 1942. Under 11 January 1942:

Engineer company 704 sends 5th report on the company's labor forces in the coal section north of Pozarevac: The production figures fell somewhat, because an airshaft caved in on 24.

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12. A general overhauling of the airshaft is extremely necessary. To load the coal produced on peasant carts to the Pozarevac railway station is uneconomical and quite difficult. (Foot-and-mouth disease in several localities.) The workers made available for forced labor by the concentration camp Sabac, were not fit to work, because of lack of clothes and because of vermin and illness; they were returned to Savac on 25.12.

4 February 1942:

Dept. Ic submits report on the captives delivered to the SD-Belgrade. Until 3.2.42 161 partisans, 17 Jews and 2 Jewesses were handed over.

16 February 1942:

Division publishes decree of the Plenipotentiary Commanding General, according to which all insurgents participating in a battle are to be shot. According to this prisoners can only be made in exceptional cases, when an interrogation becomes necessary. After the interrogation the prisoners are to be shot immediately. These are to be differentiated from "reprisal prisoners" and "hostages."

At this entire time of these entities this Division Headquarters was located at Pozarevac.

Turning to page 58 of the German, page 65 of the English, Document No. [NOKW 897](#), it is offered as Prosecution Exhibit 181 in evidence. This is a communication and order from the Commanding General Plenipotentiary in Serbia, Belgrade, 18 March, 1942:

Revising the order valid heretofore, captured insurgents must not be shot to death unconditionally, but may be sent to Concentration Camp Sabac, later Semlin. From there, they will be sent as laborers to territories of interest to the German Reich.

In as far as insurgents are ready to surrender unconditionally they may be informed that they will not suffer the death penalty as before.

It is in the interest of general pacification that the insurgents be informed of this possibility.

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This decision also takes care of the inquiry of the 714th Infantry Division Ia. No. 259/42 secret of 11 March.

The original is typed, "Signed, Bader".

On the original it is typed again, "General der Infanterie" and of course he was not. He was a Lt. General of the Artillery, but below it, very faintly, if Your Honors will look at it, "Artillery" is written in German, and to the left is typed "Certified true copy" and signed by a Lt.

JUDGE CARTER: Mr. Denney, this order addressed to the Commanding General and Commander in Serbia, isn't that, "Bader"?

MR. DENNEY: It is not addressed. That is just a heading of it, Sir, like a heading on a paper. It is an order of the Commanding General and Commander in Serbia, signed by Bader. It is just the heading that appears at the top, even as an address would appear on a civilian communication, and throughout all of these orders, we have had a great many where the title is at the top.

For instance, this one just before, from the 718th Infantry Division to its units, if Your Honors will recall, on page 57 of the English, at the very top there, appears 718th Infantry Division, and it is signed by someone for the Division.

I think if Your Honors will look at the photostat of the original which is now being handed to Judge Burke, it will be clear.

JUDGE CARTER: It is rather misleading to have that appear right at the point where the address is generally placed in a letter.

MR. DENNEY: Yes, sir. I am sorry it is so close. That is just a mechanical matter in the typing, and we have tried to indicate to the Court at any time when it was addressed to someone.

I particularly would like to call the Court's attention to the fact that "Infantry" does appear there typed, although he is a General of Artillery, and that it is certified as a true copy and, "Artillery" is written very faintly in either pen or pencil in German below the word "Infantry", and the certification is by Lt. Colonel of the General Staff, Corps.

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The distribution list which shows to whom the communication is directed:

"All divisions;

All Home Defense Battalions;

All Administrative Sub-Area Headquarters;

All District Headquarters;

Administrative Staff, Ia, Ic."

Then turning to page 51 of the German, page 67 of the English, NOKW 1080, which becomes Exhibit 182 in evidence, this is dated 18 March 1942.

This, if Your Honors please, is the same order as appeared before, and on the bottom there is the addition which shows that it is distributed by the 718th Division, and this is put in so that Your Honors can see the way these orders go through. On this copy the certification by the Lt. Colonel of the General Staff is typed, and on the copy which the 718th Division sends down, there is a further certification by an officer of the Division, and at the very bottom of the page the distribution list is contained. "This decree is only valid when the division is not actually fighting with insurgents".

I would like to submit this to Your Honors, and here it is signed for the Division Commander by Dr. Ulrich, Major.

Please hand it to the Court so that they may see it.

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MR. DENNEY: And then on page 69 is Document No. [NOKW-1077](#), which is offered as Prosecution's Exhibit No. 183 in evidence. This is an excerpt from the daily report of 19 March 1942, from the Commanding General and Commander in Serbia, to the Wehrmacht Commander Southeast, a copy to the German General in Zagreb. "500 Jews transported from Kos. Mitrovica to Semlin." And then turning to page 59 of the German text and page 70 in the English text. I have a note here that the German Document Book is in inverted order. So, if Dr. Latenser or one of his associates would look at the next document, which is No. NOKW-835, which we offer as Prosecution's Exhibit No. 184, perhaps they might like some time to place their document into proper order. (Approximately two minutes taken by Defense.) This document is directive from the Wehrmacht Commander Southeast, the Defendant Kuntze, dated 19 March 1942, and the subject is "Combatting of Insurgents in Serbia and Croatia," with one enclosure. The order number is Ia No. 500/42, and there are 100 copies of which this is the 100th copy.

1.) "Consideration must be taken that in spring the larger scale insurrections in Serbia and in that part of Croatia which is occupied by German troops will begin.

"The overall situation requires that in this area quiet and order be preserved under all circumstances. For this purpose all means are to be employed which lead to success. One cannot count on the bringing up of reinforcements.

2.) Pertaining to this I order:

a) "In Serbia each reinforced Infantry Regiment is to be assigned a definite territory.

"The Regimental Commander is fully responsible for quiet and order in this area.

"All troops situated in this area are to be subordinated to him tactically. The SD, the Waffen-SS and the Serbian Police Forces (including auxiliary forces) subordinate to the latter, are to be instructed to cooperate as closely as possible with the above. For combat activity he disposes over all forces within his area.

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"After pacification of Drina triangle east of Regotica and of the Ozren-Plateau has been carried out, the same procedure is to be applied in Croatia.

b.) "In addition to a continuous patrol service, continual surprise operations are to be carried out in quiet areas for the supervision of the area and as mopping up operations.

c.) "Instruction is to be given again to all members of the German Wehrmacht in Serbia and Croatia regarding the significance of their duties for the overall situation in Serbia and Croatia and regarding their behavior in case of attacks. Here it must be accentuated that initiative and action is required of each German soldier, that he may not, no matter what the situation, negotiate with the insurgents and that he is never permitted to surrender.

"I expect troop leaders of all ranks to show special energy and ruthless action as well as to commit fully their own person for the duty with which they are charged, which is to preserve quiet, order and security by all means. All soldiers who do not follow orders and who do not act decisively are to be called to account.

"By means of brutal police and secret police measures, the formation of insurgent bands is to be recognized in its inception and to be burnt out. Captured insurgents are to be hanged or to be shot to death as a matter of principle; if they are being used for reconnaissance purposes, it merely means a slight delay in their death.

e.) "The disarmament of the population is to be continued. Only the state guard and factory guards retain their arms to the extent authorized. The reorganization of the gendarmerie and the absorption of the auxiliary gendarmerie, as well as that of the units loyal to the government, by the above is to be speeded up.

f.) "The state guard, its Serbian auxiliary forces and factory guards require supervision. Passive behavior, for instance permitting one's own is to be punished immediately by effective penalties! On the other hand it is recommended to offer rewards for courageous behavior and corresponding decisive action.

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g.) "Full exploitation of the Serbian Government which is justifiably interested in an active cooperation.

3.) "I again refer to Directive for the Combatting of Partisans (Commander in Chief of the Army/ Army General Staff/ Training Section) (1a) - No. 1900/41 of 25.10.1941, distributed with the

Wehrmacht Commander Southeast Ia – No. 2759/41 Secret of 22.11.1941). This must become common knowledge among the troops."

The most important directives are again summarized in the enclosure.

4.) "Commanding General and Commander in Serbia reports:

a.) "To 10.4. that this order and enclosure is known to all Battalions and other Commanders. The Bulgarian Occupation Corps also is to receive sufficient copies. Simultaneously a map with the outline of the areas of the Division and Regiments is to be submitted.

b.) "Specific experiences and suggestions as they occur."

MR. DENNEY: And then there is a handwritten initial, and it is signed "Kuntze, General of the Engineers." And then follows a distribution list that the first 90 copies go the Commanding General and Plenipotentiary General in Serbia, that the 91st copy goes to the German General in Zagreb, and that copies 92 to 100 go to the Staff of the Wehrmacht Commander Southeast, the Defendant Kuntze, the author of the letter. And it is submitted that the initial of the Defendant Foertsch also appears to the right of the typing, "General der Pioniere." Now, the enclosures start on page -- the following page in the German which I believe is page 53; I am not sure -- it is page 73 in the English. Do you know, German Counsel, where the enclosures start in the German? My book is improperly numbered here. It is "Directives for the Treatment of Insurgents in Serbia and Croatia General." And this has on the top "Enclosures to the Wehrmacht Southeast and Commander in Chief 12th Army Ia – No. 500/42 Top Secret of 19.

3.1940."

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"Directives for the Treatment of Insurgents in Serbia and Croatia General.

1.).....

"The more unequivocal and the harder reprisal measures are applied from the beginning the less it will become necessary to apply them at a later date. No false sentimentalities! It is preferable that 50 suspects are liquidated than one German soldier lose his life."

MR. DENNEY: And then omitting a portion and coming down to details.

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"Details" As for our own combat activity one must differentiate between the regular patrol service, the small-scale operation and the large-scale operations.

a) It is the purpose of the patrol service to supervise the entire territory continuously. It is to be carried out continuously over continually changing areas by patrols capable of combat who are as mobile as possible (mounted, with bicycles, etc.). Houses and farms are to be searched according to plan! Weapons are often hidden in hay or straw beds. Journeys with armored trains for checking purposes on all railway tracks.

b) It is the purpose of the small scale operation to annihilate small bands in reported rest areas, camps and billets, to check suspect villages and to carry out reprisal measures. These small scale operations are to be executed continuously. They are dependent in considerable measure on surprise.

The following procedure seems practicable when a band nest has been reported.

Alerting of the unit in the evening or during the night.

March or short railroad ride (detraining if possible between stations! near the target preferably without vehicles) Marching toward the target from different directions preferably across country without making investigations on the way, short preparation (no noise! then attack.

Bad weather conditions favor the surprise.

The large scale operation will be ordered by the Commanding General and Commander in Serbia or by Wehrmacht Commander Southeast and has as its purpose the annihilation of stronger bands.

Then omitting some, and then we go down to the last paragraph before the paragraph numbered six which starts:

If the presence of mines is suspected the clearing up is to be done as far as possible by insurgents or by the Serbian population.

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The same applies to road blocks, destructions, etc.

And then paragraph numbered six which applies to reprisal measures:

"R e p r i s a l m e a s u r e s are to be carried out immediately subsequent to the deed.

The following applies basically:

Rebels captured carrying arms are to be shot to death or hanged, as well as everyone of their followers or whoever is supporting them, or has supported them.

Villages in which arms or ammunition are found or from which the Rebels have been aided or abetted in any way are to be burned down. Villages in the neighborhood of which attacks, destruction, blasting or other acts of sabotage have taken place and if they are strongly suspected of having served as a support for the Insurgents, are to be destroyed. Deportation of the population into concentration camps may also be practicable.

Villages with Communist Administration (handwritten: are to be destroyed and men are to be) taken along as hostages.

If it is not possible to produce the people who have participated in any way in the insurrection or to seize them, reprisal measures of a general kind may be deemed advisable, for instance the shooting to death of all male inhabitants from the nearest villages, according to a definite ratio (for instance 1 German dead -100 Serbs, 1 German wounded - 50 Serbs)

DR. MENZEL: Menzel for the defendant Kuntze. The document which has just been read is an order which is rather important for the defendant Kuntze, since it is being changed to him and since it is very important. I have only just now received the document. It contains also a draft of the order which besides voluminous directives may well not be the original but just a draft. I therefore ask to make a short recess so that I may have a chance to look at the document closely.

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THE PRESIDENT: I wonder if we could pass to some other document and then you could examine it during the recess period?

DR. MENZEL: Yes, that is acceptable.

THE PRESIDENT: With the privilege of returning to it after our adjournment.

DR. MENZEL: That suits me, thank you.

MR. DENNEY: I would like to show this section to the Court. There is quite a bit to this document and the original part which has been translated are these, as for the letter itself, and then the enclosures follow but I would like the Court to see this letter and the signature and the initial which appear at the end with the distribution list on it before it is given to counsel for the defendant Kuntze. I certainly have no objection to his seeing it but this is quite a thick document.

The Court's attention is directed to the Exhibit which was placed in evidence this morning, 160, [NOKW-342](#), wherein an order was issued by General Bader setting the ratio as 50 reprisal for one dead and 25 reprisal for one wounded; and here the figure is again to that which it originally was of a hundred to one and fifty to one.

This is perhaps a good time to point out to the Tribunal too the mass of materials that is there which is available to defense counsel in connection with this document, and we, as the court has seen, have only used a small part of it but have furnished all to them.

Then turning to - Dr. Laternser, could you tell me the first page of [NOKW-871](#) in your book? My pages seem to be all wrong here for the German. It is the next document. 67, thank you very much. Page 67 in the German and page 77 in the English. It is [NOKW-871](#). It is offered as prosecution's Exhibit 185 in evidence. These again are extracts from the War Diary of the Commanding General Plenipotentiary in Serbia, General Bader. The first entry for 21 March, Day report to the Wehrmacht Commander Southeast;

By virtue of Ia No. 542/Top Secret combatting insurgents in Servia and Croatia the Wehrmacht Commander Southeast orders hanging and shooting to death of captured insurgents.

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Hence further inquiry, whether Ia No. 1847/42 Secret of 18 March (compare Enclosure 50) is to be annulled.

And the 23rd of March:

Telephone call Ia 717th Infantry Division, Major Hosterbach:

1) May ammunitions be given to Dangic?

Immediate answer Lieutenant Bode: No, as this represents illegal behavior towards Croatian State supported by Reich.

2) How are Insurgents to be treated, who march over into Serbia?

Answer: Patisans, Communists and prisoners caught with weapon in hand are to be shot to death. Respecting those coming over voluntarily an order will be issued whether transfer to territories of interest to Germany according to Ia order Number can be carried out. The decision depends upon Wehrmacht Commander Southeast.

3) What is to be done with about 300 Cetniks who for a long time have been under arrest in Uzice, and whose political past is not quite clear, but who in all probability are former adherents of Mihajlovic, and who at the time were not shot to death. Answer: Wait, orders will be given after decision of Wehrmacht Commander Southeast.

MR. HINDEMITH: Hindemith as representative of Dr. Rauschenbach for the defendant, General Foertsch. On the basis of the presentation of Document [NOKW 871](#) Exhibit 185, I have to point out the following concerning the German version. When the text starts, the German version reads as follows: "Enclosure 59, daily report to the Commanding General Southeast Ia, No. 542, top secret; subject: "combatting of insurgents in Serbia etc." Showing of insurgents ordered. An order No. 542, top secret is referred to." Thus the impression could be gained that a special order is involved here which was sent the unit concerned. I am of the opinion that there is a typographical error here and that the document which is being referred to is the Document 500/42. That is the document which bears the number [NOKW-835](#).

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MR. DENNEY: Well, of course, if your Honors please, the document says it is 542/ and it is submitted that the reference here is the same as that which is carried in the preceding exhibit, which is at page 59 of the German and 70 of the English. If your Honors will note on page 70, this order is dated 500/42. It is dated 19 March. It is received on the 21st in Belgrade from the Wehrmacht Commander Southeast.

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Now, the Wehrmacht Commander Southeast could hardly have written order 542 which he would be writing in reply to when the top order number that he had up to the time this was written on the 19th at his headquarters, was 500 and this is the first example that we have had where we have an order number without them number 1 slash 42 because it will develop when we get into the case that these order numbers which are kept in various headquarters, armies, Army high commands, divisions, corps, etc. are kept seriatim by year and if Your Honors care to refer to some of the early orders that have been put in with reference to January-February it will be seen where they go back to number 1/42 for the orders beginning in '42 and as we go along it will be seen we get into '43 and they again return to the

No.1 and us the slash 43 and here it is submitted in line with what counsel has just said and based on the material contained that what was meant here doesn't appear in the German; it appears exactly the same as it is in his text and in ours 542 slash. Obviously when it was dictated it was said 500-42.

THE PRESIDENT: I take it that German counsel speaking is reading from it and is reading from the German photostatic copy. It seem to this Tribunal that all we can take is the document as presented.

DR. HINDEMITH: Mr. President, the original also has the wrong same number. The original is the same as the German copy but in spite of this I am of the opinion that a typographical error was committed by the person who made the entry, in the war diary. It is a wrong reference.

THE PRESIDENT: It was an error when typed and in preparation of the war diary?

MR. HINDEMITH: Yes, Mr. President.

THE PRESIDENT: We have your understanding of it then and will so consider it.

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MR. DENNEY: The prosecution agrees with that, Your Honor.

THE PRESIDENT: We will take our afternoon recess at this time.

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THE MARSHAL: The Tribunal is again in session.

DR. MENZEL (Counsel for the defendant Kuntze): Mr. President, I would like to refer to the extensive document which has just been read. The order about the combatting the partisans I would like to say the following about this. This document unlike the other documents, doesn't portray the final result of the regulations and the orders, but it is a mass of paper which contains collections of a large number of drafts which have been corrected over and over again. There are several drafts of the chief order, besides the original and here we don't need to look any closer into it because the signature on the original of the order is not denied; but the directives are different matter. As I have already said, there are several drafts which are corrected over and over again by hand, and which are rewritten, and then corrected again and so on. And the copy which is now being presented as the original of the directive, doesn't show at all that it is really the original. In my opinion, it is only another copy, another draft of the directives which isn't signed. It has no signature. This order was extraordinarily important, and those kind of directives had to be signed since the directives were just as important and actually contained the most important part of the order. Therefore, I think that here the copies must be checked very carefully, and that these last drafts of the directives, I am sure, cannot be recognized as an original. I therefore ask that the document insofar as it concerns the directives should not be admitted since in view of the large number of drafts it cannot be seen that the last draft is really the original.

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THE PRESIDENT: The objection is overruled. I think the Tribunal has indicated its attitude toward documents of this character, and they will receive such probative value as the Court deems it merits.

MR. DENNEY: If Your Honors, please, I would like to make a statement with the permission of the court with reference to this document, in view of what counsel for the defendant has said. It is true that there are a great many copies showing work on them. Some copies in type and some in longhand. We have offered this whole file because, among other things, the prosecution contends that this order was drafted by the defendant Foertsch, and we hope, at a later time, to be able to establish through the photostatic copies of the handwritten panes that they were written by him. Counsel for the defendant has stated that the copy to which was offered is only a copy. To that, the prosecution does not accede. The copy which was shown Your Honors bears the signature of the defendant Kuntze. It has the initial of the defendant Foertsch below it. It is numbered as copy 100 of a hundred copies of which were ordered. It had the distribution list. This copy going to KTB, the War Diary of the Wehrmachtsbefehlshaber Suedost, the Army High Command, 12, which was the post which was held by the defendant Kuntze as well as Wehrmacht Commander Southeast. He was also Commanding General of the 12th Army at this time, and the document, it is submitted, is an original; it is not a copy. Now, all these other things that are in here are drafts through which the document went in the process of being worked up, a procedure which is generally followed, particularly in the case of important military orders which are put out by -- no matter what units in what army, that when it is an order as sweeping as this is, all of the material relating to the construction of the order is kept together in a file.

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And for counsel for the defendant to say that this is a copy, he may contend whatever he wishes, but we submit that we have shown to the Court the pages which were handed up by the assistant to the representative of the Secretary General, with the signature of Kuntze and his initial, and at a later time, it will appear that the initials of the defendant Foertsch appear on various other copies throughout this file.

Turning then to page 68 of the German and page 79 of the English; Document [NOKW-936](#), is offered as prosecution's Exhibit 186 in evidence. This is a situation report from the Armed Forces Commander Southeast, the defendant Kuntze, forwarded to OKW, the High Command of the Wehrmacht, the OKH, Army General Staff Operations Branch, OKH, Organization Branch, and OKH, General Staff Group near East and Balkans. It is the 14th copy of 14 copies. It is a review of a situation in the area of the commander sending the report, that is, the Southeast, up to and including 22 March 1942.

"Total Situation. In Serbia small centers of insurrection were scattered, sometimes with considerable enemy losses by attacks of troops additionally employed, which were available for mobile use. Individual attacks and sabotage primarily near Nish and Pozarevac. Traffic situation improved continually.

"In Croatia bands in the area East of Sarajevo were reinforced by people pouring in from Montenegro as well as from Serbia. Lively activity of insurgents in area of Banja Luka - Sisak.

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Croatian troops partly became more active and could show some combat successes which however are counter-balanced by some failures in East and West Bosnia. Preparations have been started for a common German-Italian-Croatian operation.

"In Southern Greece, new airplane attacks on airports. In the Aegean active enemy U-Boat activity. Enemy fleet unit fired on Rhodes on 16 March.

"Serbia: In the course of reconstruction the Serbian Police Force has been renamed 'Serbian State Guard.'

"Losses in the period of 16 February to 20 March 1942. Own: German: 37 dead, 67 wounded. Croatian, 75 dead, 205 wounded, Bulgarian, none dead, 19 wounded. Serbian Auxiliary Police, 15 dead, 13 wounded."

And then over in the right, under "Remarks: In addition, 45 missing (Bauxite-Kolonne Mostar).

"Insurgents: k,983 shot to death in combat. 1,552 reprisal measures." And the copy which is offered bears the typewritten signature of the defendant, but is certified as a true copy in writing by a first lieutenant; and the distribution list is given for the local command, that is, within the area of the Wehrmachtsbefehlshaber Suedost, the Armed Forces Commander Southeast. And, if Your Honors will look down at the list on the right, you will see the familiar designations of the units there.

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MR. DENNEY: And then -

DR. HINDEMITH (Deputizing for Dr. Rauschenbach counsel for defendant Foertsch): Your Honors, I would like once again to refer to Document Exhibit No. 184 [NOKW-834](#), in addition to the statements which Dr. Menzel has just made. According to the statements of the prosecutor, I must assume that the actual order from the 19th of March 1942 which bears the number "Ia - No.500/42 Top Secret" contains as enclosure the directives which are here. The assumption of the prosecutor seems to have certain justification. At the top of these directives - I refer to the German book, page 53 --I am afraid I can't tell you the English page -

MR. DENNEY: page 73, your Honors.

DR. HINDEMITH: "Enclosure to The Commander-in-Chief Southeast and the Commander in Chief of the 12th Army Ia No. 500/42 Top Secret" of the 19th of the 3rd, '42.

This conference concerns the order of the 19th of the 3rd. Whether it is justified or not, this mark doesn't show that these directives were really enclosed as an enclosure to this letter and the statement is therefore not justified because the document presented here for this purpose --namely, the directives themselves -- are not signed. From the document one cannot assume that this enclosure carried the directives. I just wanted to make this statement now. This is my personal opinion.

THE PRESIDENT: As I understood counsel, he was merely giving expression to his own views and without any objection being made to this particular document and it would not apparently necessitate any ruling from the Court.

DR. HINDEMITH: I am sorry -- the German translation

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didn't come through. Will you please repeat?

THE PRESIDENT: The Tribunal is of the opinion that, inasmuch as counsel indicated that he was merely expressing his opinion concerning this matter, it does not necessitate any ruling by the Tribunal at this time, there being no motion before the Tribunal.

DR. HINDEMITH: No, your Honor, I didn't want to have a ruling of the Tribunal. I just wanted to point out that this statement made by the prosecutor cannot be regarded as correct in my opinion.

MR. DENNEY: If your Honors please, the only thing that was made in connection with this was to read what is on the German, on the enclosure, that is, on the next paper that comes after the letter signed by Kuntze as "Wehrmachtsbetchlshaber Suedost."

Then the next paper is the "Enclosure to the Wehrmacht Commander Southeast and Commander in Chief 12th Army Ia No. 500/42 Top Secret of 19 March 1942."

And if we look back to the beginning of the original letter it says: "Wehrmacht Commander Southeast and Commander in Chief 12th Army Ia No. 500/42 Top Secret 19 March 1942."

No comment was made about it. That's all that was said. It is admitted that the documents were self-explanatory.

THE PRESIDENT: You may proceed.

MR. DENNEY: Thank you, your Honor. We were in [NOKW-936](#), page 82 of the English and page 69 of the German text, still on the situation reports from the Armed Forces Commander Southeast to the High Command. This is a report of 29 January 1942 which may be seen from the stamp which appears at the end, of the Chief Signal Officer, which is the time of the transmission and the date, in reference to the OKW communication of 25 January:

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"In the Operational Area Southeast Croatia about 1000 Dancic-Chetniks (Serbian Nationality) and about 3000 Communists were present. The Dancic men well trained, only partly in uniform and equipped with rifle and machine gun. The commitment of enemy artillery has not been established despite the capture of 4 guns. The will to fight and confidence is there. The Chetniks live scattered in villages and only in certain places have they been recruited in closed units. Apart of the Dancic-Chetniks had received orders not to fight against German troops. Training and organization of Communists is worse. They are equipped with rifles and machine guns. With few exceptions both groups evaded German troops, consequently they have been scattered only for a limited time by the mopping up operation and one must continue to count on their presence.

Our losses: 25 dead, 131 wounded, 1 missing, 50 sick and heavily wounded, 297 frozen all degrees.

"Enemy losses: 521 dead, 1431 for the present are prisoners."

And it is signed and -- or, that is, the signature is typed just "Wehrmacht Commander Southeast" and it is certified "true copy" by a Major of the General Staff Corps who we believe is Major Pfafferott.

And then the report for -- excuse me -- that concludes that document.

The next document, on page 84 of the English and page 71 of the German, is offered as prosecution's exhibit 187 in evidence and this is a teletype to the Armed Forces, to the Commanding General Plenipotentiary in Serbia and a copy which we have here we submit has the signature of the defendant Foertsch on it:

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and hence it is submitted that it comes from the Army Commander Southeast.

"Reference: Commanding General and Commander in Serbia - Ia No. 174/42 Top Secret of 21 March 42.

"The Wehrmacht Commander Southeast agrees that insurgents not captured in combat be transferred to work in Norway, insurgents captured in combat action are on principal to be hanged or shot to death, Wehrmacht Commander Southeast (12th Army) - Ia - No. 782/42.

"Top Secret. 23 March 42. In the direction Wehrmacht Commander Southeast - Ia - No. 500/42 Top Secret of 19 March the words in the enclosure under number 6, paragraph 2, or has given support to, are to be crossed out."

And that, if your Honor pleases, refers back to the enclosure which has been under discussion and refers to paragraph 6 of the enclosure which is on page 75.

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DR. HINDEMITH: Representing defendant Foertsch. Your Honor, referring to presentation of document, Exhibit No. 187, [NOKW-943](#), page 71 of the German, I would like to point out the following. The prosecutor especially stresses that this document finishes with the signature of Foertsch.

From this one gets the impression that the defendant, General Foertsch, gave the orders in this case. Looking at the photostatic copy of the original I must point out the following: The document does not bear the signature of Foertsch, but the initial "F" of 23/3. Apart from these initials there is another initial, according to the copy of the document before me. The prosecutor assumes that this is the initial "N". I would like to stress here that this cannot be seen with certainty from the initials as written. The defendant General Foertsch has told me that is really an initial "K", short for Kuntze, so that this document finishes with the initial "K". But I admit that from the way this initial is written it is very doubtful what it is.

Perhaps the Tribunal would like to look at the original.

THE PRESIDENT: The Tribunal will give consideration to comments of counsel, and at such time the defense presents this evidence they can give further attention to this particular matter.

I think we should proceed now, after these comments made by counsel for the defendant.

DR. HINDEMITH: Your Honor, might I just point out one thing. I assume that the English copy of the document also has the initial "N" at the end, and so far I object to the correctness of the translation.

THE PRESIDENT: Will you kindly hand the document to the Tribunal.

(Document handed to Court)

MR. DENNEY: If Your Honors please, I just want to make the finish presentation of the document, and then explain our theory on it. I believe it will be apparent when the Tribunal sees it.

It is submitted, if Your Honors please, that the first paragraph was written by hand, and the defendant Foertsch's signature over to the right appears, and in the same hand appear the numerals 1 and 2, one above the first paragraph, and two to the left of the second paragraph with an arrow indicating that the second paragraph should go up ahead of the "Wehrmachtsbefehlshaber Suedost", which is printed.

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Foertsch's signature, it is submitted, appears over to the right on the document.

THE PRESIDENT: You may proceed.

MR. DENNEY: If Your Honors will note in your copy, "handwritten" appears on the English ahead of the second paragraph, with reference to the words "oder understuetzt hat", which are referred to here. If Your Honors will look at the enclosure which is the first part of this document, 184, about which there has been so much discussion, on the third page, under the second paragraph, under the number "6", Your Honors will see the words "oder understuetzt hat", and I might perhaps explain the difference between the spelling of the word "oder understuetzt hat" in the German where it is "s-t-u (umlaut)t-z-t" and in the English where it is "s-t-u-e-t-z-t".

The English typewriters do not have the umlaut and by adding the "e" after the letter "u" or after the letter "o" the same sound is endeavored to be produced, even as in the name "Goering", which the Germans always spell "G-o (umlaut) -r-i-n-g", which Your Honors will constantly see in the American "G-o-e-r-i-n-g".

Here again we would just like to call the Court's attention that the handwritten paragraph which is written on the original contains the numbers "500/42 Top secret, 19 March" and refers to the enclosure, gives a quote from the enclosure which we find in the original document as submitted, 184.

The next document is on page 72 of the German text, and 86 of the English text, and is [NOKW-930](#), 25 March 1942, and is from the Commanding General and Plenipotentiary in Serbia, Bader, and has general distribution.

THE PRESIDENT: Give the exhibit number.

MR. DENNEY: The exhibit number is 188. Thank you, Your Honor.

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This is a document which is signed and makes reference to the 500/ 42 order of 19 March 1942. At the second reference under the heading "Reference", and refers to the Wehrmacht Commander Southeast 1a, under that reference and that number, communications of that date:

"On the basis of the decision by Wehrmacht Commander Southeast the following is ordered regarding order quoted in reference under 1) paragraph 2:

"1. Insurgents captured during combat actions are to be hanged or shot to death as a matter of principle. Band leaders, political commissars and couriers are to be interrogated in brief previously and whenever possible in the presence of SD.

"2. Persons who are found in the unauthorized possession of arms or while actively supporting the insurgents are also to be hanged or shot to death.

"3. a. Insurgents not captured in combat, b. insurgents having surrendered and given up their arms, c. persons under arrest because they are suspected of having supported or collaborated with the insurgents are not to be shot to death, but are to be sent to a concentration camp.

"There the Deputy of the Senior SS and Police Leader will interrogate them and order their disposition (for instance, transportation to the territories of interest to Germany for compulsory labor).

"4. At the present time the camps in Sabac, Belgrade-Dedinje, and Nish, later on the camp in Semlin, will be available as concentration camps."

I would just like to direct Your Honors' attention to the fact that Semlin is to be available later as a concentration camp. We have seen several references to going to one place, and later on to Semlin.

"There is no objection to informing the insurgents in a proper manner of the possibility that they may be used as labor under the conditions named above."

The distribution I believe is self-explanatory: all divisions, all home guard battalions, etc.

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Then on page 73 of the German, page 88 of the English, Document NOKW-946, which is offered as Exhibit 189 in evidence; this is dated 27 March 1942 and has an illegible signature, but it is signed for the Armed Forces Commander Southeast and has his heading on the stationary, and the subject is the designation "Cetniki":

"The designation 'Cetniki's' often used in reports has frequently caused misunderstandings; it should therefore be used no more.

"Enemy groups are to be called 'insurgents', 'rebels', or 'bands', or other unequivocal designations, for instance, the term used by the enemy, 'Insurgents of the 2nd Mounted Brigade of Proletarians', and so forth. The fighters on the German and Croatian side are to be designated by the usual troop designation, for instance, 'Serbian State Guards', 'Auxiliary Police', 'Ustascha'."

Again, below that they have "Army High Command 12th" and then typed "The Chief of the General Staff, For", and then below that is a signature, and the distribution list, "Commanding General and Commander in Serbia," etc.

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MR. DENNEY: Page 74 of the German text and page 90 of the English is Document No. [NOKW-1035](#), Prosecution's Exhibit No. 190 in evidence. This is a copy which is certified as correct. The copy is not signed except by typewriter. It is a communication from the 714th Infantry Division, dated 30 March 1942, and the subject is "Treatment of Captured Insurgents." Well, we don't have to pay any attention to the reference.

"In compliance with reference decree 1 the Commanding General and Commander in Serbia has ordered:" This 2070 of course, refers to the [NOKW-930](#), which is Exhibit 188. That is the same order number that is referred to under 1, the order of Bader, dated 25 March, and then the other reference is to a previous order of the Division.

"1.) Insurgents captured in combat actions are on principle to be hanged or shot to death. Prior to this commanders of bands, political Kommissars and couriers are to be interrogated briefly if possible in cooperation with a member of the SD." And the order continues. It is the same as the order of 25 March, which is recited in reference 1, and I don't believe that there is any necessity in continuing through paragraph 5, which is the same. However, added is.

"Decree 2 is hereby rescinded.

"The transfer of prisoners for reprisal measures to Kragujevac and Sabac is therefore discontinued according to this ruling. Both camps are in future transit camps only. From there the prisoners will be transferred further.

"The executions are to be carried out by the unit. Insofar as hangings are to be carried out the troops are to see to the necessary preparations."

MR. DENNEY: And then "In draft," and the signature is typed, and below it is a certification with a signature that it is correct. This is the same order which Bader issued on 25 March, being passed down on the 30th try a division commander. And then, turning to page 76 in the German and page 93 in the English Document No. [NOKW-1377](#), which becomes Prosecution's Exhibit No. 191.

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These are a series of longhand entries with one typed at the end. They are reports of subordinate units to the 718th Division. The first one on page 93 recites: "3 reprisal shootings," and the permission date was the 22nd of February. Again on the 23rd of February, "Enemy losses: 7 dead, and 14 reprisal shootings," certified correct. Page 95 of the English page 77 of the German, on the 28th of February, "During reconnaissance of the Battalion Faninger (?) no contact with the enemy. 9 Serbs were captured in houses, of these 8 were shot to death in reprisal." On the 9th of March, "Battle headquarters unaltered.

Truck column fired on near Cerovak, 1 truck and 2 armoured cars knocked out by fire, they were hauled to point 144. Please arrange for them to be taken to Lublin. 2 Volksdeutsche dead, 2 wounded, 2 soldiers wounded, 2 prisoners shot to death, falling in tomorrow morning at 0700 hours."

MR. DENNEY: And then the report of 24 February, which is the one which is typed at the end of the Exhibit with some pieces of teletype paper pasted on it. This is for 24 February 1942 and is to the 65th Corps Command, with a copy to the German General in Zagreb. It is a Daily Report of 23 to 24 February: "Battalion Hoffmann received sudden fire from the direction of church 2379 while mopping up and advancing near Gay." If your Honors please, that is reference to an operational map.

"Captain Hoffmann himself was slightly wounded twice. Whilst mopping up. Intense enemy fire was received. The enemy consisting of strong forces in white coats, equipped with many machine guns, tried to reach the road. The adversary advance up to the height 218.

MR. DENNEY: And then they recite the three battalions -- one of the 724th Regiment, and two of the 750th Regiment: The total number dead 9, the total number wounded 20, and the total number missing 13. "Enemy losses: 21 dead." Then, losses of materiel. I don't think we need to read those. And then on the next page there is a "Supplement to the Daily Report of 23 to 24 February," which carries the note "To 1-3". This is another piece of paper which appears on the document.

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It has some illegible initials after it. "Of the 21 dead of the enemy losses, 14 were shot in reprisal." And then to Document No. [NOKW-1096](#), which is on page 99 of the English and page 80 of the German, becoming Prosecution's Exhibit No. 192. These are reports from the Plenipotentiary Commanding General in Serbia, Bader, to the Wehrmacht Commander Southeast, the Defendant Kuntze. The first one is for 2 March 1942.

"Enemy fled in the direction of Brusetic. Attacked there several times by reconnaissance of the 11/741 Regiment. Enemy losses: 22 dead, among them bandit leader Nikola Drljani. 3 prisoners not yet shot, because of interrogation. Own losses: 1 non-commissioned officer killed in action, 1 officer slightly wounded."

MR. DENNEY: Report for the 5th of March, "Banat: In Pencevo, 1 police official killed, 1 wounded. 1 culprit shot while escaping, reprisal measures are being taken." Report for the 10th of March on page 81 of the German and page 100 of the English, "Near Zerovac 5 insurgents were arrested, will be shot after interrogation.

II./721 Regiment on march through Western division area, mopped up Plana-Lapovo-Raca area without contact with the enemy. Bandit leader Kolarevic hanged in Natalinci."

MR. DENNEY: Report for the 12th of March, "Bulgarian area: Kragujevac: 80 hostages shot. To telephone inquiry: In Pancevo 75 Communists shot as reprisal measure (report of 5.3)." Daily report of the 13th of March, "717th Infantry Division: In Belgrade 100 hostages have been shot as reprisal measure for murdered Serbian police." and then there are references to the Daily Report of the 6th of March. For the 15th of March, "Artillery Division 661, part of the 714 Infantry Division. 13 arrested

insurgents executed." For the 16th of March: "In Pancevo 50 more hostages were shot. (Reference to the report of 5.3.).

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A Communist organization has been discovered in Belgrade. Party archives, cipher key and medical articles secured." Report for the 21st of March: "Area 717 Infantry Division: Serbian Volunteer Corps captured 42 insurgents South of Valjevo; 30 were immediately shot, the rest taken for an interrogation." Report for the 28th of March; "714th Infantry Division: In Valjevo, Ub and Obrenovac 6 insurgent leaders have been hanged." And then on page 85 of the German and page 103 of the English the last document in this book is offered as Prosecution's Exhibit No. 193 in evidence, and these are 10-day reports of the Commanding General in Serbia to the Armed Forces Commander Southeast. These are signed by Bader. The first report is 10 March 1942.

"Operation Area East Croatia.

"The insurgents in East Croatia receive reinforcements from Serbia and Montenegro. The Greek Orthodox population is being mobilized by compulsion and forced to fight against the Croatians.

"The civilian administration has to list the male inhabitants from 16 to 60 years of age in all communities of Serbia by March 5th of the latest.

"In Belgrade from 26 February to 7 March 1942: 214 arrests. 225 shootings to death ordered as reprisal measures.

"In the camps of the Administrative Sub-area and District Headquarters there were 2600 retaliation prisoners and 272 hostages on 26 Feb.

"In the Jewish camp of Semlin, there were 5780 person (mostly women and children).

MR. DENNEY: Signed by Bader, and distribution to the Wehrmacht Commander Southeast and various others which appear there.

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And the Ten Day Report for the period 6 to 15 March rendered on the 20th of March by Bader to Kuntze.

"In Belgrade from 6 March to 15 March 208 arrests, 3 hangings ordered for reprisal measures.

In the camps of the Administrative Sub-aria and District Headquarters there were 2,532 reprisal prisoners and 213 hostages on 15 March. In the Jewish Camp of Semlin, there were 5,150 persons.

The population continues to show a strong interest in the meetings initiated by the Propaganda Branch of the Serbian Prime Minister for the pacification of the country.

(signed) Rader" And the report for the 31st of March:

"In the East Bosnia Area the fight between Croats and Serbs has again increased in severity. Ustascha native partisans, moslems and finally the bands which have advanced from Montenegro here fight side by side against the Serbian forces fighting under Dangle.

At the suggestion of his "Government" Mihailovic seems to continue in a waiting attitude. As before, he still must be regarded as the bearer of the Nationalist Serbian liberation movement. It is conceivable that all other leaders of the different Nationalist Groups might be willing to subordinate themselves to him.

In the camps of the Administrative Sub-area and District Headquarters there were 2586 retaliation prisoners and 198 hostages, and in the Jewish Camp of Semlin there were 5293 persons."

That figure is not clear on my copy but that is- I am reading in this instance on these last figures from the original German if your Honors please.

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It is almost time to adjourn and that concludes this Document Book. I wonder if perhaps we might suspend a little early this evening with your Honors' permission?

THE PRESIDENT: We will adjourn at this time until 9:30 tomorrow morning.

(The Tribunal adjourned until 24 July 1947, 0930 hours.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 24 July 47 0930, Justice Wennerstrum, presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V. Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, will you ascertain if all the defendants are all present in court?

THE MARSHAL: May it please Your Honor, all defendants are present in the courtroom.

THE PRESIDENT: I have asked that my associate, Judge George Burke, preside at this day's session.

JUDGE BURKE: We have had under consideration the matter of the offer of introduction of exhibit known as Exhibit 4a offered on behalf of the prosecution.

The Tribunal has prepared a report upon it's findings in that matter. The provisions of Control Law No. 10 and Ordnance No. 7 Military Government Germany, enacted pursuant thereto, provide that certain specified kinds of documentary evidence shall be deemed admissable.

Document 071-PS, found on page 8 of Document Book IV appears to come within the scope of these provisions and for that reason it will be received in evidence.

It is the considered opinion of this Tribunal, however, that matters of competency, relevancy and of materiality have not been removed from the scrutiny of the triers of fact and continue to be pertinent factors in evaluating the weight and credibility of the evidence in determining the guilt or innocence of the accused.

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Thus, it becomes important that the party offering an exhibit even though it is admissible by charter pronouncement, supports it with evidence of foundation, authenticity and correctness.

The credence to be given the document will be determined from a consideration of all these factors. Such must be the rule to be followed here in order that no inference may arise that a technical expediency has been substituted for long established rules of evidence.

For that reason the exhibit marked Exhibit "4a" will be received in evidence. The same ruling, and for the same reasons, will apply to Exhibit 100a which was offered by the prosecution at the conclusion of the introduction of Exhibit 99 found on page 76 of Volume III.

You may proceed.

MR. FENSTERMACHER: If Your Honors please, before passing on to the presentation of the documents in document Book VIII, the prosecution has prepared another list for Document Book VI, listing the document numbers, the exhibit numbers and the counts, and the defendants for which these various documents are concerned.

I hand three copies of the list to the Tribunal and fifteen copies to defense counsel, two copies to the Secretary General, and two copies each to the interpreters and reporters.

This, if Your Honors please, should be marked Exhibit 163a for identification. We have also prepared a similar list for Document Book No. VII which should be marked 193a for identification, I hand three copies to the Tribunal.

JUDGE BURKE: Just a moment, Mr. Fenstermacher; how is it to be paged at the bottom?

MR. FENSTERMACHER: Your Honors, I have forgotten to bring my document Book VI this morning but it would be inserted at the end of Document Book VI and be given the next two pages.

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JUDGE BURKE: The Secretary has informed me that we will start with 112, page 112.

MR. FENSTERMACHER: All right, Your Honor.

--And twenty-two copies to defense counsel and two copies each to the court interpreters and reporters. This should be marked Exhibit 193a for identification and be inserted at the end of Document Book VII and given the pages in the English, pages 104, 105-- just a minute, Your Honors -- should be given in the English pages 109, 110 and 111 and in the German pages 89, 90, and 91.

We now turn to a consideration of the----

JUDGE BURKE: The Court hearing no objection, the exhibit will be received in evidence.

MR. FENSTERMACHER: And two copies of the exhibit for identification for the Secretary General.

Your Honors will recall that yesterday with the introduction of the documents in Document Book VII we were considering the period of January, February and March 1942 during which period the defendant General Kuntze was Commander-in-Chief of the 12th Army and Wehrmacht Commander Southeast and his Chief of Staff was the defendant General Foertsch.

With Document Book VIII we continue our narrative of events in the Southeast for the period of time, April, May, June and July 1942, during which time the defendants Kuntz and Foertsch were at Supreme Headquarters of the Southeast Command and General Bader was in Serbia as Plenipotentiary Commanding General in Serbia.

The first document in Document Book 8 is on page 1 of the English and page 1 of the German. Document [NOKW-1075](#), which is offered as prosecution Exhibit 194.

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This is a situation report dated 7 April 1942 of the 714th Infantry Division which was subordinate to General Bader in Serbia.

The subject of the report is: "Report of Enemy Situation of 16 March to 31 March 1942."

"Enemy Situation, Eastern Area 20 March.

Serbian volunteer Battalion Uzice captured 42 insurgents at Drenovacki -- Kik (17 kilometers South Valjevo) 30 were shot on the spot, 12 taken along to Uzice for interrogation."

I think we need not pay any particular attention to the distribution list to the report.

Turning next to page 2 of the English and page 2 of the German.

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DR. HINDEMITH, (For Dr. Rauschenbach, representing General Foertsch): In the document which has been presented, I object to the correctness of the translation. The photostatic copy which I have here, has the letters, KTB, at the top, that means war diary or "Kriegstagebuch".

According to what the prosecutor has said, with his reference to the distribution list, it must be seen that from the document itself, that it went to the people concerned. I would like to ask that the transmission should be made right in the document, so the letters "KTB" are put at the top.

PRESIDING JUDGE BURKE: Is there a question of an improper interpretation?

DR. HINDEMITH: Yes, Your Honor, incorrect, in so far as the transmission did not come through completely. I did not hear it, the letters "KTB" are missing. That meant, "War Diary". I am sorry, it has just been pointed out to me by the prosecutor, that it is there in the document.

PRESIDING JUDGE BURKE: Very well.

MR. FENSTERMACHER: Turning next to page 2 of the English document Book, page 2 of the German, Document [NOKW 881](#), which is offered in evidence as Prosecution Exhibit 195, this is a situation report from the Armed Forces Commander Southeast -- at this time the defendant Kunze -- to Higher Headquarters in Berlin, the OKH and OKW.

The report is a review of the situation in the area of the Wehrmacht Commander Southeast, including 7 April 1942. Your Honors will note the distribution list at the top of the page, "OKW, Wehrmachtfuehrungsstab, National Defense", the OKH General Staff of the Army Operation Branch; OKH General Staff of the Army Organization Branch, OKH General Staff of the Army, Group Asia Minor and Balkans, and the Commander-in-Chief of the Luftwaffe, Luftwaffe Operational Staff.

Turning to paragraph 3 of the report, which is on page 3 of the English, and page 3 of the German:

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Losses during the period from 21.3. to 5.4.1942 inclusive:

A) Own: Dead Wounded Missing Germans 3 1 5 Croatsians 53 161 110 Serbian Auxiliary Police 13 13

B) Insurgents: 1262 shot in combat 66 shot or hanged in retaliation Including the above since 1 September 1941:

11.522 shot in combat 21.

802 reprisal measures.

and the report is signed in draft by the defendant Kuntze, General of the Engineers, as Wehrmacht Commander Southeast."

Turning next to page 4 of the English, and page 4 of the German, Document NOK" 1123, which is offered as Prosecution Exhibit 196, this is a directive --

PRESIDING JUDGE BURKE: Pardon me, will you present the Tribunal with the original document of Exhibit 195, please?

MR. FENSTERMACHER: Will Major Hatfield hand it to the Tribunal, please?Document handed to Court

MR. FENSTERMACHER: Exhibit 196, page 4 of the English, and page 4 of the German is a directive of Combat Group Bader, dated 10 April 1942, to the 178th Infantry Division. It relates to certain operational matters in Bosnia, as well as to the insignia work by the enemy. I direct the Tribunal's attention to paragraph 3, which is on page 4 of the English and page 4 of the German:

"Treatment of Insurgents: Insurgents captured bearing arms, as well as everyone in their following or who supports them are to be shot dead."

"Cetniks who do not resist the Allied troops, are not to be treated as Insurgents. Above all they are to be treated as prisoners according to the Hague Regulations for land warfare.

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Other signs of distinction between Cetniks and Partisans:

Cetniks:

Uniform: Most of them in dark brown national costumes, officers in Serbian uniform, black fur cap with Serb coat of arms, Badges:

Badges of rank of the old Serbian army.

Partisans:

Uniform: German, Italian, Serbian uniforms or peasant dress.

Badges: Soviet star on the cap, indicating rank by means of Soviet Star and shoulder stripes. The political commissar has a sickle and hammer on the Soviet Star.

4.) Treatment of the civilian population The civilian population is to be treated with understanding and justice.

Villages in which arms and ammunition are found, or which befriend the bandits are to be burned down.

Civilians, who appear suspect of having befriended the insurgents are to be interned. An order will be issued with regard to their transfer to an Internment Camp.

The evacuation of whole areas, as well as of single villages by the civilian population is only to be carried out by order of the operational staff combat Group General Bader.

Civilians in the operational area of the Italian Division, who violate the issued decrees, are to be surrendered to the operational Staff Combat Group General Bader by the Italian Military authorities. Exceptions are civilians, who are guilty of violations, which are to be decided finally, according to Italian law, by Italian Military Special Courts.

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The Commander of the Combat Troop General Bader (Signature) Bader General of Artillery It is signed, "The Commander of the Combat Troop, General Bader" and "Bader, General of Artillery."

Turning next to page 7 of the English, and page 6 of the German document book, Document [NOKW 1028](#), which is offered as Prosecution Exhibit 197, this is an operation order dated four days later than the previous order, from General Bader to the 71st Infantry Division. This is the passing on by the 718th Infantry Division, on 14 April 1942 of the previous operational order. It is, however, a more detailed order which the Division received from General Bader.

Operational Order No. 4 I think we need not read the first two paragraphs on "Enemy" and "Missions". They are primarily of an operational nature.

Beginning with paragraph 3:

"Own forces:

Participating in the operation:

German, Italian and Croatian units.

Pursuant to the directive of the Commanding General and Commander in Serbia, Lt. General Artillery, Bader, all troops of the 718th Infantry Division, troops of the Commanding General and Commander in Serbia arriving in the area described above, units of the Croatian Wehrmacht and the Ustasha units are under my Command. These troops will be organized in groups according to enclosure 1."

"The subordinate troops of the Commanding General and Commander in Serbia, of the Ustasha and of the Croatian Wehrmacht will be subordinate to the 718th Infantry Division tactically and for rations and quarters.

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All measures concerning equipment and ammunition supply for these troop units are regulated by 718th Infantry Division via their respective offices.

The groups will be issued orders directly by me.

Tactical Reports of one groups are also transferred to me directly."

It is signed, "Fortner". I believe in the German, the signature is "Tatner" which is in error. It should be changed to "Fortner" in the German document books.

The enclosures are listed and the distribution is listed.

Turning next to enclosure No. 3, page 9 of the English, and page 8 of the German, this is an enclosure to the order handed down by the 718th Infantry Division on the 14th of April 1942:

C o m b a t D i r e c t i v e (For the instructions of the troops)

1) Enemy To be treated and to be considered as enemy are:

a) Partisans – Communist insurgents External marks of identification:

Uniforms: German, Italian, Serbian or peasant clothing with rank insignia: Soviet Star on the cap, rank insignia on sleeve.

Political Commissars: Sickle and hammer superimposed on star.

b) Chetnik – Nationalists – Serbian insurgents (in as far as they offer resistance) Marks of identification:

Mostly brown National dress. Officers in Serbian uniform, black fur cap with Serbian Coat of Arms and National colors.

Dangic – Chetniks (in as far as they offer resistance) All non-residents and residents who, according to statements, have returned just recently.

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Refugees are to be pursued immediately, particularly since they will mostly be leaders.

1) Not to be treated as the enemy are Soldiers of the Italian Wehrmacht in uniform, soldiers of the Croatian Wehrmacht in uniform (cap insignia large badge) Soldiers of the Croatian Ustasha in uniform (cap insignia "U"), civilians, partly with military overcoats with a permit for carrying arms issued by the Croatian Wehrmacht or with blue white brassards on their civilian clothing (voluntary militia).

3) Treatment of the insurgents:

a) Insurgents captured while carrying arms as well as all their followers and supporters or whoever owns ammunition are to be shot to death.

b) Chetniks who do not offer resistance are not to be treated as insurgents. They are at first to be sent in a group under guard as prisoners to the prisoner collecting point.

x) In searching the villages which were in the hands of the insurgents, the inhabitants, in particular the village elder are to be asked to state the names of those families whose men have taken "to the woods" and who have co-operated with the insurgents.

4) Negotiations with the insurgents:

Troops are to be prohibited from all negotiations on principle. Should the insurgents offer to negotiate, the Regimental Commander is to be informed immediately and action is to be taken according to his orders.

5) Procedure during capture:

During the preceding operations, it has been found that all persons present during the search of houses or villages were driven together by the troops and taken away as prisoners. During interrogations difficulties arose in the effort to find out under just what circumstances the capture was made.

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That is why each sergeant has to give a slip to a prisoner describing briefly how the capture was made. For instance; "Taken in house while working in stable" Signature and Unit. The use of prisoners for carrying wounded is prohibited as a matter of principle.

6) Interrogation of prisoners:

In order to make possible exploitation of prisoner statements, the following facts to be exploited by the troops are of value:

a) What are the names of the leaders and where are the leaders including those of smaller insurgent units?

b) Where are the depots for arms, ammunition and food?

c) Where are family members of the insurgents leaders?

d) An investigation is to be carried out to determine whether the prisoners include such as might be used as guides to hide outs and depots."

"7) Treatment of the Civilian Population:

"a) The evacuation of the civilian population from entire areas in the villages is to be carried out only by special order of the Combat Group General Bader.

"b) Villages and houses in which arms and ammunition have been found, from which shots have been fired, or the residents of which have aided and abetted insurgents are to be burned down. Other than that the burning down of villages is to cease in consideration of the necessity for troop billets.

"c) Village residents whose relatives are with the insurgents or who have supported the activities are to be taken away as prisoners.

"d) The approach to villages which are to be searched is as a matter of principle to be made under the protection of heavy weapons.

"e) A just and understanding treatment of the population by the troops must show that they are only fighting the insurgents and that the peaceful population has nothing to fear.

"8) Executive Power:

"The executive power in the operation area is in the hands of the Commander of Combat Group General Bader and is carried out according to his directive by the divisional commanders. Until the employment of the civilian Croatian authorities, they will be available along with the troop units, the Croatian gendarmerie units, the Croatian police units, and the Croatian administrative officials who remained in the area.

"9) Croatia is a Friendly Country:

"Troops must be conscious of this fact and are to avoid transgressing the prescribed limits of their duties. Regarding food taken from the country attention is called to the directive issued via Branch IB of the division.

"For the Division Command Ic (signed) "Lieutenant" Turning next to page 14 of the English document book and page 11 of the German, Document No. [NOKW-1218](#), which becomes Prosecution's Exhibit No. 198.

These are various reports sent during the month of April 1942 by the Commanding General and Commander in Serbia, General Bader, to General Kuntze as Wehrmacht Commander Southeast. First is a Daily Report of the 8th of April 1942:

"Area 714th Infantry Division: In Kloka (five kilometers northnortheast Natalinci) ammunition confiscated, owner shot to death... Thirty-four arrested in Belgrade."

Next is the Daily Report of the 18th of April 1942; the extract which we are using begins on page 15 of the English and page 12 of the German under Serbia:

"704th Infantry Division: 1st Company, 447th Ls. Battalion, skirmish with insurgents near Vlaska. One enemy dead, three prisoners shot after interrogation."

Next, the Daily Report of the 20th of April 1942, found at the bottom of page 15 of the English and page 13 of the German, the report for the 714th Infantry Division:

"As reprisal measure for one wounded German guard in Topola, 85 residents were turned in." This report, as were the other two, is signed by the Commanding General and Commander in Serbia, by his Ia Operations Officer.

Turning next to page 17 of the English, page 14 of the German document book, is Document No. [NOKW-914](#), which is offered in evidence as Prosecution's Exhibit No. 199. This is a situation report of General Kuntze as the Armed Forces Commander Southeast to Berlin - OKW and OKH headquarters in Berlin. This particular report is a review of the situation in the area of the Wehrmacht Commander Southeast up to and including the 22nd of April 1942. Your Honors will note that the distribution list on this report is the same as it was on the report we looked at a few minutes ago. Again paragraph 3 is all that is important to the prosecution:

"Losses during the period from 6 to 20 April 1942 inclusive:

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Dead Wounded Missing "A) Own:

German 2 9 Croatian 23 23 61 Serbian Auxiliary 69 18 Police "B) Insurgents:

1612 shot to death in combat. Three reprisal measures."

Again, I direct Your Honors' attention to a comparison of the losses suffered by the insurgents and those suffered by the Germans and their allies. On page 18 of the English and 18 of the German the report is signed "For the Wehrmacht Commander Southeast, The Chief of General Staff", the defendant Foertsch. And I think, if Your Honors will look at the original document, you will see Foertsch's signature spelled out in his own handwriting.

Turning next to page 19 of the English and page 19 of the German document book is Document No. [NOKW-1444](#), which is offered as Prosecution's Exhibit No. 200. This is a series of reports - of 10-day reports - of the Commanding General in Serbia, General Bader, to the defendants Kuntze and Foertsch, the headquarters of the Armed Forces Commander Southeast in Greece. The first report is dated 20 April 1942:

"Enemy Situation.

"Serbian Area.

"In Belgrade quiet. The seizure according to plan of communists and persons closely associated with insurgents led to further arrests.

"VI. Losses and Booty for the Period from 6 to 15 April 42.

"In Serbia: 343 enemy dead "In Belgrade:

201 arrests "Booty:

Three pistols, 10 light machine guns, 67 rifles and ammunition.

"One own dead and three wounded of the 714 Infantry Division at the bridgehead Zvornik.

"VII. Administration Sector.

"In the concentration camps there are 182 hostages, 3266 reprisal prisoners and 4005 Jews.

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"For the Commanding General and Commander in Serbia "The Chief of the General Staff."

The report is signed for the Commanding General and Commander in Serbia, the Chief of General Staff, a Colonel Kewisch.

Turning next to page 20 of the English and page 20 of the German is a 10-day report to the Wehrmacht Commander Southeast. Under "Enemy Situation":

"Serbian Area.

"In Belgrade the seizure according to plan of communists and insurgents is being continued. On 22 April, 128 Yugoslav former professional officers were arrested and deported to Germany to a prisoner of war camp.

"VI. Administration Sector.

"In the concentration camps there are 189 hostages, 3503 reprisal prisoners, 2974 Jews."

I ask Your Honors to note the distribution list on this, as on the preceding report:

"Wehrmacht Commander Southeast (with two enclosures) "Combat Group General Bader

"Plenipotentiary of the German Foreign Office "Plenipotentiary General of Economy "Higher SS and

Police Leader "German Liaison Staff at the Italian Second Army "Intelligence Office, Belgrade

"German Liaison Officer with the Royal Bulgarian Corps of Occupation "Administration Staff" On

page 22 of the English and page 21 of the German, the prosecution's next document is No. [NOKW-1126](#), which becomes Prosecution's Exhibit No. 201.

This document consists of two reports which are extracts from enemy news bulletins, issued by the combat team Bader and the 718th Infantry Division, with respect to the organization and insignia of the enemy against whom the Germans were fighting. The first report is dated 2 May 1942, from the Division Battle Headquarters of the 718th Infantry Division, Section Ic, which is the Intelligence Section of the division:

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"Report about the Enemy No. 1 "Area:

Mesici, Gorazde, Ustiprace, Mesici.

"I. In General: With the departure of the partisans and Montenegro nationals from eastern Bosnia and from around Rogatica the battalions and units of partisans plundering in this area increased in strength. It was a kind of winding-up position, for partisans as well as for Chetniks. However, there is a report that the Montenegro nationals have withdrawn further to Foca via Gorazde and that only local partisans are holding the positions. Some Chetniks who had changed to this side were either driven away by the partisans or won over to their party and added to their battalions. Careful with Dangic passes!

"Moreover there exists here also the great contrast between Chetniks and Mohammedans. For protection against the Chetniks many of these Moslems (who almost exclusively inhabit the villages here) have gone over to the partisans. Prisoners' statements agree that the partisans are determined to make a stand here. Above all they want to ward off all attacks from ambushes with tricks and cunning, as well as from freed position of a primitive type."

In paragraph II the leaders of the partisan units are named. I think we can skip that paragraph by just noting what it contains. And turning to paragraph VII, "Clothing", which appears on page 23 of the English and page 21 of the German:

"Clothing: Serbian uniforms or the well-known black uniforms and civilian clothing of the partisans. Almost everybody wears the badge of the partisans on his black cap, the Soviet star."

Signed "For Division Headquarters "The Ia" (Operations Officer) The next report on the enemy, No. 2, which is on the bottom of page 23 of the English and page 22 of the German--

DR. HINDEMITH: Dr. Hindemith, deputy for Dr. Rauschenbach, defense counsel for defendant Foertsch.

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I object to the document which has just been presented, No. [NOKW-1126](#). I don't think the translation was right. The German document which the defense has begins with page 1 and page 2. I would like to point out that from the photostat copy of the original it can be seen that this is only a part of the document. The first page of this document is marked 6; the next page is 6a.

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MR. FENSTERMACHER: If Your Honors please, I think I can clear this matter up. The numbers which appear on the bottom of the various documents which we have been introducing are numbers which were placed on the document in Washington in order to facilitate the photostating of these documents. They have nothing to do with the trinsic pagination of the documents themselves. The page 1 which is referred to in the translation as page 1 is the top page of the document. Page 2 which is indicated from the German document book as page two is clearly indicated on the top of the photostatic copy of the document. The pagination on the bottom of the document written in pencil, not typed as are the pages at the top of the document, have nothing to do with the nature of the documents

themselves, and were only for administrative purposes placed on the documents when they were originally photostated.

THE PRESIDENT: Does the explanation as given sufficiently clarify the situation?

DR. HINDEMITH: Your Honors, I would like to ask you to look once again at the previous document. Perhaps it could be seen from the previous document whether there are different paginations. Your Honor, I would like to ask that the previous document [NOKW - 1444](#) - in this document, I noticed too, at the bottom on the first page there the number six. Yes, from this document can be seen that there are two different paginations. At the top there is the original pagination of the document -- 1,2,3,4,etc. and then at the bottom there are various numbers --4,5,6. I consider my objection dealt with.

MR. FENSTERMACHER: If the Court please, the pagination on the top of the page -

THE PRESIDENT: Top of what page, please?

MR. FENSTERMACHER: This is the previous document, Your Honor.

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THE PRESIDENT: It is [NOKW - 1444](#)?

MR. FENSTERMACHER:[NOKW -1444](#), which is Exhibit 200. If you will turn to page 19 of the English document book, at the top of the page you will see a page 1, which refers to the top page of the exhibit. About in the middle of page 19 of the English, still on page 19 of the German, you will see the indication "page 3 of original " which means that the extract which appears below is taken from page 3 of the photostat copy of the document, and that page number appears at the bottom of the photostatic copy of the document.

Now, as I understand Dr. Hindemith's objection, it is that at the bottom of the pages on the photostatic copy of the document there appears another set of numbers which in this case is page 4, corresponding to page 1 at the top. Page 5 written in pencil at the bottom of the document, when page 2 is typed at the top of the document, and so on. Now in photostating those various documents in Washington and in assembling them in the proper order, a different numbering system had to be used. I thought that was clear earlier but if not I make this statement for the record and for defense counsel now: that the number system on the bottom of the documents should be completely disregarded, it is merely for a deministrative purpose.

THE PRESIDENT: Is any evidentiary value claimed for it?

MR. FENSTERMACHER: None whatever, Your Honor.

THE PRESIDENT: Does the explanation cover the situation?

DR. HINDEMITH: Yes, I understand it. I only noticed that because the first page of this document has only got numbers at the bottom. But now I can see from the document that there are two paginations,

one done with a typewriter beginning on the second page with 2,3,and so on, and another written with pencil at the bottom, 4, 5, etc.

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I thank you very much, Your Honor. I consider my objection dealt with.

THE PRESIDENT: Very well, you may proceed.

MR. FENSTERMACHER: If your Honors please, we were on page 23 of the English, page 22 of the German, looking at the report on the enemy No. 2 as of 28 April 1942, paragraph 1; the various insurgent groups in the Southeastern Bosnian area. Then subparagraph c: area south of Sarajevo, various units are listed which pertain to units of the enemy. The staff is mentioned, and finally the leader. This is on page 24 of the English, page 22 of the German.

Leader: of the group (band): Major Dickie from Trnovo and Sava Tomic, further Dr. Valado and Miso Jokanovic. Political Commissar Sareme.

Activity: Pillaging raids on villages Southwest and South of Ilidza.

(Members of the bands) wear the Soviet star or an arm band with the imprint; Death to Fascism - Freedom to the People. Members of the bands mainly Serbs from the Igman area.

Next on page 25 of the English and page 23 of the German is Document [NOKW - 1142](#), which becomes prosecution Exhibit 202. This is an order of the Commanding General in Serbia, General Bader, dated 10 May 1942 sent to the 714th Infantry Division and the 717th I believe Your Honors have a repeat on the 714th. It should be changed to read the 717th Infantry Division.

"The aggravation of the situation in the area of Sjenica-Novi Pazar Kos. Mitrovica obliges us to reinforce the German troops kept in readiness in the Southern part of the area held by the 717th Infantry Division. Our orders to the above subject are:

.....

Crossing of the border of insurgents and disturbances of all kinds are to be combatted by most severe means.

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The insurrectionists are to be exterminated wherever found. Leniency toward these elements is uncalled for.

Disarming is to be carried out continuously.

.....

(Signed) For the Commanding General and Commander-in-Chief in Serbia The Chief of the General Staff Colonel Kewisch" Next on page 27 of the English, 24 of the German, Document NOKW- 1139, which is offered as prosecution Exhibit 203, these again are situation reports sent from the Armed

Forces Commander Southeast Headquarters by the defendants Kuntze and Foertsch to higher headquarters of the OKW and OKH in Berlin.

The first report is a review of the situation in the area of the Wehrmacht Commander Southeast concluded 7 May 1942.

"Losses during the period 21.4 to..." I believe this must be a mistake. May I see the original document, Major Hatfield? The error seems to be in the original as well.

Losses during the period 21.4. to 3.3.42 inclusive in Serbia and Croatia (exclusive of Eastern Bosnia number II/1) Dead Wounded Missing

A. Own:

Germans 6 5 ---

Croats 46 45 80 Serbian Auxiliary 3 ---- ---Police

B. Insurgents:

321 killed in action 404 arrested 82 shot as reprisal measures".Signed in draft, Kuntze and General, Engineers, Wehrmacht Commander Southeast.

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Turning next to page 28 of the English, page 26 of the German the situation report of the Wehrmacht Commander Southeast concluded 23 May 1942, again the losses are listed. We call Your Honor's attention to the losses of the insurgents: 165 killed in action, 51 wounded, 237 temporarily arrested. Again the report is signed in draft by the defendant Kuntze.

Turning now to page 30 of the English and page 28 of the German, Document [NOKW-894](#), which becomes prosecution Exhibit 204, we call Your Honors' particular attention to this document which is an order of the Commanding General and Commander in Serbia, General Bader to his subordinate units. This, if your Honors please, outlines the procedure for the taking of hostages, and you will note the various criticisms which General Bader offers regarding the way the matter has been handled up until now. The order is dated Belgrade 21 June 1942. I think this is important enough to be read in its entirety. The subject is "Taking of Hostages".

1. Owing to special occurrences, I must state that my order concerning the taking of hostages, of 20 Feb. 42, was either not sufficiently published or not sufficiently understood.

Casel: An administrative Sub-area Headquarters reports, as an arrest of hostages ordered by the Sector Commander of a Division and also submits a letter of this Commander of the Sector addressed to the competent Serbian District head and the mayor of the town asking them to name hostages and to make them available.

Furthermore, the Administrative Sub-area Headquarters reports, that persons were arrested who, with few exceptions were known as "Active Communists". One hostage was arrested because he was known as a follower of Fraja Mihailovic.

These measures were taken on account of a raid on Serbian volunteers.

On principle it must be said with respect to this case, that the Field Administrative Sub-area Headquarters are competent for the taking care of the arrest of hostages, the final decision according to my order of 20 February '42 remains with me, unless a delay would entail danger. The latter was not the case, my decision could easily have been obtained by telephone or teletype. It is absolutely wrong to order Serbian offices to collect hostages. If my order of 20 Feb. 42 had been followed, the arrest of hostages would have had to have been arranged by the Field and Administrative Sub-area Headquarters and there would have been no difficulties for immediate action.

Furthermore it is surprising, that men are arrested as hostages, who are known as active Communists or as followers of Draja Mihailovic. These men should have been delivered to the Commander-in-Chief of the Security Police and the SD for further treatment a long time ago. Case 2: An Administrative Sub-area Headquarters punished various districts with fines and arrest of hostages because the marked was insufficiently stocked with goods. Here too the idea of taking hostages was completely misunderstood. To me it is nonsensical to apply these most drastic measures which will inevitably lead to execution in case of a reprisal."

I call your Honor's attention to that language:

"Which will inevitably lead to execution in case of a reprisal" because a marked was insufficiently stocked with goods.

As in Case 1 it was completely wrong to order a Serbian authority to nominate hostages. Moreover, in this instance too, my orders were not followed, in so far as my decision was not asked for.

II. In order to avoid the occurrence of similar cases in the future, I shall again make known the most important points concerning the arrest of hostages:

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1. Purpose The hostages guarantee with their lives for the maintenance of public quiet and security in the circles from which they are taken.

By the taking of hostages the whole population is to be taught, to actively prevent acts of sabotage and terror out of consideration for the lives of the hostages.

2. Preparation The arrest of hostages is to be prepared by the Field and Administrative Sub-area Headquarters in such a manner as to enable the persons ordered to carry out the arrests to act quickly and also so that the monthly exchange which is provide for" We will see what is meant by the exchange paragraph 4 later.

"(paragraph 4) can be carried out without difficulties. Only in exceptional cases and even then, only in close collaboration with the Field and Administrative Sub-area and indigenous local Headquarters, does

the troop have to concern itself with the seizure of hostages; in general the troops will collaborate only when requested by the indigenous Administration offices.

The hostages are to be taken from all circles of the population in the first place men from 16 years upwards are to be considered. Inhabitants whose activity serves important tasks of the occupation, may only be taken in special cases.

3. Arrest of hostages

a) General remarks: The arrest of hostages is permissible only in case no other means are available. The efficacy of these measures is questionable, if the hostages are not closely connected to the circles of persons which are to be intimidated, Fanatics and criminals, as is known by experience, do not take any consideration of the lives of hostages. Any haphazard arrest of hostages pushes loyal and hitherto inactive circles of the population into the enemy camp and strengthens the enemy's force of resistance.

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b) Competency: On principle the arrest of hostages is only carried out on special order of the Commanding General Plenipotentiary in Serbia (officer in charge Administration Staff in cooperation with Ic Department). In case of danger the Field and Administrative Sub-area Headquarters are authorized to arrest hostages: the arrest however is to be reported to me immediately.

The seizure of hostages involves extreme responsibility, because already at the time of the seizure one has to count on the possibility that an execution will be carried out. If this conclusion can not be drawn from the arrest of hostages the measure, because it remains without effect, is a mistake.

The troop has to aid in the seizure of hostages if it is requested to do so.

c) Notice: When hostages are seized the population is to be notified with regard to the purpose for the seizure of hostages; attention is to be drawn to the fact that the lives of the hostages depend upon the maintenance of quiet and order in the respective districts.

4. Exchange and dismissal: This, if Your Honors please, is the exchange talked about under paragraph 2, on page 32, of the English and page 30 of the German.

"In order to rotate the responsibility of the whole population for the maintenance of public order and security, the hostages are to be exchanged as a rule every month.

Competent for the exchange and the dismissal of hostages are:

The Field Administrative Headquarters (Administration group) and in the area of the Field Administrative Headquarters 599 the Commander of the Security Police and the SD.

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Dismissal may be allowed only in cases for which reasons are given and after having conferred with the competent SS Officer. In case the arrest of new hostages to replace those dismissed is decreed, they are to be taken from the same circles of the population as those that the hostages dismissed belonged to.

"These principles are to be observed closely; in case of infringement I will punish the guilty." Signed Bader, General in the Artillery.

May I ask your Honors to note the wide distribution this order was given. You will note on page 36 of the English and page 33 of the German that a total of 340 copies were sent out to various subordinate units. You will note too the Higher SS and Police leaders received a copy.

Turning now to page 37 of the English and page 34 of the German, Document [NOKW-927](#), is offered as Prosecution Exhibit 205. Again, we have two situations reports of the Armed Forces Commander Southeast sent by the defendant Kuntze and Foertsch to higher headquarters of OKW and OKH in Berlin.

The first is:

Survey of the situation in the area of the Wehrmacht Commander Southeast (Terminated on 7 June 1942)

A) SUMMARY OF THE SITUATION In Serbia.

In general without change quiet. Small bands were fought with success.

In Croatia. Great activity of the insurgents in west Bosnia and in the Italian occupied area. Stronger uprisings in the new-Italian area around Laibach. Pacification in Eastbosnia progressing.

In Greece. Isolated cases of sabotage were met by immediate shooting of the guilty. Numerous arrests of persons suspected of having aided and abetted the enemy.

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I call your Honors' attention to paragraph 3, Losses listed by the Germans, Croatsians. Serbian State Guards, and finally the losses of the insurgents:

"1085 shot in combat; 79 wounded; 1745 arrest, large majority held for transportation to Northern Norway; 3 shot to death as reprisals."

I call your Honors' particular attention to paragraph 4 of this report:

"In Athens 2 explosive attacks on army cars. An attempt on railway line north of Athens. The guilty, i.e, hostages were shot. Strict warning was published.

"In Crete several of the mayors appointed by the occupation authorities were murdered. Participants in the crime and a number of hostages were shot to death."

Signed in draft by the defendant Foertsch, Brigadier General.

If Your Honors will keep in mind that this particular report is signed in draft by the defendant Foertsch.

The next report, still in the same document, is a survey of the situation in the area of the Wehrmacht Commander Southeast, terminated 23 June 1942, which is roughly two weeks later than the report which we have just seen:

SUMMARY OF THE SITUATION "In Serbia:

In general situation unchanged. Only local disturbances.

"In Croatia: In the part of west Bosnia occupied by German troops, German-Croatian troops met with stubborn resistance when cleaning up the Kozara-Planina area.

"In the Italian area the disturbances in the Slovenian frontier area were increased.

A new development is being created in the Italian area by the fact that the Italian troops are being taken away from the areas next to the line of demarkation towards the coastal area.

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In Greece: On 13 June sabotage operations on the air field Iraklion (north Crete) carried out by English Commando troop probably with support of Cretans in preparation for English Naval Operations directed towards the purpose of supplying the island of Malta.

..... We have next the familiar paragraph on losses, again I call your Honors' attention to sub-paragraph:

Insurgents:

1748 shot in combat 15 wounded 713 taken prisoner or arrested (large majority held for transportation to northern Norway) 275 shot as reprisal Up to now 37,477 have been shot to death in Serbia and Croatia in combat or as reprisal measure.

D.) Greece

2.) Investigations of the Commander in Chief South revealed, that raid on air field Iraklion (see Daily Report of 20 June 42) was carried out by individual (English, Gaullic and Greek) soldiers and Cretans and apparently a further raid was planned. Apparently draconic penal measures applied directly after the first raid, have deterred the civilians from giving their support in the newly attempted raid against Kastelli.

.....

Now, I ask your Honors to note that this report is signed in draft by the defendant Kuntze, Wehrmacht Commander Southeast. The Prosecution will have cause to interpret the fact that the defendant Foertsch signed the first report and the defendant Kuntze this report sometime later.

JUDGE CARTER: Mr. Fenstermacher, what is the meaning of this statement "signed in draft"? What is your interpretation of that?

MR. FENSTERMACHER: Your Honor, I am not very familiar with that military procedure.

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Perhaps Mr. Denney can answer that question.

MR. DENNEY: May it please your Honors, I think we have had examples up to now of the process of signing in draft on occasion; it is submitted that drafts which are signed go out. In short, an order is

drafted at a headquarters. We can take just as an example Army, an Army or Corps or Division. The necessary officers who are to be consulted are given copies of it; a draft copy of the order is then completed, based on the information that is obtained from the various staff sources. Now, there are sometimes, when that draft is signed by the Commander approving it, and if the draft as such is complete and considered as a final order, it can be distributed in draft, that is copies struck off from that and sent on out, and that original draft order – it is a final order – but it does bear the draft, d-r-a-f-t-, the words will go into the order book. We have had one instance that I recall here and I believe I can find it for your Honors in an earlier book where a draft order was distributed, it being a matter of time to get it out and it prevents the extra time take for recutting an order. Now, most times, after an order is signed in draft, the chief of staff or perhaps some other person in the Headquarters Staff, it is more or less of a matter for the Commander himself to determine, and the different Echelons, will re-run a final

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THE PRESIDENT: This statement on the side certified with the signature–

MR. DENNEY: And the certification with the signature is similar, if Your Honor please.

THE PRESIDENT: The certified copy?

MR. DENNEY: The certified copy in our army where an order comes out, and I think we had occasion to refer to one yesterday where an order went from the Wehrmachtsbefehlshaber Suedost (Army Commander Southeast) and had a division typed entry on the bottom from the 718th sending it down, and the original signature which appeared on the right and the certification were both typed and then added to that was a further certification by the division with a signature which appeared and the rank of the officer who was certifying to the order. But this signature here, if it is written and certified to, or in case it is a lower unit it can be typed, shows that the draft was signed or it wouldn't appear. The letters g.e.z. I believe appear before the typewritten letters of the person who has signed the draft. I believe that covers it.

MR. FENSTERMACHER: I turn next to page 42 of the English and page 37 of the German, Document [NOKW-1063](#). This is offered as Prosecution Exhibit 206. The document consists of various extracts from the War Diary of the Commanding General in Serbia and relates to certain retaliation measures taken by the Brandenburg Company 800.

I call Your Honors' attention to the entry under paragraph 1b:

"Mopping up action Fruska Gora showed fairly strong enemy near Grgurevci (16 kilometers northwest Buma) on 4 June. 18 enemy dead, 2 dead of our own, 3 wounded of our own. 6 June. Area around Grgurevci mopped up with concentrated forces. 257 Serbs shot to death, 3 wounded of our own."

Now, if Your Honors will remember this entry "257 Serbs shot to death". It would appear from this entry that this may refer to certain combat losses. If you will just bear that in mind, we will see from another page of the document exactly what is meant by that reference.

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Turning next to the report for 18 June. 1942:

"In reply to the telegram of the German legation in Zagreb of 15 June 42 submitted to me by the Plenipotentiary of the Foreign Office in Belgrade I wish to state:

"The German general was informed 4 June 1942 of the intention to send Company 800 (Training Regiment Brandenburg) which has been especially trained for difficult situations to Fruska Gora. This decision was taken in order to create order in the Fruska Gora speedily in the interest of the Croatian state by troops which were especially trained for difficult combat. It is incorrect that the company has carried out the mopping up operation according to its own judgment. The carrying out took place on the basis of a commitment order issued by me. At first, the company contacted only the Home Defense company present in Ruma; (they contacted) Colonel Gvozdanovic only after Obergespan Dr. Elicker had called on my Chief (of Staff). This was a mistake; however, constant with the Croatian authority in Ruma was made on 10 June 1942.

Planned operations of the Croatians against the insurrection have not as yet become known to me. And in my opinion cannot be carried out either since according to Dr. Elicker suitable troops are not available. Thus, Company 800 was available for the combat. The Home Defense company in Ruma has a guard mission.

"The shooting to death of 257 Serbs was carried out because of the losses suffered at the forest edge north of Grgurevci and particularly because of the two sergeants killed in action. It is explained by the excitement of the company engendered by the loss of two particularly brave leaders.

"The company, which until a short time ago was committed in South Serbia, overlooked the fact it was not fighting in occupied territory but in our allied state of Croatia. That was clarified immediately. After the decisive action of the company no more enemy actions by the insurgents in Fruska Gora have been reported for days.

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"I must reject as an insult to the German troops the comparison of the procedure of the German company with the atrocities of the Ustascha.

"I have issued an order that the Company 800 will depart from the area of the Fruska Gora on 18 June. It will be put at the disposal of Combat Group West Bosnia.

"The Home Defense company in Ruma is the only German troop left to guard the ammunition depot in Syrmia."

And the report is signed by Bader, Lt. General, Artillery.

Turning to page 45 of the English and page 39 of the German we see these entries in the War Diary of the Commanding General in Serbia:

"Major Rogoz, Croatian Liaison Officer intervenes concerning events in Grgurevci, reprisal measures and shootings to death by Special Missions Company Brandenburg 800."

Next the entry of 9 June 1942:

"Captain Muller, Special Missions Company Brandenburg 800, is again reminded that no reprisal measures of the troops are permitted to be carried out without approval of the Commanding General and Commander. During combat and immediately thereafter the troops have a free hand; however, reprisal measures at a later date are impossible."

The entry of 17 June 1942:

"Captain Muller, Special Missions Company Brandenburg 800, reports concerning results of mopping up operations Fruska Gora. He is informed that the company will be attached to Combat Group West Bosnia since the Fruska Gora operation has checked the activity of insurgents and Combat Group West Bosnia requires reinforcement."

Next on page 46 of the English and page 40 of the German is NOKW1390, which is offered in evidence as Prosecution Exhibit 207. This is a report of Combat Group West Bosnia, dated in the field 27 July 1942. It relates to insignia worn by the enemy against whom the combat group had been engaged.

"Evaluation of Situation and Proposals.

"Enemy in Samarica, partisan unit 'Banija', strength about five bat talions, in all about 1400 armed men in uniform."

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I think we need not read the rest of the document, if Your Honors please. The report is signed "Stahl", the Commander of Combat Group West Bosnia.

Next on page 48 the English and page 41 the German document book, Document [NOKW-1440](#), which is offered as Prosecution Exhibit 208. This document is a collection of situation reports sent by General Bader as Commanding General in Serbia to the Wehrmacht Commander S.E. The first report is dated 21 July 1942 and is a situation report to--- I think it should be 29 July 1942:

Under "Enemy Situation, Serbian Area":

"North Serbia remained quiet.

"In the Banat 50 communists were shot dead in reprisal for attacks committed on members of the SS."

Under Paragraph VI, "Administration Report":

"In the concentration camps there are 111 hostages, 1695 reprisal prisoners."

The report is signed "Bader, General of the Artillery".

Your Honors will note the distribution list, "Wehrmacht Commander Southeast", as well as "Senior SS and Police Leader", among others.

Turning next to page 49 of the English and page 42 of the German. The paragraph of the report beginning on "Own Losses during the Period from 16 to 25 June 1942". Your Honors will note the tabulation, "Germans in Serbia, Germans in Croatia, Racial Germans in Croatia, Croats, Bulgarians, Italians, Serbian police (Chetniks), Russians," and the totals, 243 dead, 318 wounded, and 29 missing.

"Enemy losses during the Period from 16-25 June 42."

In the Serbian area 230 dead, none wounded, 49 arrested; in the Croatian area 775 dead, 23 wounded, 395 arrested; reprisal measures in the Serbian area, 50 dead, none wounded, and 15 arrested. Totals of 1055 dead, 23 wounded, and 459 arrested.

On page 50 English, 42 German, the final sentence of the report which we have extracted:

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"In Belgrade during the period from 16 to 25 June 1942, 119 arrests."

Next the report from General Bader, dated 20 July 1942. The report again is sent to Wehrmacht Commander Southeast. It is broken down into reports dealing with enemy situation. Another section dealing with activities of our own troops. Under that the next section, "West Bosnia":

"Mopping-up Operation Kozara - Prosara Pl. was terminated successfully after six weeks of combat. The strong enemy group which fought obstinately was destroyed. Total losses during the one mopping-up operation of the Kozara and Prosara:

"1. Germans: 63 fallen in combat, 144 wounded, 7 missing.

"2. Croats: 426 fallen in combat, 492 missing (of these 45 returned to the unit, 7 prisoners in partisan hands).

"3. Enemy: 3406 dead, 7947 prisoners, in addition 250 insurgents arrested, who will be shot dead after interrogation according to martial law."

THE PRESIDENT: The Tribunal will stand in recess for 15 minutes.

(Thereupon a recess was taken.)

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THE MARSHAL: Persons in the courtroom will please find their seats.

The Tribunal is again in session.

JUDGE BURKE: You may proceed.

MR. FENSTERMACHER: The Tribunal please, Your Honors will recall that prior to the adjournment - prior to the recess, rather - we were considering Document [NOKW-1440](#), Exhibit 208, in evidence. The document, you will recall, is a series of reports from the Commanding General and Commander in Serbia to the Wehrmacht Commander Southeast and we particularly were concerned with the report of the 20th of July 1942 which appears on page 50 of the English and page 42 of the German.

We had just about finished the report of the 20th of July 1942 and we had looked at paragraph 3, the bottom of page 50 of the English and page 42 of the German.

"Enemy losses: 3406 dead, 7947 prisoners, in addition 250 insurgents arrested, who will be shot dead after interrogation according to martial law."

And that particular report was signed: "For the Commanding General and Commander in Serbia, the Chief of the General Staff, Colonel Geitner," the defendant Geitner in this proceeding.

Geitner became Chief of Staff to General Bader in July 1942. This is the first time we have met him in our documents. We will have occasion to refer to him at greater length later. I should like at this time, however, to point out to Your Honors the defendant Geitner's signature which appears in his own hand on the bottom of this particular report of 20 July 1942. It is on page 8 of the photostatic copy of the document.

Continuing on the bottom of 51 of the English and page 43 of the German, again the tabulation of German losses from 6 July to 15 July 1942: 43 dead, 99 wounded, 9 missing -- followed by the tabulation of the enemy losses from 6 July to 15 July 1942 -- the totals for the enemy losses: 1,454 dead, 144 wounded, 628 arrested.

"In Belgrade 103 arrests during the period from 6 to 15 July 1942."

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Next, the Daily Report of the 18th of July 1942 from the Commanding General and Commander in Serbia, General Bader, to the defendants Kuntze and Foertsch at the headquarters of the Wehrmacht Commander Southeast in Greece:

"West Bosnia: Total enemy losses in mopping up of the Kozara Prosara: 8,406 dead, 7947 prisoners and arrested persons were sent on to camps; further 250 partisans under arrest who will be shot dead as insurgents after interrogation. A list of the total losses will follow separately."

The report is signed by the Operations Officer for the "Commanding General and Commander in Serbia".

I think we may skip the final two pages of this series of reports at this time and pass to the next document. Before passing on to the new document, however, my attention was called to an error in translation which appears on page 38 of the English and page 34 of the German in Document [NOKW-927](#), which was Prosecution's Exhibit 205. This error was called to my attention by the official interpreters and I am glad to call it to Your Honors' and defense counsels' attention. It appears in paragraph 4, the line beginning, "In Athens--". It is on page 38 of the German and the bottom of page 34 -- page 38 of the English, rather, and 34 of the German.

"In Athens two explosive attacks on army cars. An attempt on railway line north of Athens. The guilty" -- this line should read: "The guilty or hostages were shot."

Turning now to page 55 of the English and page 54 of the German, Document [NOKW-1138](#) is offered in evidence as Prosecution Exhibit 209. This document again consists of reports from the Wehrmacht Commander Southeast to the OKW and OKH Higher Headquarters in Berlin.

The first report is the "Survey of the Situation in the Area of the Wehrmacht Commander Southeast (terminated on 8 July 42)." Paragraph 1 is the "Overall Situation in Serbia-Croatia":

"Good progress in the attack against the groups of insurgents encircled in the area Kozara-Planina whose complete destruction is impending.

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Mopping-up operations still in progress especially in the northern part. Up to now the insurgents have lost 2080 dead. In the encircled area, starting from 5 July 1942, a mass flight of up to now 9591 refugees - of those two-thirds women and children - began. Some units of the insurgents hid their arms and fled also. Captured insurgents were shot dead. Male suspects were gathered as penal prisoners for Norway. Women and children were brought into camps on account of danger of epidemics and in order to prevent unrest in other areas. The livestock was taken over for later pacification and was then distributed to the peace loving population."

Paragraph 2 of the report continues with the tabulation of losses in the entire area. I call Your Honor's attention to the losses of the insurgents: 4,963 dead, 150 - it should be 150 rather than 160 - wounded, 6,641 arrested, 346 shot to death as reprisal.

"In all up to now a total of 45,261 killed in combat or shot to death as reprisal in Serbia and Croatia."

And this report is signed in draft by Foertsch, the Chief of Staff to the Wehrmacht Commander Southeast, the defendant Kuntze.

The next report begins on page 57 of the English, page 48 of the German, a report about the "Situation in the Area of the Wehrmacht Commander Southeast, Terminated on 23 July 42."

Under "Enemy Situation":

"In Croatia increase of number of bands appearing in the Danube Save band west of Belgrade. The enemy propaganda slogan to destroy stocks of crops and harvesting machines had as a result an increased activity of bands north of the Save."

Again the table of losses in the total area - and again I call Your Honors' attention to the losses of the insurgents: 1,620 dead, 273 wounded, 8,849 captured or arrested, 431 shot to death as reprisal; and this report is signed in draft by the defendant Kuntze, Wehrmacht Commander Southeast Page 59 of the English and page 50 of the German - this is prosecution's next document, [NOKW-1253](#), which becomes Prosecution's Exhibit 210.

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This is a combat report of the 738th Infantry Regiment to the 718th Infantry Division, dated 3 August 1942. We have omitted to translate the various operational matters which is listed at the beginning of the combat report but begin with the next portion.

"During these combats on 28 July the enemy lost at least 450 to 600 dead and 2-300 bounded.

"The demoralized partisans who hardly defended themselves tried to escape in a completely disordered flight. Bloody losses were inflicted upon them. A great number of them were captured and immediately shot.

"The village on the mountain pasture land was well camouflaged with branches. In the huts, the interior of which had been set up as quarters in the best possible manner by means of plank beds fixed one above the other, the following was found:

"Fresh traces of blood, bandages, two egg-shaped hand grenades, SS ammunition strips, one old rusted revolver, one completely rusted Serbian Very pistol, two bayonet sheaths, one German gas mask box, one wounded horse complete with a saddle and one novel with a Soviet star on the front page.

"On the huts there was written in Serbian 'Long Live Stalin'. Lying around in the neighborhood were bones of animals recently and not so recently slaughtered, goat skins, pocket lamp batteries, and tubes of tooth paste "The huts were set on fire and destroyed, and a considerable amount of ammunition that was in them, was detonated."

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"II Battalion reports the destruction of four huts and have handed over as booty to the Regimental Combat Post one sack containing medical (gynecological) instruments."

"Survey: 1. Enemy Losses: Altogether the following losses were determined:

MR. FENSTERMACHER: I will call Your Honors' attention to the totals: 970 dead and 450 wounded; and to the German losses in contrast, a total of 9 dead and 7 wounded. And the report is signed by "Colonel and Commander of the Regiment." Next on page 61 of the English and page 52 of the German is Rosecution's Document No. [NOKW-834](#), which is offered as Prosecution's Exhibit No. 211. This is a collection of activity reports and directives of the Wehrmacht Commander Southeast, for the period from 1 February to 28 February 1942. The Wehrmacht Commander Southeast at this time, of course, was the Defendant Kuntze, and his Chief of Staff was the Defendant Foertsch. I will call Your Honors' attention to the Paragraph under Enclosure 47:

"Situation in Serbia and result of the penal expedition in southeast Croatia:

In a teletype to the Wehrmacht Commander Southeast dated 1.2.42 the Chief of OK W points out that the situation in Serbia according to reports of Wehrmacht Commander Southeast and the result of the penal expeditions do not as yet justify hopes that insurrections on a large scale will not start again in spring. Up to now we have been unable to break the backbone of the insurgents by draconic measures. The most effective means is by the use of an extensive system of informants by brutal measures on the part of the police and the secret police to detect and to burn down the formation of insurgents while still

in the initial stage. After the appointment of a senior SS and Police Leader these methods must be employed to the utmost. The Chief of the OK W again points out explicitly that the Wehrmacht Commander Southeast will have to get along with the use of his remaining forces during the coming year also and that it is his duty to apply those methods which will guarantee success."

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MR. FENSTERMACHER: Next on page 62 of the English and Page 52 of the German are extracts from the Daily Reports of the Wehrmacht Commander Southeast, for the period 1st to the 15th of February 1942. The portion under "Serbia: In reprisal for German losses in the month of January 449 prisoners shot to death, the shooting of an additional 3434 has been ordered." And under the portion of the report dealing with Greece, "5.2: 3 attacks with explosives on motor vehicles in Saloniki, 20 Greeks shot in reprisal." And then the Activity Report for the period from the 1st of March to the 31st of March 1942:

"Losses during the period from 16.2. -20.3.42: Germans dead: 37, wounded: 67, missing: 45. Croatsians: dead: 75? wounded: 205. Bulgarians: dead: - , wounded: 19. Serbian Police: dead: 15? wounded: 13. Insurgents: 1983 (shot to death in combat), 1552 (Reprisal measures) "Enclosure 125:

Directives for treatment of Insurgents in Serbia Teletype to Commanding General and Commander in Serbia:

Wehrmacht Commander Southeast agrees that Insurgents not seized in combat will be transported to Norway for labor employment. Insurgents captured during combat actions are as a matter of principle to be hanged or to be shot to death."

Next under Enclosure 127 for the 24th of March:

The Deputy Wehrmacht Commander KUNTZE - General of the Engineers celebrates on 24.3.42. his 40th anniversary in the service. Time table for the 24.3 and speech by the Chief of the General Staff, Generalmajor (Brigadier General) Foertsch, see file folder Commander in Chief and Chief (OB. - und Chef).

MR. FENSTERMACHER: Signed "For the Wehrmacht Commander Southeast, (12th Army), The Chief of the General Staff."

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Continuing on Page 64 of the English and Page 54 of the German, the report dated 30th April 1942, for the period from the 1st of April to the 30th of April 1942. The various headings of the report are set out as Serbia, Croatia, and finally, "Losses during the period from 21.

3 to 5.4.1942." I will call Your Honors' attention to the losses of insurgents, "1262 shot to death in combat, 66 shot to death or hanged in reprisal. Total since 1.9.41: 11,522 shot to death in combat, 21,809 reprisal measures." And then Enclosure 28 a, "Conferences of the Chief of the General Staff of the Wehrmacht Commander Southeast (12th Army) with the Commander in Chief South and Commando supreme in Italy. The Chief, Generalmajor (Brigadier General) Foertsch returned from his

flight to Italy on 11.4.42 P.M. The purpose of this duty trip was a conference with the Commander in Chief South regarding the Fuehrer directive: 'Regulation of the Channels of Command on the Coasts' and conference with Italian authorities regarding the return of the Siena Echelon. Result of these discussions see file notes to the Chief Conference on 13.4.42." Next, on page 66 of the English and Page 55 of the German, the notation of the "Chief of Staff Conference in Headquarters Wehrmacht Commander Southeast on 28 and 29.4.42. "The Chief," and here the Chief of Staff Conference is meant, "The Chief Conference took place on 28 and 29.4.42 in Headquarters Wehrmacht Commander Southeast Arsaklo near Saloniki, operations section." And then the participants are listed. Skipping now to Paragraph "c" under "Participants," "From Wehrmacht Commander Southeast:

Chief of General Staff, Brigadier General Foertsch", attended. Turning next to Page 67 of the English and Page 56 of the German, report of the Wehrmacht Commander Southeast, dated 31 May 1942, for the period from the 1st to the 31st of May 1942. There is a notation of a duty trip taken by the Chief of Staff, the Defendant Foertsch. "On 3.5. P.M. Chief leaves for Belgrade for conference with the Deputy Chief of the Operational Staff OKW/WFSt., (Wehrmachtfuehrungsstab), Generalmajor Warlimont". Warlimont, if Your Honors please, was General Jodl's immediate subordinate in the Planning Section of OKW, Berlin.

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The same Jodl who was tried by the International Military Tribunal in the Goering Case. Under the section of the report dealing with Croatia: "Dead: German: 6, Croatian: 46, Serbian Auxiliary Police: 3, Wounded: German: 5, Croatians: 45, Missing, Croatians: 80. Insurgents: 321 shot to death in combat, 404 arrested, 82 shot in reprisal." Turning next to Page 68 in the English and Page 58 in the German, the report of the Wehrmacht Commander Southeast, dated 30 June 1942, dealing with the period of time from the 1st to the 30th of June 1942. Under the portion of the report dealing with losses I will call Your Honors' attention to the comparison of the losses suffered by the Germans, the Croatians, and the Serbian State Guard, with those suffered by the insurgents: "1085 shot to death in combat." For the wounded here, Your Honors, the figure should read 79 instead of 19 in your Document Books. "1745 arrested, mass intended for north Norway, 3 shot in reprisal." Turning to Page 69 of the English and Page 58 of the German the report continues for the section on Greece:

"In Athens 2 dynamite attacks on Wehrmacht motor vehicles. One attack on railroad track north of Athens. Culprits and hostages respectively were shot to death. A sharp warning was published.

In Crete several mayors installed by the occupation authorities were murdered. Accomplices and a number of hostages shot to death."

Next under Enclosure 25, dealing with the Attack on airport Iraklion (Crete):

"Air district Crete and Commandant of Fortress Crete reports (tactical time 1305): During the night of 14.6 despite additional security sabotage and air attack on airport Iraklion. 16 planes damaged. Commandant of Fortress Crete has let 50 hostages shot to death."

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MR. FENSTERMACHER: Next on Page 70 of the English and Page 59 of the German are the losses for the period 7 to 23 June 1942. And again the tables of losses invite the comparison between those suffered by the Germans and their allies with those suffered by the insurgents:

"Insurgents: 1748 shot to death in combat, 15 wounded, 713 captured or arrested (mass intended for Norway), 275 shot to death in reprisal."

"Total up to now of people shot to death in combat or in reprisal in Serbia and Croatia 37,477." Next, on Page 71 of the English and Page 60 of the German the notation for the 4th of July 1942, "General Field Marshall List: The Fuehrer has appointed General Field Marshall List to command an army group in Russia." Your Honors will recall that Field Marshall List became ill in October, 1941 and was replaced by General Kuntze, who was named as the Field Marshall's deputy, as Wehrmacht Commander Southeast, and Commander in Chief of the 12th Army. Returning now to Page 71 of the English and Page 60 of the German:

"The former Commander in Chief of the 12th Army remembers all soldiers subordinate to him in an order of the day and expresses to them his gratitude and appreciation. Simultaneously the Field Marshall remembers all members of the Army High Command in a staff order.

The General of Engineers Kuntze Deputy Wehrmacht Commander Southeast and Deputy Commander in Chief of the 12th Army was transferred to Fuhrerreserve OKH (peacetime Garrison) effective 3.7.42. General of the Engineers Kuntze will continue as Deputy Wehrmacht Commander and Deputy Commander in Chief of the 12th Army until the arrival of the new Wehrmacht Commander and Deputy Commander in Chief of the 12th Army, General Loehr."

Continuing with the Total situation Serbia/Bosnia:

"Losses of the Insurgents 24.6.-8.7.42; 4963 dead, 150 wounded, 6641 prisoners, 346 shot in reprisal.

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Total up to now of people shot to death in combat or in reprisal in Serbia and Croatia 45261."

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MR. FENSTERMACHER: Next, on page 72 of the English and page 61 of the German is the entry for the 13th of July, referring to a Chief of Staff Conference.

13.7:

Chief of Staff Conference:

Personal report by Chief (of Staff) on the situation in the area of Wehrmacht Commander Southeast:

Croatia: Operation Westbosnien proceeding according to plan. Insurgent losses 24.6.-8.7.42: 5000 dead, 150 wounded, 6600 prisoners. 350 shot to death in reprisal. Up to now in Serbia and Croatia Insurgents over 45,000 dead! Insurgents are burying arms and taking to flight. Insurgents captured are either being shot to death or transported to Norway. Armed women are participating in the fighting.

MR. FENSTERMACHER: And, if Your Honors please, that is a personal report by the Chief of Staff for the Wehrmacht Commander Southeast, the Defendant Foertsch. Continuing with the entry of 20 July 1942, another Chief of Staff Conference took place on 20 July.

Chief (of Staff): Farewell Lieutenant Colonel GSC Macher who was hitherto Ia.

Reception of the new Ia Schipp von Branitz, Colonel GSC who took over the functions of Ia and head of the operational section on 20. 7. 42.

Lieutenant Colonel GSC Macher transferred to OKH Fuehrerreserve effective 15.7.42 Schipp von Branitz transferred from OKH Fuehrerreserve to 12th Army effective 15.

7 Subject of Chief of Staff Conference:

Croatia: Operation Kozara-Prosara concluded with great success. 7947 prisoners of which 1590 were transported to Germany, 2774 to Norway, 3000 children and women.

MR. FENSTERMACHER: Continuing on page 73 of the English and page 62 of the German is reference to the Visit by Deputy Chief of the WFST.

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Generalleutnant Warlimont (Major General) (Wehrmachtfuehrungsstab) On 24.

7 the Deputy Chief WFST Generalleutnant Warlimont paid a visit to Wehrmacht Commander Southeast in Saloniki/Arsakli.

MR. FENSTERMACHER: The next report, dated 28 July 1942, is on the situation in the area of Wehrmacht Commander Southeast up to and including 24.7.1942:

Mr. Fenstermacher: Again they report the losses in the total area, "Insurgents: 1620 dead, 273 wounded, 8849 captured or arrested, 431 shot in reprisal." Page 74 of the English and page 63 of the German, the Activity Report of Section Ia, of the Wehrmacht Commander Southeast, for the period from the 1st to the 31st of August 1942, "On 8.8 arrival of the new Wehrmacht Commander Southeast General Loehr. Orders for the reception will be issued. General of Engineers Kuntze will leave Sedes on 9.8." Next, on page 75 of the English and page 63 of the German is the entry for the 8th of August 1942, 8.8:Commander in Chief:

1230 hours landing of General Loehr the new Wehrmacht Commander Southeast also charged with the command of the 12th Army. 1700 hours transfer of duties of General of the Engineers Kuntze to General Loehr. 1800 hours farewell of General of Engineers Kuntze from the Staff and troops of the 12th Army before the Headquarters building in Arsakli. 1820 hours introduction General Loehr addresses the Staff and the troops. 1840 hours inaugural conference of General Loehr with the Department Chief.

9.8:

0900 hours departure of General of Engineers Kuntze and farewell at the airport.

MR. FENSTERMACHER: Your Honors will recall from the Prosecution's Opening Statement that General Loehr was the Wehrmacht Commander Southeast for the period from 9 August 1942, when he replaced the Defendant Kuntze, until August, 1943.

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It was General Loehr who was executed as a war criminal several months ago by the Yugoslavian Government. General Foertsch stays on as Chief of Staff to General Loehr, the new Commander in Chief of the 12th Army and Wehrmacht Commander Southeast. Continuing on page 75 of the English and page 63 of the German, the "Report on the situation in the area of the Wehrmacht Commander Southeast up to and including 9.8.42". Paragraph III of that report,

III. Losses in the total area 24.7. - 3.8.42 Own:

German dead 24, wounded 32, missing 5 Croatian:

dead 80, wounded 137, missing 136, Serbian State Guard:

dead 2, missing 3 Insurgents:

2268 dead, 152 wounded, 4817 additionally captured or arrested, 677 among them 3 Englishmen shot to death in reprisal.

MR. FENSTERMACHER: Next, the entry for the 14th of August, Commander in Chief:

By He 111 starting from Sedes 0720 hours.

Accompanied by: Ia von Schipp, Colonel GSC, IIa Colonel L'Estocque and O.O. Major von Schenk. Landing airport Tatoi. In Athens conference with report: Air District Headquarters Southeast, Lieutenant General (Air Force) Mayer, Commander Southern Greece, Lieutenant General (Air Force) Felmy Admiral Aegean Vice-Admiral Foerste. Visit with Italian Army General Geloso, with German Ambassador Altenburg and Italian Ambassador Ghigi 1220 hours to 1400 hours. Conference and report Lieutenant General (Air Force) Felmy and his experts. At the same time personal report by Colonel Krause, Commanding officer of the Army Coast Artillery. 1814 hours start and return flight to Sedes. Landing there 1915 hours. File notes pertaining to this visit of General Loehr in Athens see Enclosure 20.

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MR. FENSTERMACHER: Next, on page 77 in the English and page 65 in the German, Enclosure 38 to this report of the Wehrmacht Commander Southeast to OKH in Berlin this time referring to the Reorganization of the Channels of Command Southern Greece.

General Loehr suggests to the OKW W. F. St. the following reorganization in the Channels of Command in South Greece:

1) Staff Commander Southern Greece retains its present form as a Wehrmacht Office.

- 2) As before the direction of the supply for Army, Luftwaffe and Navy by seaways remains as before the task of Wehrmacht Commander Southern Greece in accordance with the directive of Wehrmacht Commander Southeast.
- 3) After withdrawal of Air District Headquarters Southeast an Air District Staff for special employment for the total area of the Wehrmacht Commander Southeast including Crete is to be subordinated to Wehrmacht Commander Southeast.
- 4) Commandant Fortress Crete will be subordinated directly to Wehrmacht Commander Southeast. The supply for Crete will be regulated as before by Commander South Greece in accordance with the directives of Wehrmacht Commander Southeast and in detail according to the requisitions of Commandant Crete.

MR. FENSTERMACHER: Finally, on page 78 of the English and page 65 of the German, Enclosure 40, dated 28 August 1942, Situation in the area of the 2nd Italian Army.

The Chief of General Staff General Foertsch reports to OKW, WFST and to the OKH on the situation in the area of the 2nd Italian Army during the period from 10 - 20.8.42

MR. FENSTERMACHER: This is signed "For the Wehrmacht Commander Southeast (12th Army), The Chief of the General Staff." I would like to call Your Honors' attention to the size of this document from which we have just been reading excerpts. The portion from which we have been reading takes only from page 61 to page 78 in Your Honors' Document Books, and the size of the document which has been furnished for the Defense is this large (indicating by holding up book). Turning next to page 79 of the English and page 66 of the German Document Book is No. [NOKW-977](#), which is offered as Prosecution's Exhibit No. 212.

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This document consists of situation reports of various subordinate units, to the 717th Infantry Division. "The 717 Infantry Division was subordinated to: from 1 Jan. 42 to 2 March 42 to the LXV Corps Command for special use from 3 March 42 to 31 Dec. 42 to the Commanding General and Commander in Chief in Serbia". Turning first to the Daily Report of the 19th of March 1942, "500 Jews after having been deloused were transported from Mitrovica to Semlin." Next, there follows a table for the 737th Infantry Regiment, listing the Day, Place of Commitment, Unit, and Purpose of Operation, performed by the Regiments. I will call Your Honors' attention to the activity of the Regiment on the 17th of March, when it was committed at Kragulevac, and the subordinate unit of the Regiment which was involved was the 11th Company, and its purpose of operation was a "Reprisal measure, 121 shot to death." Continuing with the report of the 737th Infantry Regiment on page 80 of the English and page 66 of the German, the prescribed form was not used in order to economize on paper, as neither we nor the enemy suffered any losses throughout the operations. Only in the reprisal measures carried out by the 3rd Battalion 737th Infantry Regiment in Kragujevac during the time from 24 February to 7 March eighty prisoners and within the period from 17 March to 23 March one hundred seventy one prisoners were shot to death.

MR. FENSTERMACHER: And then, there is a handwritten note.

24 Feb. to 23 March 201 prisoners shot to death.

(Signature) Saldern (?)

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I think we may skip now to page 82 of the English, page 67 of the German, the daily report of the 749th Infantry Regiment for the 6th of May 1942, "45 Communists were moved from Cacak to Germany (work camp)."

Next the report of the 717th Infantry Division dated 11 May 1942, subject: Combating of Insurgents in Southern Serbia, under paragraph 5, task: "Insurgents are to be annihilated when found. Leniency towards these elements is not in order."

Next at the bottom of page 82 of the English, 68 of the German, the daily report for the 24th of May 1942, "In order to prevent further acts of sabotage and raids 100 hostages shall be arrested from Section West, 50 hostages from Section Middle. At the suggestion of Mayor Uzice." Beg your pardon, that should continue as all one sentence.

Next on page 83 of the English and 68 of the German is an enclosure to the activity report of the 717th Infantry Division dated 15th of August 1942, with its subject "Enemy Situation." Report for the period from the 1st to the 15th of August, 1942. Under Enemy Situation, Section South:

A larger operation of the 749th Infantry Regiment from Biljanovac (12 kilometers north of Raska) and Rudnica (8 kilometers southeast of Raska) towards the east against the Kopaonik (Bloca) went on without contact with the enemy. The Bulgarian troops guarding the frontier to the West captured 10 men carrying arms. The men were shot by Bulgarians after having been interrogated. Among them were 3 Englishmen, one of whom is supposed to have been an officer. It is assumed that they were not parachutists but escaped prisoners of war.

The bad state of their clothes seems to confirm this.

Next on page 84 of the English - well, if Your Honors please, I think we may skip these intervening pages and continue on page 87 of the English and 70 of the German with the daily report of the 7th of October, 1942.

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"Units of the 3rd Battalion, 737th Regiment search Mihajlevci (26 kilometers southeast of Ruma). Fortified positions found in a house, 1 case of bandages captured, house burned down, 4 partisans shot in flight, inhabitants of house arrested."

Next is the report of the 22nd of October, 1942: "The 1st Company of the 737th Infantry Regiment Captures 18 partisans in Mihaljevci (22 kilometers southeast of Ruma). On the way back they are fired on by 40 partisans at point 78 (1 kilometer south of Prhovo - 20 kilometers southeast of Ruma). 5 enemy dead, 18 prisoners shot to death; own losses; 3 wounded."

Next on page 89 of the English and 71 of the German is a fuller account by the 717th Infantry Division on the reprisal measures against the town which has been referred to here on two occasions earlier as Mihaljevci and Prhovo.

On 23 Oct. 42 the reprisal measure against Mihaljevci is to be carried out.

For this purpose 2 Companies transported on trucks equipped with heavy weapons and 4 armored cars will be employed.

Measures to be carried out:

1) The place to be encircled; the population to be assembled and interrogated concerning the whereabouts of those killed and the truck of the 717th Communications Company. Men from 16 years of age and over and single women are to be taken along for deportation. Cattle and other means of maintenance are to be carried away on vehicles belonging to the village. Mihaljevci is to be burned down.

2) Secondary operation against Prhovo; it is possible that the Communists who made the raid on 21 Oct. come from there. The population to be interrogated and 30 hostages to be arrested.

In both villages the reasons for the reprisal measure are to be made known and these reasons are also to be made known to the population of neighboring communities as a threat that the measures will be carried out again if similar incidents should reoccur.

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3) The operation is to begin shortly before daybreak, so that the villages will be reached early in the morning, In approaching watch out for bell and other signals.

The order is signed: by Dr. Hinghofer, the Commander of the 717th Infantry Division Turning next to page 93 of the English, page 72 of the German, the entry for the 14th of November, 1942, concerning the reports of the 717th Infantry Division:

The 1st Company of the 737th Regiment arrests 14 suspects in Dob rinci (10 kilometers southeast of Ruma), 1 armed Communist, found hiding shot to death (the corpse was hanged up in public as a warning) 2 houses (Communist courier and leader of youth) burned down.

On the night of 12 Nov. a railroad security patrol composed of Volksdeutsche arrested an English officer who jumped out of a moving train near Babinci (8 kilometers southeast of Sid); given over to S.D.

Turning next to page 95 of the English, page 73 of the German, the daily report of the Division for the 18th of November, 1942, "Combat Troop, 1st Battalion, 737th Regiment contact with the enemy north of Popinci (17 kilometers southeast of Ruma); 2 Communists killed, 13 prisoners shot to death."

Turning next to page 97 of the English and 74 of the German, it is Document NOKW01443 which is offered as Prosecution Exhibit 213; with the introduction of this document and the two succeeding documents, we turn our attention to Greece for the period during which the defendant Kuntze was

Commander-in-Chief of the 12th Army and simultaneously Wehrmacht Commander Southeast and the defendant Foertsch was his Chief of Staff, first is a report of the Commander Saloniki Aegean dated 3 November 1941 to the Armed Forces Commander Southeast. I ask Your Honors to note particularly the change which takes place during the period of time covered by this and the two succeeding documents.

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This is 3 November 1941. The documents which will follow are of January 1942 and February 1942. The subject of the Commander Saloniki Aegean's report is the political situation, compared to preceding months, has become more acute. Especially around the middle of the month incidents of various types increased: an attack on a Wehrmacht vehicle on the road Saloniki-Serres, to which 2 members of the Navy fell victim; several cables destroyed; one serious act of sabotage at a railway workshop; local resistance to Greek gendarmes; and others. By energetic employment of fast patrols by the troops the centers of unrest were wiped out at the start. During this extreme severity was applied to achieve deterring effects. Of the total of 488 shootings carried out so far, 442 took place during the month covered in the report. 10 persons were hanged.

In addition 4 death sentences by courts martial were carried out. 3 villages were burned down, because they served as support to insurgents. In the course of the burning ammunition, and even in some Cases, explosives blew up in many houses. Of the 164 inmates of the Concentration Camp, 68 were sent there during the month reported on. The energetic treatment had its effect; at the end of the month an apparent easing of the situation is noted.

In order to strike at members of the bands personally who fled to the mountains, a proclamation was made to the population, asking everybody who has left his village to return within 10 days; the property of inhabitants who have not returned to their homes will be burned.

It is signed on page 99 of the English and page 75 of the German by von Krenzki, the Commander Saloniki Aegean.

Turning next to page 100 of the English and 76 of the German, Document [NOKW-1392](#), it is offered as Prosecution Exhibit 214. This is another report of the Commander Saloniki Aegean to the Wehrmacht Commander Southeast, this time dated 6 January 1942 and being a monthly administration report for the month of December, 1941.

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The political situation remained outwardly calm. A certain inner tension, resulting from the military set-backs in Russia and Africa and from the food situation, which is deteriorating, should not be overlooked. Several small attempts by means of explosives on the railway line and against the house of the leader of the former E.E.E. (National Socialist Party of Greece) are to be considered as individual acts. However, in order to show from the very beginning that if necessary the same severity would be used against disturbers of the quiet as was necessary in October, 12 Communists taken from a concentration camp were shot dead, according to martial law, in retaliation.

Communist propaganda has increased. It appears that they have succeeded in harnessing even intellectual circles for subversive Communist activities. According to the figures on 29 December, 1941, 370 arrestees were kept in concentration camps.

Signed the Commander Saloniki/Aegean, Major General von Krenzki.

Finally, on page 102 of the English, 77 of the German, Document NOKW-1398, which is offered as Prosecution Exhibit 215, this again is an activity report of the Commander Saloniki Aegean dated February 1942.

This, if your Honors please, completes the presentation in Document Book VIII.

THE PRESIDENT: At this point, we will discontinue, to resume at half-past one.

(The Tribunal recessed to 1330 hours.)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours.)

THE MARSHAL: The persons in the courtroom will be seated.

The Tribunal is again in session.

JUDGE BURKE: You may proceed, Mr. Denney.

MR. DENNEY: Thank you. In view of the ruling of the Tribunal this morning with reference to Exhibits 4a for identification and 100a for identification, at this time I should like to give the Secretary General the exhibit which is Exhibit No. 071-PS and ask that it be marked Exhibit 4b in evidence. If Your Honors will recall, we have been using the letter "a" for identification purposes.

JUDGE BURKE: It will be admitted.

MR. DENNEY: And with Your Honors' permission I should like to refer to that portion of the exhibit which has to do with the defendant List. It is a letter of 23 April 1941 and it is directed to Reich Director (Reichsleiter) Bormann, at present at the Fuehrer's headquarters. It starts out, "Dear Party Member Bormann--" and I think we may turn to page 9 of the English which is the second numbered paragraph of the letter.

JUDGE BURKE: Is this Exhibit 4 to which you are referring?

MR. DENNEY: Yes, sir, Exhibit 4b in evidence. The interpreters and stenographers do not have the book. I would request them that they bring all copies of the books to court because from time to time this situation is going to arise again and obviously it is impossible to read excerpts if they have no copies and it is submitted that an out of hand translation is not what the record wants, particularly in these exhibits to which objections have been made and they are admitted.

JUDGE BURKE: You wish a suggestion from the Tribunal.

MR. DENNEY: Yes, sir.

JUDGE BURKE: Very well, we can see that the suggestion is a good one.

MR. DENNEY: Thank you, Your Honor.

INTERPRETER: What book?

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MR. DENNEY: Document Book 1.

JUDGE BURKE: Is your thought that they be procured now?

MR. DENNEY: I think we might pass it at the time.

JUDGE BURKE: Yes, and go to some current matter.

MR. DENNEY: I can come back to it at a later time when the books are available.

Turning now to Document Book 9, the prosecution offers as Exhibit 216 in evidence Document [NOKW-858](#), which appears on page 1 of the English and German text. This is an affidavit executed on 12 March 1947 by the defendant Curt Ritter von Geitner.

JUDGE BURKE: Is this Exhibit No. 216?

MR. DENNEY: No. 216, if Your Honor pleases.

"Affidavit:

"I, Curt Ritter von Geitner, do swear, state and declare:

"I was born on 3.5.1885 at the Truppacher Hof near Zweibruecken, Rhenish Palatinate, as a son of the tenant farmer Ernst Geitner and his wife Maria nee Wolff. When father died in 1889, mother moved with us to the city of Zweibruecken. There I attended elementary school from 1890 to 1893. I then attended the Humanistic Gymnasium, where I graduated in July 1902.

"On 19 July 1902 I joined the Royal Bavarian 5th Field Artillery Regiment Landau (Palatinate). From 1 March 1903 to 31 January 1904 I attended the Military Academy in Munich. I was made a lieutenant on 12 March 1904. I attended the artillery school in Munich from 1 October 1906 to 15 August 1907. I became a 1st lieutenant on 12 March 1912. On 1 October 1913 I was detailed to the Military Academy in Munich.

"On 4 August 1914 I went to the front, as staff officer, with the mounted detachment of my regiment (Bavarian Cavalry Division) (France). In the winter of 1914/15 I became chief of the 1st Mounted Battery with which I went to the Russian theater of war in April 1915. I was promoted to captain on 15 August 1915. In September 1916 I was assigned to the General Staff of the XV Reserve Corps (West), and in September 1917 to the General Staff of the High Command of the Imperial German Army in the south (Galicia). This High Command was transferred to the West as High Command of the 19th Army in January 1918 (St. Avold). During World War I, I was decorated with:

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the Iron Cross, 1st and 2nd Class, the Bavarian Military Merit Order, and in May 1916 the Bavarian Military Max Josef Order, which carried with it the privilege of personal nobility.

"At the end of the war I left the army in order to join - by request of my childless cousin - the firm of Geitner and Co., a small factory producing ceramic dyes in Schneeberg/Erzgebirge (Saxony). For this position I prepared myself by studying chemistry at the Technical Institute in Munich in 1919 and 1920. Moving to Schneeberg I joined the firm as a partner on 1 January 1921. From September 1926 I was the manager.

"In 1936 without my doing anything about it I became major of the Reserve in the new Wehrmacht and on 8 September 1939 I was called up for war service, first as commander of an infantry replacement regiment in Zwickau (Saxony). On 1 March 1940, despite my express request I was detailed to the General Staff and transferred as IA officer to Wehrkreiskommando VIII in Breslau. Despite a renewed request to be used at the front I was transferred to the General Staff on 15 August 1940. On 25 October 1940 I became chief of the General Staff of the XXXXVth Corps Command in France. I was promoted to lieutenant colonel of the Reserve on 15 November 1940.

"In July 1941 I was ordered to the staff of Army Group Mitte (East), and on 31 January 1942 I was given a leave home and transferred to the Fuehrer Reserve. On 12 July 1942 I was ordered to Belgrade as chief of the Command Staff of the Commanding General and Commander in Serbia. From 1 July 1942 I was a colonel of the Reserve. In September 1943 I became chief of the Command Staff to the newly created Military Commander Southeast. On 1 April 1944 I was promoted to Generalmajor (brigadier general) of the Reserve and was relieved and transferred to the Fuehrer Reserve on 6 October 1944. On 31 December 1944 I was discharged from the General Staff and on 1 February 1945 I was appointed chief of the newly created office 'Operational Group Transportation Direction' (at Berlin, later Waltershausen near Gotha, Reichenhall, finally Zell am See, where I was taken prisoner on 9 May 1945)."During the 2nd World War I received the decorations:

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the clasps for the Iron Cross, 1st and 2nd Class, and the War Merit Cross 2nd Class.

"In October 1933 I was transferred from the Stahlhelm as an honorary Fuehrer of an SA Standarte composed of members of the Stahlhelm. But after three and one-half months I was relieved because of political unreliability and no longer used as a Fuehrer. I became a Party member in the spring 1938.

"28 September 1909 I married Hedwig nee Kollmar. I have four sons, three of whom are living.

"I have read the statement above consisting of three pages in the German language and I declare that to the best of my knowledge and belief it is the entire truth. I have had the opportunity to make changes and corrections in the above statement. I have made this statement voluntarily without any promise of reward and I was neither threatened nor compelled to do so.

"Nuernberg, Germany, 12 March 1947.

(signed) C.R. von Geitner" In Your Honors' copy the certification of Mr. Kreilesheim is missing.

However, it is on the German original.

JUDGE BURKE: It is on our copy.

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MR. DENNEY: Thank you, your Honor, it isn't on ours.

Certainly there were several stencils made in the process of running this document. The one I had does not contain the certification. It is on the German, as I stated, and I should like -- perhaps Your Honors would care to look at the original to see the photostatic copy of the defendant Geitner's signature. Your Honors have seen one on an order. It is the first signature appearing below that of Mr. Kreilisheim.

The next exhibit appears at page 4 of the English and page 4 of the German copies. It is [NOKW 704](#) and is listed in the index as the service record of General Kurt von Geitner. It actually is the last three pages in the English copy. The first seven pages are excerpts from service records of other officers who served in the Southeast, and contain comments by some of the defendants here involved, which we submit are relevant.

We offer this as Prosecution Exhibit 217, in evidence.

Turning first, if your Honors will, to page 9 of the English, page 12 of the German copy. This is the American equivalent of a 201 file, which is the record which is kept -- Your Honors have seen others -- with reference to the earlier named defendants, List, Weichs and Kuntze. And the only entry, I think we need concern ourselves with on the first page, which is page 9 of the English and page 12 of the German, and the one of 5 July 1942, Chief of General Staff of Commanding General and Commander in Serbia, and following that entry of 26 August 1943, the same position, which is Chief of General Staff with Military Commander Southeast, and then at the top appears the names, Geitner, Curt, Ritter von; and turning over to page 13 of the German and page 10 of the English, we see General Bader rating Geitner for his performance up to the period 1 March 1943. Bader, Your Honors will recall, was the Commanding General, Commander in Serbia, the one whom Geitner was serving as Chief of Staff during the period for which this command was made.

"Especially valuable individual, straightforward, open, energetic. Intelligent and comprehensive knowledge. National Socialist and General Staff officer of the old school, familiar with the present principles through private study and practice.

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Great conscientious working force, with practical sense. Physically tough, possesses endurance. Adapted for commander. Especially impressive soldierly bearing. Above average. Adapted also for Chief of Staff of a regular corps."

And the defendant Foertsch had occasion to rate him at the same time:

"Foertsch, Chief of Staff, Army Group "E": Completely in agreement. Excellent Chief of Staff. Indispensable at the present time for Serbia."

And on the 31 August 1943 Felber, then the Military Commander Southeast rated him as follows:

"Has earned special merit for a year and a half as Chief of the General Staff of the Commanding General and Commander in Serbia, which has already led to repeated suggestions for preferential promotion. Now after the onslaught of work up till now and the size of the responsibility through the reorganization of the staff and the expansion of the authorities to the entire Southeast have been increased, a preferential promotion of the especially prudent and hard-working chief of the General Staff of the Military Commander, Southeast, appears justified. Deserves exceptional treatment as a person of above average formate and as an officer especially proven in two world wars. Adapted as commander."

And then Foertsch again, as Chief of Staff, and the Commander in Chief, Southeast:

"Suggestion is urgently endorsed. An excellent Chief of General Staff. Deserves priority promotion before the numerous other military and civilian offices."

And then on 1 March 1944, Felber, as Military Commander Southeast rated him again:

"Self-confident, clear personality. Succeeds, recognizes no difficulties. Excellent General Staff officer and Chief of the General Staff, who understands how to solve his often difficult missions with calm and a zest for work. Adapted for commander. Also adapted for Chief of Staff of a regular corps, but best utilized as before, most possibly under preferential promotion to Brigadier General."

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And herewith follows the list of his promotions, which the Court already has before it.

Now, turning to some of the earlier pages, the personnel record of Major General Ringel, who was a general officer in the Gebirgstruppe or Mountain Troops. On 2 October 1944 the defendant Rendulic had occasion to rate him, page 5 of the English and page 6 of the German. At that time Rendulic was commander and Chief of the 20th Mountain Army:

"Energetic, personality. Outstanding leadership qualities. Enthusiastic National Socialist. No opportunity verification as Commanding General before the enemy."

On 7 August 1944, Field Marshal Frhr. v. Weichs, as Commander in Chief Southeast, had occasion to rate him, and he notes as the entry under Frhr. v. Weichs:

"Agreed: Ringel has gained an especially respected position by his capable handling of the Croatian offices in Zagreb. He stood the test also in operation in Hungary in a similar sense."

Then we come to Helge Aleb, who was a Lt. General of the Infantry--and this apparently seems to have been inserted only because the pages three and four come between pages two and five.

THE PRESIDENT: Is there any other reason for its appearance in the document?

MR. DENNEY: Well, he was acting commander general of the 69th special purpose corps in June 1944. It will come up about him later. There are no comments about him to be offered now. And

General GlaiseHorstenau, who was plenipotentiary commanding general in Croatia, this was in 1943 and 1944.

Felber, on 8 March 1944, as Military Commander Southeast, rated him:

"Extraordinarily educated and intellectual personality. Proven National Socialist. Despite his age, vigorous and full of fire. Excellently proven in his difficult position. Political talent. Expert on the Southeast. Above average."

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And then on 1 March 1944, the defendant Field Marshal Frhr. von Weichs, at that time, Commander in Chief Southeast, rated him:

"Educated in many fields, proven National Socialist. Proved himself fully as Plenipotentiary General, thanks to his good gift of observation, his political experience, and talents, as well as through his good talent for negotiation. Intellectually highly endowed. Physically sound. His strength lies more in political than in military fields due to his earlier political activity. Recognized historian and writer. Good expert on the Balkan area. On the negative side. Long abstinence from troop service. Above average in a special field."

And that, if your Honors please, concludes exhibit 217.

We now turn to page 15 of the German and page 12 of the English document, [NOKW 1335](#). Perhaps your Honors have not yet seen one of those 201 files, the one which has just been offered, the photostatic copies of which are there.

I might point out at this time that we are now moving up to the third period, which will cover from August 1942 to 1943, and the defendant Foertsch, as Chief of Staff for the Armed Forces Commander Southeast, and Geitner as First Chief of Staff for the Commanding General and Plenipotentiary in Serbia, and later as Chief of Staff to the Armed Forces Commander Southeast. I am sorry -- later as Chief of Staff to Military Commander Southeast.

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DR. LATERNSEER (Counsel for the defendant List): Your Honors, looking at the photostat copy of Document 704, I see that that part which was read has not been included in the exhibit. This concerns the opinion Field Marshal Weichs passed on certain military leaders in the Balkans. In other words, that which the prosecutor has read is not proved by the document because here the corresponding pages are missing.

MR. DENNEY: I am sorry, Your Honor, they seem to have been omitted. We will supply them. We have them. We can perhaps get them up this afternoon. It is just an oversight in the grouping together of the exhibits.

JUDGE BURKE: Will the suggestion of the prosecution satisfy the objection that you have made, Doctor?

DR. LATERNSEER: Yes, if it is brought up, otherwise, I would ask that it be omitted from the records.

MR. DENNEY: Sorry, Your Honor.

THE PRESIDENT: Mr. Denney, shouldn't the file go with that?

MR. DENNEY: I thought I'd keep it here, then we'd only have to worry about getting four pages back, if we get it; and this has been marked already with the exhibit number. If that is all right with Your Honor?

THE PRESIDENT: All right, on the other hand that might be one way of getting it there and getting it back.

MR. DENNEY: He does work for us. I am sure he will come back. We are now -

THE PRESIDENT: Pardon me, I didn't mean to infer that he wouldn't bring them back.

MR. DENNEY: No, no, Your Honor, I quite understand. This is a very big place.

THE PRESIDENT: He might be lost.

MR. DENNEY: Yes sir.

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Now, Exhibit 218, which is Document No. [NOKW-1335](#). This is extracts from the War Diary of the Commanding General and Commander in Serbia for August 1942. None of the portions which we offer bear any signature. They are just extracts from the Diary. The first entry -

Could Major Hatfield have it for a moment, Dr. Laternser, to put the exhibit number on it, please?

Major Hatfield, I believe that is Exhibit Number 218.

The first entry of 12 August 1942, "In answer to a query by 1st Battalion/741st Regiment concerning retaliation measures in return for a racial German who had been murdered, Ia Section refers to order, to contact the Police President in Ruma. The insurgent village of Progor is to be bombed. Croatian Liaison Officer gives his consent.

"General Glaise-Horstenau saw the Chief (of staff): General Glaise announces the consent of the Croatian Government to evacuate Concentration Camp Semlin. Asks for increased deportation of Serbs to Germany as workers are urgently needed there. 25 August, Chief confers with adjutant IV b Section, Stabsarzt Winkler, about sanitary conditions in the Semlin Concentration Camp, where a daily death rate up to 100 prevails. The Croatian Government, in spite of promising to evacuate and feed the inmates, has not done anything yet. . .

"26 August 1942 - Dr. Puntigam, from the Office of the Plenipotentiary for Labor Employment at Zagreb, saw the Chief concerning recruitment of laborers for employment in the Reich . . .

"30 August 1942 - Order to Combat Group Borowski that, of those arrested, primarily strangers to the locality are to be regarded as suspects and are to be eliminated. . .

"31 August 1942 - SS Gruppenfuehrer Phelps reports to the Chief concerning intended employment of the SS Division."

Then at page 14 of the English and 18 of the German, Document NOKW-1127, is offered as prosecution's Exhibit 219 in evidence. This is an order of the Commanding General in Serbia with reference to the formation of Combat Group Borowski and the treatment of strangers and prisoners, which is mentioned in the Diary entry of the 30th of August 1942, in the previous exhibit.

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It is dated 21 August 1942, Commanding General and Commander in Serbia:

"The center of unrest in Syrmia is the Fruska Gora. According to estimates the enemy is supposed to have more than about 2000 armed at his disposal, chiefly in the Eastern half. The regrouping of the divisions will be exploited to make a thrust against the enemy in the Fruska Gora. For this a Group Borowski will be formed.

"Units: Commander: Brigadier General Borowski with portions of the 704th Division and the assigned platoon of the 521st Signal Regiment."

And then on page 2 of the original, dropping down to paragraph 7, still on English page 14;

"The following guiding principles are given for the treatment of the population: In this area there are very many racial Germans as well as Serbs, besides a few Slovacs.

"According to available authoritative information the villages are often terrorized only by a few brutal partisans while the majority of the population continues its quiet work.

"Who is found bearing arms or giving aid is to be shot.

"In the mountain villages the male insurgent Serbian population between 17 and 50 years of age is to be arrested and to be brought to the Semlin reception camp, in as far as it is not needed to bring in the harvest." And it is typed, the Commanding General and Commander in Serbia, Deputy. And there is a signature of a Major General, and the distribution list.

Page 19 of the German and page 16 of the English -- no, excuse me. There is -- this is, the last page of this order continues on page 16 of the English and page 19 of the German. There it is receipted for, and there is a teletype below it again to the Combat Group Borowski from the Commanding General and Commander in Serbia, dated 30 August 1942.

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"The Commander-in-Chief has directed that primarily those people amongst the arrested who do not belong to the locality are to be regarded as suspected partisans and are to be done away with. These people are to be regarded as alien-to-the-locality who have lately migrated there from another area without a plausible reason." The Commanding General and Commander in Serbia

JUDGE CARTER: Mr. Denny, am I correct in assuming that General Bader is in Serbia and General Loehr in the Southeast?

MR. DENNEY: Yes, sir, Bader is still in Belgrade. And General Loehr is now the Armed Forces Commander Southeast.

JUDGE CARTER: Might I inquire against what defendant this is offered?

MR. DENNEY: This is offered as against the defendant Geitner as chief of staff to Bader, who sent the communication, Your Honor.

If Your Honors, please, I now have the complete copy of prosecution's Exhibit 217 in evidence, which I hand to the assistant to the Secretary General to give to Dr. Laternser for his examination.

Then turning to page 17 of the English, 20 in the German, prosecution's Exhibit 220, Document No. [NOKW-811](#). These are extracts of notes on conferences of the Chief of Staff of the Armed Forces Commander Southeast. The first note, file note for 17 August '42, refers to a: "Speech of Lieutenant Colonel, Staff Corps, Pfafferoort, concerning the political situation: In India, great rush of the people to the Indian Communist Party, which in the National Congress forms only a small part of the Indian people. 380 million souls live in India, of which 280 million are Indians, the rest Mohammedans, 221 languages! The situation and circumstances in India are obscure. In America, celebration of the anniversary of the meeting of Roosevelt and Churchill for the new proclamations of the basis of the war aims. France: For 150,000 Frenchmen, who will work in Germany a similar number of Prisoners of war were released. Changing of Turkish am bassadors in Berlin, Turkey has emphasized her neutrality again.

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Churchill has arrived in Russia.

"Speech of the Chief of Staff concerning the situation in our own territory:

"Croatia: The enemy has suffered considerable losses again in the last three weeks: 2,868 dead, 182 wounded, 4,200 arrested, 677 shot as reprisal measures. Germans: 24 dead, 32 wounded, 5 missing. Croats: 80 dead, 137 wounded, 13 missing."

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Then on page 23 of the German -- I believe in the German text the entire document is given whereas we only have excerpts here -- page 18 of the English is 23 of the German and it is the paragraph which bears the number "4" to the left and it is under, "Chief of Staff Conference on 7 December 42.

"Major Hammer (Ic/Intelligence Officer) weekly Political report:

"Speech of Churchill concerning the American campaign, increased propaganda campaign against the Italians in order to separate the people and state from one another there. According to English information 1,500,000 houses damaged by our Luftwaffe in England up to now and 550,000 houses were destroyed. All French colonial possessions are now all on the side of the Allies. The Duce made public the Italian war losses up to now with great openness, and exercised Italy's willingness to confirm the battle to final victory. Hungarian Prime Minister Kalay emphasized in speech before parliament the willingness of Hungary to hold out until the final victory likewise. In Sofia, a German Bulgarian

economic treaty was settled. Increased pressure of the Allied on Turkey. A Turkish voice of the press says: As long as the European Mediterranean coast is not in the hands of the Allies, they will not rule the Mediterranean. Egypt: The Egyptian government has placed the Egyptian Army at the disposal of the Allies. The efforts at world domination of the United States of America show themselves further: American troop transports to Iran, erection of U.S. consul in Morocco, dominations of South America, etc. The Chief of Staff agreed with this. It is no question at all, that socialist thoughts in this war are at stake which have received a big push by the Allied powers throughout this war, of which one has still really no idea today."

And then under the next paragraph which I believe continues on page 26 of the German under the heading "Croatia" -- it is in the paragraph numbered "5" and it toward the end and is before the paragraph which starts, "Greece" -- it should be at the bottom of page 26 in the German.

Do you have it, Dr. Laternser? It commences with the word "After discussing these principal events."

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Do you have it?

I am sorry to take this time, your Honors, but the complete document is in the German text.

"After discussing these principal events of the new conduct of the war, the Chief of Serbia turned to the following: The combating of the Mihailovic movement has had now successes. The disarmament of the Chetnik units is continuing. About 10,000 Chetniks fought on our side, of which half have gone into the woods. A quarter, around 4,000 men, were disarmed. The rest, about 4,000 men still holds with us. The whole action of disobedience called forth by Mihailovic amounted to nothing. The threat of retaliation measures alone had a frightening effect. Shootings even of those suspected of sabotage show that our methods are right."

"Greece:" -- and then this is on page 27 of the German copy, Dr. Laternser, 27 of the German under "Greece." It begins on 26 -- I am sorry -- I have it marked here as 27. Excuse me.

Under "Greece": A reconnaissance service with the greatest mobility must be used on the railway line (Draisenen). Lightening patrols on the railway lines. Also, hostages must be brought in from the localities in the proximity of the railway line."

And then turning to page 29 in the German, still on page 19 of the English, I note that this is all in the late period in 1943 after the period with which we are concerned so we will omit it at this time and perhaps will have occasion to refer back to it later.

Then turning to page 21 of the English and -- the next document is NOKW-1148--I have marked here "page 33 of the German." Is that right, Dr. Laternser? Page 33 of the German. Which is offered as Exhibit 221.

These are situation reports on the Armed Forces Commander Southeast to OKH and OKW for various dates in 1942, the first one for 25 August 1942; German losses: 2 dead, 1 wounded, none missing: Croats: 77 dead, and it should be 108 wounded -- I believe that figure appears improperly in the

German -- and 362 missing; insurgents losses: 1,031 dead, 273 wounded, 2, 169 captured and arrested, 212 shot to death in reprisal.

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"The total number of insurgents shot to death in combat and as reprisal measures up to 24 August 1942, 49,724"; and here again appears the: "Signed in Draft Lohr," "Colonel General" typed underneath, and then "Certified true copy" by "Lieutenant Rossler." His signature is signed as "1st Lieutenant" and your Honors are familiar with his certifications of prior documents in a similar manner.

Then on page 22 in the English and in the German, [NOKW-1254](#), which is prosecution's Exhibit 222 in evidence. This is a directive of the Commanding General in Serbia to some of his troop units, specifically three divisions, all Infantry, 714th, 717th and 718th Infantry Division, 9 September" with a stamp and was sent on 4 September; subject: "Security of Croatia":

"The divisions are to consider as their most important task the security of the railroad line Belgrade - Zagreb - Reich Border and Belgrade - Vinkovci Osijek. The Croatian Government has given assurance that the communists are fully responsible for guarding the railroad tracks situated within their district and that they are compelled to surrender hostages to the Croatian police.

"The Order Commanding General Ia No. 4495/42 secret of 19 August 1942 remains authoritative for the method of combat.

"The Divisions can dispose over the Administrative Sub-area and District Headquarters in the areas of the Division only in the event of an alarm for defense against enemy attacks.

"The Order Commanding General and Commander in Serbia No. 2070/42 secret of 25 March 42 is accordingly valid for the treatment of prisoners.

"According to the express opinion of the Fuehrer any negotiations with the enemy (Communists, Bands, D.M. followers)" -- that means Draga Mihailovic -- "is prohibited.

"Maps showing the borders of the final Division Areas in the Croatian State Territory will be subsequently."

And it is signed: "Bader, Lieutenant General of Artillery."

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Then turning to page 23, or page 24, page 37 in the English, NOKW1134, which becomes Document -- or Exhibit -- 223 in evidence, if your Honors would look at the order signed by General Bader, to the right of "General Artillery" appears the initial of the defendant Geitner, his Chief of Staff at that time. That is Exhibit 222.

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Turning to Exhibit 223 in evidence, this is a report signed by the Armed Forces Commander Southeast, and forwarded to the OKW with copies to OKH, and various others that appear in the heading. Again the signature is in draft, and it is certified to by Lt. Roessler. It is dated 11 September, 1942.

The situation in Greece, on page 3, and on the first page bears the stamp of 12th Army for 16 September. Page 38 in the German, still on page 24 in the English:

"Strike in Athens ended. Cause: Hunger and inflation exploited by Communist and Nationalist propaganda. Strike discontinued by rigorous handling of the situation."

"III. Losses in the Entire Area (25 Aug. - 8 Sept. 1942):

a) Own losses: Dead Wounded Missing Germans 51 76 4 Croats 49 67 7 Serbian State Guard 22 --

b) Insurgents: 2,601 dead 121 wounded 3,325 captured and arrested 37 shot as reprisals Total number of insurgents shot in combat or as reprisals up to 8 September 1942:

52,362 Economical Situation.

Considerable harvest losses in Serbia. Nutrition in Greece continues to be insufficient, especially since grain deliveries from Serbia are not possible this year. The inflation continues. Prices doubled within 4 Days" Signed in draft, by General Loehr". Signature is typewritten.

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Certification to the left is signed by Lt. Roessler.

Turning to page 39 of the German, 26 of the English, Document NOKW 1241 is offered as Prosecution Exhibit 224 in evidence. This is an extract from the war diary of an SS division. The "Prinz-Eugen" or 7th SS. It is handwritten and the extracts are taken from the diary, which was--this portion of it--was on the 19 March 1942 to the 31 May 1943. Out to the left, as your Honors will see, this diary was typed not typed, but rather made in long hand. There appear the dates for '42, which we are using.

"The SS-Mountain Artillery Regiment "Prinz-Eugen", and then it gives the subordination.

PRESIDENT JUDGE BURKE: From what page are you reading?

MR. DENNEY: From page 26, if your Honor pleases.

I do not think we need to read these headings. Your Honors have all seen it. The first entry for 14 October, "The patrol of the combat transport in the camp of Maejureije was fired on from the direction of the house of the local clergyman on 10 October 1942 at 2100 hours. 3 were wounded. The clergyman with two sons was arrested and all three were shot dead while trying to escape."

Then turning to page 28 of the English, 41 of the German, this is document C 81, which is offered as Prosecution Exhibit 225, this if your Honors pleases, is a photostatic copy without any distribution list on it. However, at a later time we can show that this Hitler order, - it is the Commando Order of 18 October 1942, was passed on to units in this area. We have diary entries later which we submit conclusively connect this order with the defendants, or some of them, Perhaps your Honors would care to look at that. That has a little different style than some of the other orders that we have seen, and at the end is a photostat of the former Supreme Commander of the German Armed Forces' signature.

It is dated 18 October 1942. Top secret. Only by Officer.

The Fuehrer a Supreme Commander in Chief of the Armed Forces I think this order should be read completely. It is only two pages, if your Honors please:

The Fuehrer and Supreme Commander in Chief of the Armed Forces.

I have been impelled to issue a strict order for the annihilation of enemy sabotage groups and to put the disobedience of it under severe penalty. I believe it necessary to inform the competent commanders in chief and unit commanders of the reasons for this order.

As it has never been done before, in this war a method was developed to disrupt the lines of communications in the rear to intimidate those parts of the population who are working for Germany, as well as to destruct industrial installations, vital for the war in the territories occupied by us.

In the East, this manner of fighting a so-called partisan war, already last winter had led to a considerable decrease of our fighting power, has cost the lives of numerous German soldiers, railroaders, workers of the organization Todt, the labor service (Arbeitsdienst), and has extremely decreased the performance of transportation for the maintenance of the fighting ability of the troops, it has even disrupted the latter for days. The successful continuation of this type of warfare or even its intensification may possible lead to a serious crisis at one or the other sector of the front. Many measures against this cruel as well as teacherous sabotage activity fail simply because the German officer and his soldiers have no conception of the extent of the danger they face, and thus they individually do not act against these enemy groups as much as it is necessary to help the most forward front and thereby the entire war effort.

Therefore, it was partially necessary to establish special units in the East which mastered this danger, or to transfer these missions to special SS units. Only where the fight against this partisannuisance was begun and carried out with ruthless brutality, successes were not missing, and consequently they eased the situation for the fighting front.

Therefore, the war in the entire Eastern territory against the partisans is a fight for the complete annihilation of one or the other part.

As soon as this fact has become common knowledge of a unit, it will be able to handle these happenings normally within a short time, if not, their commitment will not be successful. It therefore becomes useless.

Although under different names, England and America have decided on a similar type of warfare. The Russian tries mostly to bring sabotage groups behind our lines by land, and only exceptionally do they use aerial transport to infiltrate men and supply food. England and America, however, carry out this warfare by sabotage units until landed mostly from submarines or inflatable boats, or by parachute agents. Fundamentally, however, this type of warfare is not different at all from Russian partisan activity.

For the mission of these units is:

- 1) To build up a general espionage service with the aid of willing natives.
- 2) To organize terrorist groups and to supply them with the necessary weapons and explosives.
- 3) To undertake such sabotage actions as are not only able to continually disrupt our communications by the- destruction of traffic installations, but also, if necessary, to make troop movements impossible altogether and to neutralize the means of communications.

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Finally, attacks are to be attempted by these units against establishments essential to the war, by blowing up key plants according to a scientifically explored program, thus paralysing practically entire industries.

The consequences of this activity are extremely serious. I do not know whether every commander and officer is aware of the fact that the destruction of, for instance, a single power station can cost many thousands of tons of aluminium for the air corps and thus the loss of production of numerous planes which are missing at the front for combat, and thus lead to severe damage at home and bloody losses among the fighting soldiers.

But this type of warfare is entirely without danger for the enemy. For since he lands his sabotage units in uniform, but on the other hand gives them civilian clothing as well, they can appear as needed either as soldiers or as civilians. While they themselves have the mission to liquidate ruthlessly German soldiers or even inhabitants who hinder them, they are not in danger of suffering really serious losses in their activities because of worse comes to worst and they are caught, they can give up immediately and thus they believe they will fall theoretically under the Geneva Convention. There is no doubt, however, that this is the worst kind of an abuse of the Geneva convention, even more so since some of these elements are criminals who have been liberated from their jails and can rehabilitate themselves by such actions.

England and America will therefore be able to find volunteers for this type of warfare as long as it can rightly be said to them that there is no danger of life for them. If worse comes to worst, they only need to complete their attacks against people, traffic installations or plants successfully, and then, caught by the enemy, they can simply surrender.

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If the German war effort is not to suffer severe damages by such actions, then it must be made clear to the enemy, that every sabotage unit will be exterminated without exception to the last man. That means, the chance to get away alive is zero. It can under no conditions be permitted that a demolition-, sabotage- or terrorist unit simply surrenders and is taken prisoner to be treated according to the rules of the Geneva convention; consequently they are to be exterminated in every case without exception.

The report which shall appear about this in the armed forces bulletin, will contain very briefly and laconically, that a sabotage terrorist or demolition unit has been caught and exterminated to the last men.

I therefore expect, that the commanders of the armies subordinated to you, as well as the individual unit commanders do not only understand the necessity of this action, but also that they do their utmost toward the execution of this order. Officers and NC)'s who fail because of some weakness are to be reported without consideration or, according to the conditions – if danger is imminent – are to be held strictly responsible. The homefront as well as the fighting soldier on the front have a right to expect that behind them, the basis for their food as well as the supply of important weapons and ammunition be safeguard.

These are the reasons for the order issued by me.

Should it be advisable at times to spare one or two men at first for intelligence reasons, then they are to be shot immediately after interrogation.

signed Adolf Hitler And this is the section which is under Count 3 of the indictment, at letter "h", which says, "During a period of time after 18 October 1942 all of the defendants herein, except the defendant List, issued, executed, and distributed to troops under their command and jurisdiction an order to execute in battle, or within 24 hours after capture, all members of Allied 'commando' and 'military mission' units, whether or not such persons were regularly attached to, and wore the recognized uniform of, duly authorized members of the established military forces of enemy belligerents."

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Turning then to page 30 of the English and page 46 of the German is Document No. [NOKW-1106](#), which is offered as Prosecution's Exhibit No. 226 in evidence. This is an order of the 710th Infantry Division, which is signed for the Division Commander by one of the General Staff officers of the division, who is a major, but the signature is not decipherable. It appears in the book that this Document No. 1106 is signed "Geitner", and there was a Geitner who was a major in the General Staff Corps in this division, but that is not the defendant who is in this box. And in order that there may be no doubt about it, we submit at this time that this Geitner was not Staff officer in the 710th Infantry Division because there are one or two other places where this same thing crops up. This is dated 22 October 1942, subject "Prisoners". There is a heading, the "710th Infantry Division".

"The enemy communications service is of very great significance to the leadership. Next to one's own task the enemy news is most important for an estimate of the situation. The basis for piecing together the enemy situation is formed especially by statements of prisoners. These are of value only if they are immediately forwarded to the division. The same applies to captured papers.

"Therefore the following regulations are issued concerning the seizure and the treatment of prisoners:

"Seizure:

"1. All persons of both sexes who participated directly in combat, with or without arms.

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"2. All persons of both sexes from the ranks of the adversary (train, medical personnel, supplies, etc.).

"3. Civilians of both sexes in the operation area, who are encountered at work in the fields or at home, if it is proven that they were in the service of the adversary or supported enemy operations.

"4. Invalids, sick persons, pregnant women, and persons over 60 years of age (only in case they come under paragraph 1).

"B. Treatment:

"1. After a short interrogation all persons listed under A/1 and A/4 are to be shot to death by the troop.

"2. Persons listed under A/2 and A/3 are to be marched off as prisoners.

"3. Enemy deserters presenting themselves with or without arms are to be led off as prisoners.

"4. All prisoners are to be interrogated briefly and are to be transferred, listed, and with a short remark, to the military prison of the Alexanderkaserne in Sarajevo.

"5. Important results of interrogations of prisoners concerning formations, strength, armament, and intentions are immediately to be reported to the division by telephone; if necessary individual persons are to be brought to the division immediately.

"6. Thieves, slanderers, political suspects, or other civilians who commit offenses against public order are to be delivered to the nearest Croatian police or gendarmerie post.

"C. Captured Papers:

"Captured papers in original form are to be forwarded to the division by the quickest means.

"For the Divisional Command "1st General Staff Officer "(Signature) "Major in the General Staff" And then at the left appears the note "Distribution in Draft". And then turning to page 32 in the English and page 47 in the German is Document No. [NOKW-1536](#), which becomes Prosecution's Exhibit No. 227 in evidence.

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These are a series of telegrams which are reports from the Commander in Chief Southeast to OKH, and all of them are on telegram blanks and teletype that has come out and affixed with mucilage. There are no signed copies in them. They do, however, bear certain stamps which appear on the translations. The first one, "North of the Save: continued looting and local attacks. Ninety insurgents shot to death." And this is dated 30 July 1942 and it is from the Wehrmacht Commander Southeast to OKH General Staff in Berlin, and at this time on 30.7.42 the defendant Kuntze was still the Armed Forces Commander Southeast. Then, for the 31st of July 1942, Daily Report, still the defendant Kuntze. Your Honors will recall that General Loehr did not take over until the 9th of August. "Total losses during mopping-up Una-Sana Bend from 23 to 30 July inclusive. Germans: 6 dead, 11 wounded. Croats: 11 dead, 24 wounded. Enemy: 450 dead, 1946 temporarily arrested of which 269 shot to death so far." And then for 1 August, the defendant Kuntze is still the Wehrmacht Commander Southeast, in a report to OKH, "Total number of enemy losses in the Una-Sana Bend has increased to 666 dead and 2640 temporarily arrested. Eighty-three additional prisoners shot to death so far." And then for the 2nd of August, still the

defendant Kuntze, "West Bosnia - an additional 30 persons who were temporarily arrested were shot to death." For the 3rd of August, still the defendant Kuntze, "North of Save, south of the Fruska Gora, attack on passenger train halted in a siding. Two Germans dead, 40 Croats surrendered. The band succeeded in escaping before the arrival of the German detachment. Reprisal measures instituted." And then on a later page, a British intelligence officer, who apparently had parachuted down, was killed by anti-Communists. And then for 5 August, still the defendant Kuntze, "An additional 8 temporarily arrested persons shot to death." And for 8 August, still the defendant Kuntze, "On 8.8 German (Croatian) combat group started concentric mopping-up of Samarica mountains.

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Fifty-three arrested and shot to death." And then on the 11th of August - at this time Loehr is in; however, we still have Foertsch as the Chief of Staff. "Samrica operation according to plan. Twentysix partisans shot to death." For the 13th of August, going back to the "temporarily arrested" incident, "Only minor contact with the enemy in Samarica. Fifty-three temporarily arrested, 10 shot to death." And then for the 17th of August, "Syrmia: Ninety shot to death in reprisal, 65 temporarily arrested." For the 29th of August, "Increased appearance of smaller bands in area south of Vlasenica 55 kilometers northeast Sava and around Rogatica 46 east of Sarajevo. Two bridges and a railroad station set afire. Counter-measures instituted." And then, further down in that same message, "In Samarica 262 temporarily arrested of which 20 were shot to death on the spot. Continued insurgent activity along the demarcation line south and southeast of Zagreb." Report for the 5th of September--

THE PRESIDENT: Mr. Denney, we will pause here and take the usual recess until 3:15.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

JUDGE BURKE: You may proceed.

MR. DENNEY: May it please your Honors, continuing with Prosecution Exhibit 227 in evidence, at page 44 in the English and 58 in the German text, still on the daily reports from the Commander in Chief Southeast to OKH, the High Command of the Army, the report for 5 September 1942:

"In Nish, non-commissioned police officer shot to death. 50 reprisal shootings to death intended."

Then on page 45, the report for the 9 of September:

"In addition to Communist incitement and hunger there is also a probable intention to paralyze Africa supplies. For the German area application of severest measures has been ordered. Arrests and seizures of hostages have been carried out."

Report for the 15 of September:

"Southeast of Ruma attack on community. 25 hostages arrested."

Report of the 21st:

"North of the Save: Continued Communist activity in the area southwest of Cirovitica. Attacks, 2 interruptions of railroad branch line, several hostages seized."

On the 28 of September:

"German Croatian operation (6 German Battalions) intended against Jayace."

The 30th: "1 village burned down as reprisal measure".

And the last report for the 23 of October 1942:

"In the Banat 50 Communists shot to death in reprisal for murdered Volksdeutsche policeman."

Then the figure at the top, 23/10 1945, also appears on the original.

The interpreters advise me that they have document Book I and I should like to apologize to them for failing to mention the document book in which Exhibit 4 appeared and assure the court it was my fault that they didn't have it here. This exhibit now is Exhibit 4b in accordance with the ruling by the Tribunal and it is in Document Book I, English and German, and the English page is 8 and the German page is 6. As has been said before; it is a letter of 23 April 1941 to Reichsleiter Bormann, who was at that time at Hitler Headquarters and there is no signature appearing on the letter but it has been established that the letter was written by Alfred Rosenberg, about whom we have commented before.

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Paragraph 2 beginning on Page 9:

"There is a great misunderstanding with respect to what is involved in the question of the south-east and the employment of my administrative staff: art objects have always been treated as a second line problem. In the first line an order of the chief of the high command of the Armed Forces (OKW) on the instance of the Fuehrer has gone twice to the occupied territories of the west to place all scientific and archive materials of world philosophy opponents of the regime at my disposal for research purposes. That has resulted also in close cooperation on the widest scale with the Security Service (SD) and the military commanders, and I believe that I have secured priceless research pieces for the Reich direction of the Nazi party and its higher institutes of learning. I wish to inform you especially that as many as 7000 crates have been brought to Germany up to the present moment. In the course of these confiscations we have found according to the nature of the case other valuable cultural objects including very valuable works of art. And in order that these things should not be dispersed and that they be secured for the Fuehrer, the Chief of the high command of the armed forces (OKW) on my request and on the instance of the Fuehrer has ordered that these art objects should be catalogued by me. I ask you that if necessary it should be established for the benefit of the Reich Marshal that my working staff has executed these tasks in a correct fashion and in an objective blameless form. Art objects generally do not come into question as far as the Balkans are concerned although there are Free-Masonry archives and Jewish libraries and other relevant research objects. In my opinion only the same attitude as that prevailing in occupied French territory can be taken and what I requested, was really only an expansion of an already existing regulation. For with General Field Marshal List, and likewise with the General

Quartermaster of the Army the work has already been begun and my men are already at work with these circles in Belgrade.

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And on command of General Field Marshal List as well as of his deputy general, these men will also be employed in closest relationship with Security Service (SD) in Salonika. As you know, Salonika is one of the largest Jewish centers.

"I should like to remark in this connection that this affair has already been executed on our side with Security Service (SD) in the most loyal fashion. One of our collaborators who also belongs to the Security Service (SD), had his duty-obligation countermanded by the Security Service, whereupon it was impressed upon him that the Security Service cooperates with my administrative staff in a most loyal fashion. The things are thus clarified in a practical fashion and the work has taken its course. What I asked was only a confirmation that the already pronounced decisions for the West should also have validity under the given circumstances for other occupied or to be occupied areas. Finally the representative of the Fuehrer has expressly ordered that the appropriate party members in this question should be placed so as not to permit this unique opportunity for inquiry in the Jewish and Masonic lodge question to pass away. The agreement in this matter is thus general.

"I trust that this letter has cleared up the resulting misunderstanding.

"Heil Hitler!"

Now with reference to the Exhibit 100a for identification, I request that the court direct that this Exhibit be marked 100b for Boy, in evidence, and I hand it to the Secretary General. The Exhibit was distributed the other day in Court, if your Honors recall, and I would request permission of the court to withdraw the exhibit and have the copies photostated and photostatic copies substituted in order that the papers which are now in the exhibit may be returned to their source in the National Commission for the Investigation of War Crimes in Yugoslavia.

JUDGE BURKE: There is no objection on the part of the Tribunal to that procedure.

MR. DENNEY: Thank you, your Honor. I believe your Honors have the pages which begin with 76a and I believe run up to 76p, Document Book III, and for the record I should like to state for Dr. Laternser, that the lists of people who have been recited in the document will be furnished to him as well as the untranslated material prior to one week from now, and I hope within the next day or so.

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It is a little difficult to find someone who can translate from Yugoslavian to German but we do have one such person here and for the Tribunal I have spoken with Dr. Laternser about this outside of Court.

JUDGE BURKE: Is that understanding agreeable to you, Dr. Laternser? Dr. Laternser has indicated that it is. You may proceed.

MR. DENNEY: Thank you, your Honor. The first report.....

DR. LATERNSE: Your Honors, I agree to this, after my objection has been rejected. But I shall maintain my objection.

MR. DENNEY: The Prosecution did not mean to imply that Dr. Laternser was withdrawing his objection.

JUDGE BURKE: Now did we intend that it should be implied.

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MR. DENNEY: Thank you, your Honors. There are other excerpts of this report which will be offered at a later time. Therefore, the explanation for the figures, 87, and so forth, appearing at the top of the pages, are a compilation of a number of reports which were given page numbers again for purposes of translation. And there are short excerpts, as is indicated on these, which have not been translated, and those are the ones which will be translated and given to counsel in addition to the lists which do not appear here, which are lists of names.

This report is from the National Commission for the Investigation of Crimes committed by the occupation forces and their accomplices, this is Investigation No. 9278. State Commission Serbia for the Investigation of Crimes committed by the Occupation Forces and their accomplices.

REPORT CONCERNING ESTABLISHED CRIMESDuring the bitter battles between the People's Liberation Army and the German Occupation Forces in the neighborhood of Kraljevo in October 1941, the German authorities in Kraljevo carried out mass shootings of citizens during the period of 15 to 24 October.

Daily, they brought in several hundred of citizens from Kraljevo and the surrounding districts for execution by shooting.

On the basis of statements of eye witnesses as well as of some individuals who saved themselves from being shot to death, the following method was employed in this mass crime:

During the battles in the environment of Kraljevo, the German authorities in Kraljevo started to drive the population out of their houses, streets and shops and to lock them up in a camp situated in the yard of the railroad car factory. Patrols of the German Wehrmacht went from house to house driving out all men starting with children of 14 up to old men of 60 and above. All the citizens with their hands above their heads were led through the city in rather small groups.

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Then they were formed into larger groups and driven into the camp of the railroad carriage factory. Before they entered the camp, they were counted, identified and registered in books by German soldiers. Then they were locked up together with the rest of the camp inmates. The Germans selected groups, each of 100 citizens, and took them from the camp. They were put in front of a machine gun on a site previously selected in front of open graves and shot to death. After the fire of the machine gun had mown this group of citizens, the German soldiers walked among the dead citizens, and anyone shewing signs of life, or whom they did not believe to be dead, was finally killed by a shot from a machine pistol

or from a pistol. Having liquidated one group, the Germans, in the same way, brought up the second group and so on. In this way, the executions were carried out from 15 to 24 October 1941. Up until now, it was not possible to establish exactly how many citizens were shot to death in Kraljevo on this occasion since the families of all victims did not make any reports and taking into consideration that at that time many refugees from different areas of Yugoslavia, as Bosnia, Herzegovina, Lika, Macedonia and other areas, were living in Kraljevo. The majority of these refugees were working as laborers and employees at the railroad carriage factory and at the airplane plant in Kraljevo. Their families – insofar as they had any – could not find out anything about their death. However, meanwhile, many witnesses stated in their reports that according to their estimate between 4,000 and 5,000 persons were shot to death in Kraljevo on this occasion.

.....

In addition to inhabitants whom the Germans drove out of their houses in Kraljevo during that time and whom they led to the place of execution many residents arrested by the Germans previously in different places and locked up as hostages in the camp of the railroad car factory were shot to death on this occasion.

Furthermore, at that time, a great number of inhabitants were shot to death who had just been brought in three transports to the railroad station of Kraljevo.

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These were refugees from Kosovo and other Southern areas. The Germans had driven them together with other inhabitants, led them to the place of execution and shot them to death with the other citizens.

These shootings to death were directed and participated in by the penal expedition composed of elements of the 717 German Division under the Command of General Horsterbach whose 749th Regiment at that time executed reprisal measures in Kraljevo and neighborhood against the civilian population because of the battles of the People's Liberation Army which at that time had taken on considerable dimensions in that area.

It is signed by the President of the Serbian Commission, and attested on the 24th January 1946, and then follows a certification that this copy corresponds to the original, and it also bears the certificate of the delegate of the Yugoslavian Government, who is currently accredited to the Office of Chief of Counsel for War Crimes, United States, in Nurnberg, and his certificate is dated Nurnberg 29 May 1947.

Then the next report starts at page, -- numbered page 91. It is 76-E, - E for easy. Again the National Commission for the Investigation of Crimes committed by the Occupation Forces Republic of Yugoslavia, National Commission for the Investigation of Crimes committed by the Occupation Forces and their Accomplices.

On 19 Oct. 1941 as well as on several days preceding, German airplanes dropped leaflets ordering the population in the area of the community of Groznice, Mala, Pcelica, Erdeca, Vijiste, Adzine-Livade and Tresnjevik of the community of Groznice, were in the vicinity of their houses. But many of them,

because it was Sunday and the Feast of St. Thomas were in the village church when the penal expedition of Major Koenig, already known for his criminal activity in Serbia, arrived in two groups on 19 Oct. 1941, before the village of Groznice from the direction of Kragujevac. One of the groups came in an extended formation, the second one on trucks along the main road because this made easier and more rapid the blocking off of the village. Then the German soldiers armed to the teeth, speedily showed their "Knighthood" and their "Combat Spirit" toward the peaceful and helpless peasants of this village.

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Several groups of German soldiers spread through the village and picked up all male inhabitants wherever they met them, at home, on the street, or in church.

But those who attempted to save themselves by flight were fired on by all sorts of weapons and were killed. Those who were captured were machine gunned in groups of 30 to 50 men without any explanation. Those who still showed signs of life were finally killed with revolvers. Thus, they drove the shepherd Lubisa Manica who was only 14 years old, away from his herd and shot him to death. The Priest Nikola Leksica who was reading mass in the crowded Church, and all male inhabitants were driven out of the church and shot to death. The entire male population from the village of Groznice was killed. A considerable number of families remained without men.

Up until now it has been established that 206 men were collected and shot to death by the above method, mainly from the community of Groznice but including some travelers from Kragujevac and other villages who had been captured by the Germans on the road Kragujevac - Groznice. 196 of these persons were shot to death, 10 persons though heavily wounded remained alive. The Germans believed, these had been killed with machine gun fire and they did not give them the death blow with the revolver.

.....

The Germans found the guilt of the peasants of the community of Groznice in the destruction of the bridge near the village of Groznice. The perpetrators were unknown and this obviously represented only a fictitious justification.

It was signed 19th November 1943 by the President of the Commission, Dr. Dusan Nedelkovic, and is attested by Secretary Ivan Strasek, and it is certified as being a true copy, bears the stamp, and it also has the certification of Dragoljub V. Katic, the delegate of the Government of the Federated People's Republic of Yugoslavia, with the Office of Chief of Counsel in Nurnberg.

The next report National Commission for the Investigation of Crimes committed by the Occupation Forces and their Accomplices, Investigation No. 1814/II, Democratic Federated Yugoslavian National Commission for the Investigation of Crimes Committed by the Occupation Forces and their Accomplices:

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REPORT "For the purpose of intimidation and for the preservation of obedience in occupied Serbia, the authorities of the German Occupying Power have applied a series of drastic measures.

Among the crimes which in their brutality surpass all the other innumerable crimes, the mass blood bath in Kragujevac on 21 October 1931 takes first place.

"The crime was carried out within the framework of an extensive plan which included nearly all of Serbia. In addition to the Germans, our treacherous helpers of the Germans, in particular members of the voluntary LJOTIC Organization participated in the execution of this criminal plan.

.....

"The crime took place in the following manner:

"About 10 days before the execution of the crime a battalion of German troops came to Kragujevac as reinforcement of the German Garrison. On 15 or 16 October the 5th Volunteer Battalion under the command of Bosko Pavlovic arrived in Kragujevac. Some days before, the Ambassador Extraordinary of the Serbian Government BOSKO PABLOVIC arrived in Kragujevac.

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He summoned a conference of reputable citizens and of former politicians.

He was confronted with universally passive attitude concerning the fight against partisans.

"Since the action at BOSKO PAVOLOVIC was a failure, it was decided to carry out the plan since sufficient fighting forces had been assembled. Previous to that, mass shootings to death were carried out and the villages of MOJNIC - MECKOVAC and GROSNICA near Kragujevo were set on fire.

"At an earlier date, on 1st October, 1941, Baron von BISCHOF HAUSEN, the district headquarters commandant, had insisted to the principals and administrators of the Kragujevac schools that pupils continue to attend school. Since the pupils continued to stay away from school, von Bischofshausen - on 17 October 1941 - again called all principals together. He ordered them to have all pupils without exception attend school. In case of non-compliance, students as well as their parents would be considered saboteurs and shot to death as such. Such threats caused the pupils to attend school regularly. On 20 Oct. on the day of the general raid, the schools were fully attended.

"On 18 October 1941, German soldiers, on the basis of a special register arrested all male Jews and all those whom they considered to be Communists. These were locked up in the barracks of the former motor vehicle detachment on the STANOVLJA Field. They were kept here, almost without food until 20 October 1941 and all of them were shot to death at 6 P.M. on that date. Their bodies were found in the barracks where they had been kept and in the yard. They were dispersed in all directions just as they attempted to escape death in their panic. Here, about 60 people were killed including some women. The Germans took the property of the persons killed. On 20 October 1941 the general roundup of the men in Kragujevac started. The Germans blocked all exits of the city. But the peasants from the surrounding villages coming to Kragujevac on business were permitted to enter in order that they might be captured later on, and shot to death. Germans and volunteers participated in the raid.

It frequently happened that the volunteers captured exactly those which the Germans had happened to pass by, without pity and without exception.

"The Germans invaded High Schools and Institutes and during the instruction periods they took out professors and pupils from the 5th class upwards. They made them line up in threes and took them away. All workers employed on the LEPENICA River works were rounded up. This included many children. These too were taken along. All public buildings were surrounded and those who were inside were rounded up and taken away. The LJOTICEVCI under the immediate command of MARISAV PETROVIC, reorganized the community administration. STRAHINJA JANJIC was appointed mayor. All other civil servants were arrested and turned over to the Germans. Priests and sextons were arrested in the church disregarding the necessary respect for the Church. Finally STOSIC, the Police Chief turned all prisoners, political and criminal, over to the Germans. A great number of persons were arrested in their houses and taken away under threats or false pretenses. The Germans reiterated constantly that they were only being taken to exchange their identification papers. German culture made it impossible for them to carry out shooting to death. Thus they were successful in taking people passively and without resistance. The LJOTICEVCI first took the prisoners to their headquarters in the school of King Peter II. Then they were turned over to the Germans. All prisoners were taken to the yard of the barracks of the 3rd Artillery Regiment. There they were searched and everything such as tobacco, lighter pocket knives, watches, fountain pens and similar things, was taken away from them. From those who came from the jail, more than 50 were separated in the barracks yard. On the evening of the same day they were taken to the STANOVLJAN Field where mass executions were carried out by machine guns. Only a few were able, by sheer accident, to save themselves. Some were successful in escaping, some were only wounded during the shooting and the Germans did not notice it and did not finally kill them.

"The other prisoners were locked up in a cannon shed. They passed a horrible night, pressed together like sardines, without food and water. Certain persons, because of the personal intervention by MARISAV PETROVIC, had been released previously. On the next day, during the course of the executions, he separated those persons who were followers of LJOTIC and for whom he guaranteed.

"At 7 o'clock in the morning of the next day, 21 October 1941, the mass executions started. The Germans took one group after another from the barracks and proceeded with the separations. A small number, mainly specialists and persons of foreign nationality, were separated. The others, guarded by Germans, fully armed, were taken in groups of from 60 to 120 to the nearby brook. They were ordered to line up into rows. Then they were killed by fire from heavy machine guns. After that they inspected the people who had been shot. Whoever showed the slightest sign of life was finished off with revolver or rifle shots. They covered them with corn stalks and then went off singing to get a new group. That is the way it went on the entire morning until 2 o'clock. After everything was finished, they paraded through the city.

During the executions Major Koenig himself appeared, to take a look at the progress of the shooting.

"About 400 of the prisoners who had not been shot to death, were separated and detained as hostages. The others were released after Marisav PETROVIC, in the presence of a German officer gave them a lecture on the magnanimity of the great German Reich and requested them to shout "Heil Hitler".

Only a small number were able to save themselves from being shot to death, either by escaping or by receiving only accidental wounds. In order to stop further attempts of escape, the Germans tied the last groups together with rope or even barbed wire.

"Until now, 31 mass graves and many individual graves have been found. Names of 2324 people who were shot to death have also been established.

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"Among the persons shot to death were many young men below 18 and children too. There were persons over 70 years of age too. All professions were represented including intellectuals, workers, and peasants. There were teachers, students and ministers, business men, tradesmen, civil servants, judges, workers and apprentices. On the basis of reports received, 8 ministers, 16 teachers, 15 professors, 59 students, and 17 apprentices were shot to death.

The following number of children below 18 years of age has been established as killed up to now: 5 children 12 years old, 3 children - 13 years old, 4 children - 14 years, 9 children 15 years old, 20 children 16 years old, 37 children - 17 years old and in addition 66 adolescents 18 years of age. This makes a total of 144. 11 persons over 70 years of age were also shot to death.

"There were incidents where they dragged sick people out of their houses and threw them on trucks to take them to be executed. Invalids also and people without feet were taken away. Some volunteers under the command of I.R. ZILA ZDRAVROVECA made it their task to round up all gypsies. There were 4 old men among the gypsies who were totally paralyzed. They were thrown like sacks on to the trucks by the volunteers. During the executions, all sorts of disgusting incidents happened. For instance: MILOSAV M. RADOJKOVIC was taken to the place of execution with his father. During the sorting out, the father was separated from the group who was to be executed. When the father saw that his son was to be executed, he suggested to a German officer to take his son's place to be shot to death. The German immediately made the exchange.

"Another incident: The Germans separated 4 children from the group which was to be shot to death. MARISAV PETROVIC asked the Germans to release two more from the group which was to be shot to death. He offered 5 others in exchange. When the Germans agreed, MARISAV PETROVIC gave them 5 young men. Two of them had been released earlier. One of them was able to save himself in such a way that his father was shot instead.

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However the second one, son of BOSKO PETLJANSKI was shot to death. After the executions were finished, the Germans and volunteers robbed the corpses as they were being buried. A lot of the loot has appeared in the city.

"In addition to persons from KRAGUJEVAC and neighborhood a group of people from GORNJI MILANOVAC was brought in. This group, too, was shot to death on 21 Oct. After the crime was finished, the Germans did not permit the relatives to view the bodies. Anyone who tried to view the bodies was fired on. A special group of people who had received orders not to leave any traces of the place of internment was hired to bury the bodies.

"In order to hide any official traces which might show up these horrible crimes, the German authorities prohibited a public mass for their souls. Only priests were permitted to be present. By order of the German authorities the ecclesiastic death certificates were not permitted to indicate "shooting to death" as cause of death.

"The German authorities went even further. They gave certificates to the families which stated that the persons shot to death allegedly lost their lives during the fighting in KRAGUJEVAC on 21 October 1941."

Belgrade, 15 August 1945, signed by the President of the Commission, certified, and certified as a true copy, and also bears the certificate of Dragoljub V. Katic, delegate of the Government of the Peoples' Federated Republic of Yugoslavia to OCC, dated Nurnberg 2 June 1947.

We shall have occasion to present other parts of this report at a later time; and at this time, also as part of Exhibit 100-A for identification -- or 100-B, in evidence, we have a series of photographs which come from three sources. The first are from photographs captured from German troops; the second are from photographs captured from German troops and delivered to the -- and delivered by Allied troops to the custody of the Commission in Yugoslavia; and the third are photographs confiscated from the German Administrative Sub-Area Headquarters in Belgrade. There is also one poster contained here. These photographs bear the same certification as the copy of the report which has been offered and are from the archives of the National Commission for the Investigation of War Crimes in Yugoslavia.

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DR. LATERNSEER: Your Honor ...

JUDGE BURKE: Just a moment, please, the Tribunal doesn't know whether you are making the offer of this group of photographs as part of the exhibit 100b.

MR. DENNEY: The switch, your Honor -- it is not going into the record.

JUDGE BURKE: The Tribunal desires to know whether you are offering the photographs as a portion of Exhibit 100b.

MR. DENNEY: Yes, your Honor, the photographs were not referred the other time. This is all part of the report that has been brought here; for the convenience of the Tribunal it would be better to give it another number. I should be glad to do whatever the Tribunal wishes.

JUDGE BURKE: You may proceed, Dr. Laternser.

DR. LATERNSE: Your Honor, there is a rule here that all material for evidence which is offered to the Court must be submitted to the defense 24 hours in advance. Since this has not been done in this case, I want for this reason alone to object to the submission of the photographs. Before the photographs are submitted as evidence, I must have had the opportunity to have a look at them in order to make eventual objections. For this reason and this thought I ask that this evidence is not accepted. I propose that the question whether they are accepted or not be decided on after 24 hours, after I, as defense counsel, have had an opportunity to look at them.

JUDGE BURKE: Do you have any comments upon that subject of the 24-hour matter, Mr. Denney?

MR. DENNEY: If your Honor pleases, that is a rule that has been honored more in the breach than in the observance but I certainly cannot contend that Dr. Laternser does not have a right to look at them before they are offered.

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He certainly does and if he hasn't seen them, the reason they were not passed out before is because of the fact that your Honors excluded the exhibit at the time of the first offer and it was felt unnecessary to take up the time of the court in distributing the photographs.

Perhaps, if Dr. Laternser could look at the photographs overnight then in the morning he would be in a position to make any objections, if any - what objections, if any, he has to their offer.

JUDGE BURKE: It is the ruling of the Tribunal that he should be given the opportunity to examine them within the period indicated -- namely, 24 hours.

MR. DENNEY: Excuse me, your Honors.

I am now handing Dr. Laternser the original exhibits which we propose to offer, the pictures with the Yugoslav text and the seal of the National Commission for the Investigation of War Crimes on the back of each picture, save two or three where it has been necessary to photostat the front side and the back side to bring them to Nurnberg, also an English translation of what there appears.

I am delivering the duplicate original set of photostate with the Jugoslave photostated and a German translation of the matter which appears in the Yugoslav language on the back, on the reverse side of each picture.

JUDGE BURKE: Then it is mutually agreed that the period of 24 hours shall be allowed for such examination as Dr. Laternser desires to make in the photographs?

MR. DENNEY: Dr. Laternser has informed me he can examine them this evening, your Honors, and will have no objections to my again making the offer in the morning at the opening of court.

DR. LATERNER: Your Honors, that speaks for myself. I cannot make this statement for my colleagues. Maybe my colleagues want to have 24 hours. I personally am agreed that this can be offered tomorrow morning.

MR. DENNEY: Well, there are two sets of the pictures and I see five other counsel for defendants here. Perhaps, they would be willing to look at the original or the copy between now and tomorrow morning so that we can again make the offer at that time. I submit that there is -

JUDGE BURKE: In any event, if there is not complete agreement with respect to the period of time between now and the morning, it may be considered that the full 24 hours will be allowed. There is no such great speed involved.

MR. DENNEY: Yes, your Honor. I am perfectly willing.

DR. HINDEMITH (Assistant of Dr. Rauschenbach, counsel for defendant Foertsch): At this time, your Honors, I would like to point out to the Tribunal that this rule, to allow 24 hours before presentation of a document before the Court has never been abided by. Document Book No. IX which has been offered this morning -- or, rather, this afternoon -- was only given to the defense yesterday afternoon. That makes it very difficult for the defense because there is no possibility -- it makes it very difficult for the defense to talk with the defendant.

JUDGE BURKE: To which subject is the counsel addressing the Tribunal and what objection?

DR. HINDEMITH: I would like to ask the Tribunal to tell the prosecution quite generally that it should abide by this rule of procedure.

Document Book IX has only been given to us yesterday afternoon. It is already being presented not in the afternoon session. The 24 hours term has not been kept in this case.

JUDGE BURKE: No objection has been raised by counsel up to this time.

MR. DENNEY: If your Honor please, we have furnished the defense counsel with many more documents than we have already used and I believe that everything that has been in Document Book IX has been in the Defense Information Center for quite some time and, while the actual book itself was not furnished until yesterday, I dare say that almost all -- by that I mean more the 95% of the material -- was available to them long before yesterday.

JUDGE BURKE: We will proceed.

MR. DENNEY: At this time we would appreciate it if we could serve to the counsel for the defense, and also give copies to your Honors some additional parts of this report so your Honors perhaps may have an opportunity to glance at it in case there are objections made. There are some several pages here, 20 or 30 -- if that's agreeable with the Court.

JUDGE BURKE: That may be considered as agreed on by the Tribunal.

MR. DENNEY: We will also hand to counsel for the defense eight more sets of the pictures. Now they have a complete set of the pictures for every one of defense counsel in addition to the original set, and all of the nine sets have the text in German and in Jugoslavian -- and we also deliver three sets for the court.

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JUDGE BURKE: We will reserve the examination until after the conclusion of such objections as may be made.

MR. DENNEY: The only reason I handed them to your Honors is because if objections are made you will certainly have to look at them then, it would seem and I am just -- I am not trying to show the Court something indirectly that I may be prohibited from doing directly, but it is submitted that --

JUDGE BURKE: Well, subject to the ruling that the Tribunal made with respect to the whole document, I think it is perfectly safe.

You may proceed.

MR. DENNEY: Thank you, your Honors.

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MR. DENNEY: I now hand the defense counsel nine copies in German of an interrogation conducted in the Military Prison, Belgrade, on 24 March, 1947, of one George Kiessel, and one copy in German and English for each of the reporters and the interpreters, and again, three copies for the Court. This is still part of Exhibit 100B.

The Court has now to received some additional pages starting out, "To the Population of Valjevo and Neighborhood". This is again part of Exhibit 100B, and I hand to the counsel for the defense 9 copies in German, and an English and a German copy for the reporters and interpreters, and three copies for the court, of the further sections of the report. This part is headed. "Novi list (Neues Blatt), 5 August 1941.

There are 9 copies for defense counsel, in German, copies in English and German for the interpreters and translators, and for Major Hatfield, of the exhibits, with an English translation of each.

These are not for the record. We are giving Major Hatfield a copy of the photographs, which he is now receiving.

Now may the record show that the defense counsel have received all of the material which comprises the official report which has been submitted here of the National Commission for the Investigation of War Crimes of Yugoslavia.

THE PRESIDENT: Do you so concede Dr. Laternser? For the record it is so conceded.

MR. DENNEY: This is all that we offer at this time.

There are additional excerpts which may be offered later.

THE PRESIDENT: Subject to the same ruling.

MR. DENNEY: Oh, yes, your Honor.

Turning again to Document Book 9, page 51 of the English and 65 of the German, we come to [NOKW-1722](#) which is offered as Prosecution's Exhibit 228, in evidence: These are reports, orders, and memoranda concerning a conference with the Commanding General Serbia, dated 2 October 1942, and is taken from the War Diary of the Commanding General and Commander in Serbia.

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"Conference of Chief's of Staff Salonika General for Special Missions von Unruh/OKW will call on garrisons and offices to check on garrison installations, table of organizations etc."

And then the note:

"(a person of a highly suspicious nature)."

"Chief of OKW has issued an order that certain punishable deeds of the non-German population particularly in the southeast area are not punished severely enough. In order to achieve an effective deterrent effect, these punishable deeds in particular which are directed against the Wehrmacht are to be punished more severely, the punishment to be executed ruthlessly. Aiding and abetting the enemy and unauthorized possession of arms is to be paid for with death.

A reasonable composition of the Courts must be attended to. The ideas of the judges are much to clement for the fourth year of the war. In cases of suspected espionage most severe measures must be employed."

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"Our Divisions frequently seem to have a too pro-Serbian attitude. The SS will offer example." And then enclosure 29 of the War Diary for 10 October 1942.

Subject: Precautionary measures against enemy attacks.

The treacherous attack on an officer with lethal effect compels greatest precaution toward the cunning enemy. The carelessness observed in different places is out of place even in times of complete quiet! The movement of individual soldiers outside of the billets and at night offers to the insurgents an easy opportunity for attacks.

Because the insurgents fear German reprisal measures one must count on the possibility that - contrary to previous custom - the German soldiers who have become victims of the attack will be hidden away.

For the protection of the German Wehrmacht I order therefore that the established reprisal measures for dead and wounded may also be entended in the future in accordance with the situation to missing German soldiers pursuant to an application.

This, if Your Honors please, is from Baden, the Lt. General of Artillery, Commanding General and Plenipotentiary, in Serbia, and it is signed by him.

Then on 10 October 1942, again the distribution of this next order appears on the following page, and went through the information of the Wehrmacht Commander Southeast, who at that time, of course, was Loehr, who had just moved in. This is:

"Treatment of captured insurgents in Serbia and States:

- 1.) A person encountered carrying arms or assisting insurgents during combat actions is to be hanged or to be shot dead as a matter of principle. Leaders, political commissars and couriers are to be interrogated first of all if possible in collusion with SD.
- 2.) Insurgents taken outside of combat actions, insurgents who have surrendered giving up their arms, persons arrested under suspicion of belonging to the insurgent movement, of having aided and abetted the insurgents or in any other manner cooperated with the insurgents are in general to be turned over to the Commander of the Security Police.

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This does not infringe upon the authority of the Commander of Administrative Sub Area Headquarters to instigate and execute court-martial procedures."

Then dropping down to 4, on page 67 of the German text, "4.) Persons arrested who do not come within the province of a court martial trial will be treated as follows:

Persons whose guilt has not been proved will be released or sent to a prisoner of war camp. Convicted persons will be made available for the Plenipotentiary General for Economics to procure voluntary work for him or they will be deported for compulsory labor by the Commander of the Security Police in either case in accordance with the degree of their guilt.

And there again there is an illegible initial, but one order is signed by Bader.

Then again on the 10 October 1942 he makes a report to the Wehrmacht Commander Southeast with reference to an early communication which is cited there of 3085, 7 October 1942, Point "A", which was referred to in the earlier communication. Bader states:

"Has been settled by agreement with the Senior SS and Police leader in accordance with the enclosed order. Even in accordance with the ruling up to now only those persons can be sent to prisoner of war camp who have not been convicted but whose evacuation from Serbia seems to be required as a precautionary measure."

Again referring to the basic communication.

PRESIDING JUDGE BURKE: We will pause at this point and adjourn the Tribunal's hearing until 9:30 tomorrow morning.

MR. DENNEY: If your Honor please.

(Tribunal recessed until 0930 hours 25 July, 1947)

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Official Transcript of Military Tribunal V, Case VII in the matter of the United States of America against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 25 July 1947, 0930, Justice Wennerstrum, presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the courtroom.

THE PRESIDENT: Marshal, you will ascertain if all the defendants are present in the courtroom.

THE MARSHAL: May it please your Honors, all the Defendants are present in the Courtroom.

THE PRESIDENT: You may proceed on behalf of the prosecution.

MR. DENNEY: May it please your Honors, yesterday the court gave permission for the withdrawal of Exhibit No. 100B, so much of it as had been received in evidence, and that the photostatic copies be made, and I now hand the photostatic copies of the original Yugoslav reports back to the Secretary General.

I have discussed, informally, with some of the defense counsel, the question of proceeding with the balance of Exhibit 100B at this time, and it appears that one of the counsel who objected is not here at this time, so perhaps it would be best to pass it for the time, in view of the fact that he is not here to indicate whether or not he has had an opportunity to examine them.

At the close of Court yesterday, we were on Exhibit 228, which is NOKW 1722, and I should again like to direct the Court's attention to the fact that this is the period August '42 to August '43, during which time the defendant Geither was chief of staff to the Plenipotentiary Commanding General in Serbia, and the defendant Foertsch was chief of staff to the Armed Forces Commander Southeast, who at the time, as the Court will recall, starting with 9 August 1942, was General Loehr.

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Then there is one part of the present exhibit which has already been read to which I should like to direct the Court's attention. It was the last page, 53 of the English, and 66 of the German, on the treatment of captured insurgents in Serbia, dated 10 October 1942.

It refers at paragraph 1 to "political commissars," on the 3rd line of that paragraph. I neglected to point that out in passing, yesterday.

Turning to page 68 of the German, and 54 of the English, still on Exhibit 228, the report for 10 October 1942, to the Wehrmacht Commander Southeast, Point (A), this is in reply, - we were in the middle of this yesterday, -- this is in reply to a communication from the Wehrmacht Commander Southeast, to the Commanding General and Commander in Serbia:

"Point A) has been settled by agreement with the Senior SS and Police leader in accordance with the enclosed letter. Even in accordance with the ruling up to now only those persons can be sent to prisoner of war camp who have not been convicted but whose evacuation from Serbia seems to be required as a precautionary measure."

DR. LATERNER: I dislike to interrupt here, but I have just been told that the transmission is not in order, in the case of the defendants.

MR. DENNEY: The defendants cannot hear, nothing is coming through on their earphones, your Honors.

THE PRESIDENT: Let the record indicate that the defendants can now all hear, and we will proceed.

MR. DENNEY: Thank you, your Honors.

"Point A) has been settled by agreement with the Senior SS and police leader in accordance with the enclosed order. Even in accordance with the ruling up to now, only those persons can be sent to prisoner of war camp who have not been convicted but whose evacuation from Serbia seems to be required as a precautionary measure."

Point B of the original communication is being referred to.

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"Point B) has been clarified so that a limited number of Security Police vehicles will receive special identification papers 'Secret Service Trip' which will free them from the control of Wehrmacht patrols."

"For the Commanding General and Commander in Serbia", signed "von Geitner". The signature is typed and is signed.

Then the date 12 October 1942 with reference to a teletype of the previous day, a communication to the district headquarters from the Commander in Serbia, Military Commander Serbia:

"As reprisal measure for the racial German policeman shot in Samosch on 10 October 42 the hanging of 50 Communists is hereby approved."

On page 69 of the German and 56 of the English, report for 15 October 1942, with reference to activities of the SS Division Prinz-Eugen to the Wehrmacht Commander Southeast, from the Commanding General and Commander in Serbia;

"After the destruction of Xriva Reka the armed and resisting male population were killed.

Mayor and municipal civil servants near Trstenik convicted as insurgents. Houses burned down in reprisal.

Then for the 22nd of October, -- it says "27" on the mimeographed copy, it should be the "22", at the bottom of page 69 in the German, to the Wehrmacht Commander Southeast, again from the Commanding General Plenipotentiary in Serbia, 717th Division, 1st Company of the 700, -Could I see the original again please?

MR. DENNEY: "The 1st Company of the 737th Infantry Battalion encountered enemy group in Mhaljevci, 5 enemy dead, 18 prisoners shot to death, own losses: 8 wounded." And the Daily Report of the 23rd to the Wehrmacht Commander Southeast, "In reprisal for the racial German policemen murdered on 10 October, 50 Communist executed in public." And this is a reference back to the report of the 12th of October for the 10th of October, which is contained in Exhibit No. 228. That is Page 69 of the German and Page 55 of the English. And then, "1st Royall Bulgarian Occupation Corps: 6 Communists shot to death." Page 71 of the German and Page 58 of the English, report for the 24th October, to the Wehrmacht Commander Southeast, Croatia: 714th Infantry Division: During mopping up operations, 4 enemy dead, 7 suspects captured, 16 rifles, 2 machine guns and equipment captured. Shelters for insurgents burned down. During reconnaissance of II Battalion, 741st Infantry Regiment contact with the enemy, 2 dead, 2 prisoners shot, 1 Ustascha dead, 1 wounded." And then for the 25th, still to the Wehrmacht Commander Southeast, and still from the Commanding General Commander in Serbia, on Page 71 of the German and Page 59 of the English, "Own patrol fired on by band northwest of Cacak, 13 inhabitants arrested, farm burned down. Influential Serb murdered near Cacak. Of 64 arrested (Daily Report 22 October) 4 convicted persons shot to death." And for the 26th--I believe in the German copy that is an error; it should be for the 26th of October, the next one. "Croatia: 714th Infantry Division: Kozara operation concluded. Additional 19 enemy dead, 6 prisoners (will be shot after interrogation)" Report on the same date for the "Prinz Eugen" Division, "Leading unreliable Cetnik shot dead for unauthorized possession of arms." And then, the last page of the document, Page 72 in the German and Page 60 in the English, the report for the 29 of October, "SS Division "Prinz Eugen": During operation Eizer Voda, 3 insurgents shot in public by the 2nd Mountain Jaeger Regiment." Turning then to Page 73 of the German and Page 61 of the English is Document No. [NOKW-1156](#). This is offered as Prosecution's Exhibit No.

229 in evidence. This is a report for the Commanding General and Commander in Serbia, for whom the Defendant Geitner was Chief of Staff, for 30 October 1942, with reference to the title, "The Communist Insurrection Movement in the area of former Yugoslavia." Paragraph 3, "Leadership:" "The supreme leader of the Communists of Yugoslavia is "Tito". His origin is probably Croatian of Slovenian. He is alleged to have participated in the Spanish Civil War. Up to now, no details could be ascertained regarding his person. Headquarters are situated in Mliniste in the Klekovac Mountains (23 Southwest of Kljuc). "Tito" considers economic co-operation of the partisans as equal partners with Germany as absolutely possible even in the Yugoslav ares."

Strength: Reports available estimate the total number of Communist insurgents to be 28,000 to 30,000 men, 60% of which are armed. Only a minor part can be considered convinced Communists. The masses composed of farmers and workers who were mislead by propaganda and /or fled into the woods for fear of reprisal and elimination measures.

Active participation of women and girls as nurses and as couriers is common practice in all units.

Organization: The basic unit of the armed Communist groups is the peoples' liberation partisan unit which corresponds approximately to a Battalion (frequently also to a regiment) and which is organized in companies, platoons and groups.

When the movement grew, it became necessary to organize brigades which were assembled according to ancestral origin as Serbian, Bosnian and Herzegowinian brigades. A further step was the organization of the Proletarian Brigades which were to accentuate symbolically the part played by the workers in combat. The assault brigades represented a specialization which was due to the acceptance of selected fighters and choice equipment.

In the 1st unit of the staff for the Bosnian Krajina even a Youth Battalion has been found to exist.

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"A political commissar --"

MR. DENNEY: And again the reference is called to the Court's attention "-----is assigned the leader in all of the units as far as the company.

Rank insignia: All are worn on the upper part of the left sleeve. Commandant of the zone of operation: like his staff officers an open chevron with the point on top and the red star below. Battalion Commander: 1 red star; 1 vertical stripe below. Company Commander: 3 red stars. Platoon Leader: 2 red stars. Group Leader: 1 red star. Unit Political Commissar: 1 red star, hammer and sickle in gold superimposed 2 vertical stripes below. Battalion Political Commissar: 1 red star, hammer and sickle in gold superimposed, 1 vertical stripe below. Company Political Commisar: 1 red star, hammer and sickle in gold superimposed.

All wear the Soviet star in their hat.

Method of Combat: In Combat, the insurgents apply the principles of guerrilla warfare as they were made available to the troops as early as Fall 1941.

MR. DENNEY: And then there's a reference to a Command Staff Section communication of that day.

However, as can logically be expected, the developments of the movement has brought along a change in combat method. One can differentiate three variations.

- a. The ambush of small bands with the purpose of acquiring weapons ammunitions and equipment to equip new members.
- b. The open attack of medium size bands with the purpose of annihilating the legal armed forces having for a secondary aim, the acquisition of loot.
- c. The conquest of strategically important villages in such numbers as to make possible a total occupation of the territory desires.

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If a large size hand is scattered, the sub-leaders return to the methods of guerrilla warfare.

The attack on morally or materially inferior enemies is considered customary. The bands evade superior forces because signal communications supply them in time with the information necessary for an estimate of the situation. If a band is surrounded, it scatters according to orders and attempts individually under the protection of the night to leave the encircled area. During the day, all means of camouflage are used like digging in, covering with foliage, climbing up trees, etc. The treatment of prisoners differs. Frequently it is based on propaganda reasons and is carried out in such a manner that the prisoners are not shot to death but are released after having been robbed of everything. If the leadership considers it practical, exchange is also suggested. Officers were shot to death in almost every case.

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And the attention of the Court is called to the part of rank insignia of Battalion Company political Commissars and the similar but not identical language in the Commissar order which appears at page 51 of Document Book 1 at -and that is [NOKW-1076](#).

Then turning to page 75 of the German and 65 of the English, [NOKW-1394](#) is offered as 230 in evidence, This is again a report with reference to insignia and it is an enclosure to the 718th Infantry Division report from the staff of the Division Commander and there are also annexed to the original, which I should like to hand up for the Court to examine, some small diagrams of the distinguishing insignia of the units which were fighting with the partisans under the direction of Tito. It is dated 1 November 1942.

"Information about the enemy No. 9. At the beginning of October 1942 a group of Communists 500 to 600 men in strength was reported south of Travnik in the area Bistrotstovo, and on the Vranica Plain. Another group moved on 8 October 1942 from Kupros towards the east to the Vranica Plain, These two groups form a brigade under the leadership of Steva Kovacevic, a former farmer from Montenegro whose staff is at a point 2107 Locike in the Vranica Plain."

Up to now the 3 battalions were determined. The III Battalion, it gives its area, strength 200 men, armament unknown.

The IV Battalion with a staff, gives its area, strength 180 men, armament 2 heavy machine guns, 3 light machine guns of Italian origin; leader: Milovan Saranovic; Political Commissar: Vrbica, alias "Migo".

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The V Battalion, gives its area, consisting of indigenous peasants, men only, strength 200 men; armament; 5 light machine guns and rifles (of Yugoslave origin).

"The whole Brigade is not uniformly clothed. In addition to civilian clothes German, Croatian, Italian and Serbian uniforms are worn. All however wear a red star on the cap. The medical service is very bad. The food supplies are good, but there is no salt and no tobacco. Ammunition is very scarce.

The IV and V Battalions were alerted on 51 October 1942 as they presumed an operation of the German Wehrmacht and retreated allegedly in direction Bugojno on 1 November 1942.

The V Battalion has with it as a prisoner Corporal Buerger of the 3rd Company of the 668th Regiment. The negotiations of exchange offered by the Communists on 31 October 1942 remained without success on account of the alerting of the Brigade."

For the Commander of the Division The 1st Officer of the General Staff" And the Geitner who is mentioned here is the one we have referred to before and not the defendant Geitner.

Page 76 of the German and 67 of the English, Document NOKW-1412, is offered as prosecution's exhibit 231. These are some extracts from the War Diary of the Commanding General in Serbia with reference to the exchange of hostages with the SD, together with an order for shooting mayors who show a passive disposition.

Page 77 of the German and 68 of the English under date of 26 November, the Army Chief of Staff -

THE PRESIDENT: Pardon me, you now refer to page 68?

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MR. DENNEY: Page 68 of the English and 77 of the German.

THE PRESIDENT: Pardon me, will you repeat what it is, please.

MR. DENNEY: 68 of the English.

THE PRESIDENT: And what document number?

MR. DENNEY: 77 of the German, Document [NOKW-1412](#). The first page is just the cover page of the War Diary.

THE PRESIDENT: My document book -

MR. DENNEY: Sir, we can get your pages for your Honor. Are some pages omitted?

THE PRESIDENT: Apparently so. I am using the Secretary General's book this time.

MR. DENNEY: I am sorry it has happened, your Honor. We will certainly endeavor to correct it at the recess.

Under date of 26 November 1942, the Army Chief of Staff -- that is a reference to the defendant Foertsch -- requests by telephone the shooting to death of all mayors remaining passive.

"Teletype order to 610th Administrative Sub-area Headquarters to exchange in agreement with the SD the 60 hostages (for kidnapping of a German police sergeant) which have been seized unauthorized by the Commanding Officer of the II. Battalion of the 5th Police Regiment primarily for persons those who are suspected of Communism.

The Commanding General agrees to the successive shooting to death of a certain number of these hostages if the kidnapped police sergeant does not return within a definite time limit. The population is to be informed.

And the Commanding General who is here referred to is –this is an extract from the War Diary of the Military Commander and Commander in Serbia.

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Teletype order to 704th Infantry Division and to Administrative Sub-area Headquarters 599 to shoot to death 25 hostages in reprisal for Organization Todt man who was found murdered near Zagubica and to proclaim it publicly."

These again are typewritten excerpts, and on page 69 of the English and 78 of the German, NOKW –

JUDGE CARTER: In this previous document you say that the Army Chief of Staff refers to Foertsch?

MR. DENNEY: Chief of Staff of the Armed Forces Commander Southeast, yes, your Honor.

JUDGE CARTER: I thought this was the diary of the Commanding General in Serbia.

MR. DENNEY: It is the diary, sir, but it says the Army Chief of Staff and the only army that is down in that area at that time was the 12th Army, if Your Honor will recall, which at this time was the commanded by the not present General Loehr to whom the defendant Foertsch was Chief of Staff? It had been carried over from first List, then Kuntze, and now Loehr.

[NOKW-1250](#), which is at page 69 of the English and page 78 of the German is an order of the Armed Forces Commander Southeast for increased partisan combat during the winter of 1942--1943. This is offered as prosecution's Exhibit 252 and on this we would pass it up to your Honors and direct your attention to the initial of the defendant Foertsch which appears to the right of the signed copy of the order. It is dated 7 December 1942, top secret, 20 copies of which this is the 20th copy, under Wehrmacht Commander Southeast, and the distribution appears on the third page, page 71 of your Honors' book.

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Intensified Combatting of Bands during the Winter 1942 / 1943

1). In the expansion of the overall position in the Mediterranean area the enemy powers will attempt more than they have done so far, to create the prerequisites for establishing a new front in Europe through inciting and supporting the insurgent movements in the Balkans. All the more we must do everything to prevent this. Every band formation which proclaims itself must be nipped in the bud, every enemy group which appears must be destroyed and exterminated immediately ...

2). This knowledge, as well as the fact that additional units from Germany cannot be expected, forces us to an intensified conduct of warfare. This must adjust itself to an increased extent to the fighting methods of our enemies and must surpass them. Surprise, speed, stratagem and ambushes, raids, espionage, effective reprisal measures (hostages), pursuit detachments, and shock troops led by hold commanders, etc., are the means for this. The concept "Winter Quarters" does not exist. But above all we must also become mobile with regard to the concentration of larger formations. The mission can only be accomplished if the largest possible concentration of fighting strength, in keeping with the

appropriate traffic and terrain situation, can be attained within the shortest time possible, and relentlessly overcoming all terrain and weather difficulties. Any formation of the enemy that shows itself can be effectively destroyed and it must be accomplished under any circumstances. A shifting of units to combat enemy forces that have landed within the entire coastal area of the Southeast can also be considered.

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3). This means increased efforts in all fields with the total exploitation of all possibilities and all sources of assistance offered by the country. The concept "Improvisation" hereby stands at the beginning of every thought and action. Everything, serving to increase the fighting strength and seeming suitable to accomplish the assigned tasks, is right. Bureaucratic concepts are to be opposed with a very loose interpretation of the directives.

"An order concerning the establishing of combat echelons and emergency units, as well as further individual directives necessary, follows.

Signed (Loehr) And in the distribution, it is to be noted that there was an advance message by teletype to Commanding General and Commander in Serbia, to the Commander of the German Armed Forces in Croatia and to the German Plenipotentiary General in Croatia.

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Page 81 in the German and 73 in the English, Document [NOKW-1251](#) is offered as Prosecution Exhibit 234 in evidence.

JUDGE CARTER: 233.

Mr. DENNEY: 233; thank you, Your Honor.

This is dated 15 December 1942, bears the heading Wehrmacht Commander Southeast, and is a report on experiences in connection with the dynamiting of the Gorgopotamos Bridge:

1.) Course of events:

On 25 November 1942 about 20:00 hours an attack was executed by a band of about 200-300 men on the Gorgopotamos Bridge South of Lamia. (This bridge is) about 211 meters long and crosses a rugged valley. The approach was made in three columns from the mountain side. Without being noticed the two flank columns occupied the heights rising above the railroad and bridge on both sides. From here, a concentric surprise fire attack on the Italian bridge heads took place which immediately caused losses in the shelters which are not bullet proof. In addition both flank groups immediately blocked the road to the left and to the right of the bridge by mines or rather detonations making impossible the bringing up of reinforcements by railroad.

.....

.....

The blasting material was of English origin and had been prepared carefully. The method of execution shows the hand of an expert blasting specialist; the auxiliary personnel had been instructed well but as yet it worked without experience. The demolition charges were fastened ready for use into pieces of wood which were inserted with prepared rope or by the use of a magnet holding it in place.

.....

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f) Employment of the population for the security and patrolling of railroad tracks for short periods of time. In case of a mine explosion, loosening of rails, etc., to call to account the civilian who was patrolling there previously, if necessary to shoot him. In case of a surprise attack, to punish the villages situated near the locality of the attack ! To seize hostages! To arrest non-residents!

g) Employment of the civilian population extensively and ruthlessly for the construction of fortification!

For the Wehrmacht Commander Southeast (12th Army) The Chief of the General Staff (Signed) Foertsch And, there were 70 copies of this order signed by the Chief of Staff, defendant Foertsch, which went out and I would like to pass the original to Your Honor so you may see his signature and then perhaps counsel for the defendant Foertsch would like to see the document.

Turning then to page 83 of the German and 76 of the English, Document [NOKW-950](#), is offered as Prosecution's Exhibit 234. This is a situation report of the Commander of German Troops in Croatia to the Armed Forces Commander Southeast for the period 7 to 16 December. The first date is 22 December 1942, situation report to the Wehrmacht Commander Southeast and the note for the enclosure, and then an estimate of the situation from 7.12 to 16.12:

"Enemy situation: The enemy situation in the sector reported on here has become aggravated. The assault power of the partisans in the area between Livno and Karlovac has strengthened. The forces are mainly organized in 5 Partisan Divisions (3 to 400 men) consisting of 3 to 4 brigades each. The Divisions are equipped with heavy weapons including some artillery. Supply and rear services have been organized militarily.

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Though, considering the difficulties involved in organizing an illegal army, these efforts should not be overestimated, the combat power of these units seems to have improved so much that they have been able to make a general advance between the Bosna and Una in a North-East direction.

A Corps Staff is situated in Benakovac (West of Sanski Most). Seemingly advancing are:

The 4th Partisan Division (?) some units toward Bosni and Novi and some units towards Prijedor.

The 5th Partisan Division toward Prijedor.

Parts of the 1st Partisan Division are assumed to be still in the area around Vacar Vakuf, units might possibly have advanced into the area Banjaluka-Prnjavor via Kotor Varos.

The 3rd Partisan Division has advanced toward the Bosna Valley between Zenica and Zepce via Jagce and North of it.

The 2nd Partisan Division is alleged to be near Livno.

If it is true, it has a mission to secure the partisan state against DM Chetniks in the Southeast and probably to invade the Makarsak-Zone evacuated by the Italians - in order to include this area in the Partisan State.

.....

.....

3. Acts of sabotage:

As compared with the period covered by the last report acts of sabotage on the main railroad line have increased. The following acts of sabotage and attacks took place and then it lists the various kinds of sabotage, for instance:

Railroad sabotage:

a) On the main line 15

b) On the unsecured branch lines 18 Road sabotage 2 Sabotage on telephone lines 11 Attacks on members of the German Wehrmacht 1 Other attacks.

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..... 3 Cases of looting 3

4.) Own tactical situation and intention:

The tactical situation is conditioned by the advance of the partisans against the area of Bosna and Una as stated in paragraph two. This advance was stopped in the Western Part between Bosni Novi and Sanski Most but due to the frequent failures of Croatian units has not been entirely taken care of. In the Eastern part the East wing of the partisan group near Jajce suffered a considerable set back. Enemy losses during this operation: 431 counted dead, 60 wounded, prisoners and shot to death, 4. Losses of our own: Two officers and 58 men dead; wounded, two officers and 93 men; missing 8 men.

.....

Then on page 85 of the German, 79 of the English, [NOKW-956](#). This is a situation report of the Commander of the German troops in Croatia to the Wehrmacht Commander Southeast. 30 December recites the enclosure of the situation report for the 17 December to the 26 of December, the report just following the one that was submitted before as Exhibit 234:

"The large Communist Group on the other side of the line of demarkation threatens now as before the area secured by German troops. By the occupation of Livno and Tomislavgrad the "Reich" of the Supreme Communist leader Tito has achieved its largest expansion to date. His present day territory is 250 kilometers long and approximately 80 to 100 kilometers wide, and the court's attention is

respectfully directed to those figures which set up an area approximately 135 miles which a minimum of about 50 to 54 miles.

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According to orders which were found there are allegedly 63,000 armed men in this partisan state who have at their disposal heavy weapons, several guns, motorized and horse-drawn vehicles and a sufficient train of beasts of burden. The heavy offensive activities of these Communist units have abated since the period covered by this report. However numerous enemy reports disclose renewed assembly and preparations for attacks on Jaice, and possibly on Banja Luka too.

Because of the clever evasion on the part of partisan units, our own troops despite uninterrupted offensives were unable to fight with any noticeable effect the partisan brigades near Sanski Most. Sanski Most itself is again threatened from three sides. A similar situation exists near Jajce which is threatened for the fourth time by strong Communist units. Obviously, the enemy is attempting to bring about a decisive success (interrupting the main railroad line?) in connection with the Russian offensive (Before spring). Another reason that one may not count on a decrease in attacks is that the partisans constantly gain new confidence from the failures of the Croatsians.

.....

3 Acts of Sabotage:

During the period covered by this report railroad sabotage has increased. The following cases of sabotage and of surprise attacks have taken place:

1. Railroad sabotage:

a) On the main lines. 5 cases

b) On the unsecured branch lines road sabotage 11 cases 2. Sabotage telephone lines 1 case 3. Attacks on Members of the German Wehrmacht ----4. Attacks on farms, town halls and the like . 1 case 5. Pillaging ---. Operation Tusla II:

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Was concluded on 21 December. The intention to annihilate the partisans in the area Northeast of Tusla is fully realized. Due to the failure of Ustascha Battalion remaining partisans were able to break through to the south but they were scattered near Sekovici by Pravoslav volunteers. A pacification of the area Northeast of Tusla may be expected shortly. Result 250 enemy dead, 160 delivered for compulsory labor, the Grossgespan of Brod for weeks in captivity of the Chetniks was freed and 80 Chetniks disarmed.

.....

Signed in draft Lueters Turning to page 83 of the English and 88 of the German, [NOKW-979](#), it is offered as Prosecution Exhibit 236.

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These are reports of the 718th Division with reference to the operation against Jajce, and they contain a detailed description of partisan units. Dated 30 September 1942 and carry through to the 20th of December, the same year.

"1. General matters:

"The insurgents in the area Jajce belong to a large well-organized group of partisans. The leader of this large group is the already wellknown 'Tito'. His headquarters is at Glamoc (50 kilometers southwest of Jajce).

"This group of insurgents is divided into several brigades which are again divided into three battalions each of which consists of three companies. The strength of one company is from 60 to 100 men.

"From enemy papers and statements of prisoners it is deducted that the 2nd Serbian Proletaria Brigade is situated west of Vrabas and the 5th Montenegrinian and the 1st Herzegovinian Brigade south of Jajce. The latter two brigades are meant for the interruption of the road and the railway line Travnik-Jajce.

"From the south further brigades some with Italian tanks are supposed to be approaching for support.

"From interrogations and enemy papers it is evident:

"1. In every unit a special confidential agent of the political staff is commissioned with the supervision not only of the partisans but also of the Commissar and the Commandant.

"2. The intelligence service of the partisans is excellent. As scouts they mostly make use of: beggars, youths, and Dalmatian peddlers.

"3. In every partisan battalion there is a signals officer whose task it is to organize an intelligence service of the civilian population.

"4. During an attack they first throw in shock troops equipped with hand grenades and bottles of gasoline. Then follow lines of riflemen. In the meantime in the terrain still further back, groups specifically provided for the purpose, commence firing in order to direct attention to themselves.

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"5. The partisans have penal battalions. Members of these units must work hard; they must remove mines, must construct road blockades and tank traps and must serve as a carrier service. Furthermore they are employed in especially dangerous operations.

"6. The brigades have at their disposal anti-tank groups. The members carry beer bottles filled with gasoline which have a fuse 20 to 25 centimeters long. The fuse is lighted with a match or a lighter and from a safe cover they are thrown against the tanks.

"7. Furthermore they have at their disposal nine detachments eleven men strong. The members are former foremen of blasting gangs or workers from artillery workshops. Their task is the manufacturing of mines from bombs or artillery duds.

"8. By preference the attacks are made by night. Moonlit nights are avoided; rainy nights preferred.

"9. Before the attack the adversary is put under the effect of alcohol.

"10. Premiums are paid for the capturing of prisoners.

"11. The losses of the partisans are kept strictly secret even from their own people.

"12. The food supply of a part of the partisan units is insufficient. Once in a while only there is bean soup or a small piece of meat. The bread consists of a mixture of barley, oats and bran – every second or third day a small piece.

"13. Examples of enemy ground signal:

red: enemy in that direction.

white: enemy encountered, green:

we advance, green-red:

we retreat, green-white:

attack, twice green:

we request aid.

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"14. The partisans fix signs of recognition several days in advance; they are different during the daytime than at night. For example, during daytime: moving the body to the left and right or holding the left hand against the mouth.

at night: copying the noises of goats or the cuckoo.

Issuing of various passwords consisting of challenge and password. For instance, Sari...Suhaca, or Faschists...is withdrawn.

I don't think I need to read the insignia rank. We just had them. They are similar to those we had before. However, I would like to point out for Your Honors' notice, "Political Commissar" we have here, and on the prior page, and with reference to the hammer and sickle embroidered in gold on the star, and the reference back to the Commissar of June 1941, which is in Document I.

Turning to page 91 of the German, page 86 of the English, details about the enemy;

"II. Details about the enemy.

"After having taken Mrkonjic Grad on 24 August 1942 the partisans advanced with small units up to the near neighborhood of the town Jajce. After small weak attacks a stronger attack was made on the towns Prudi and Carevo Polje for the first time on 21 September 1942. At the same time Bukovic and the electricity works in Jajce were attacked. The partisans received reinforcements from Mrkonjic (2000 to 3000 men) on 24 September 1942. Thereupon on 25 September the concentric attack on Jajce and places south of it took place. The electric train line between Duganovci and Jajce was cut and destroyed in several places. Jajce was taken on 25 September at 1700 hours.

"According to our own land reconnaissance and Croatian reports the advanced posts and fortifications along the line Bunar - Bistrica Doribaba and various instances of distance and direction. Near Vericki Kam and Duganovci the partisans are in possession of machine gun positions which dominate the approach roads to Jajce.

"One of the leaders is supposed to be a certain Yugoslav Major Djokic who is now in the area of Podmilacje and Divicani with about 500 men.

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"According to statements of prisoners the equipment of these groups of partisans is said to be excellent. They are said to have at their disposal mountain guns, heavy trench mortars, heavy machine guns, and light machine guns. In addition they captured two mountain guns in Jajce. One of these is said to be in position near Jezoro and the other one on the road to Banja Luka. Distribution in draft.

"For the Division Headquarters "The Ira."

And the name Geitner is signed here, and again this is not the defendant Geitner. It is the General Staff Officer in this division.

And then continuing with some more matters with reference to the Jajce situation:

"According to statements of prisoners the following participated in the taking of the town Jajce:

I Assault Brigade II Assault Brigade a Serbian and a Montenegrinian Brigade.

"On the march from Jajce in direction to Travnik there are:

I Assault Brigade II Assault Brigade IV Serbian Brigade IV Montenegrinian Brigade."

And then next strength of units:

"I Assault Brigade: Strength: Three battalions consisting of three companies and one escort company. In all: 600 to 700 men. Strength of the company: 65 to 75 men, each battalion about 200 men.

Armament: 45 light machine guns and 6 heavy machine guns with sufficient ammunition.

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Escort company: Consisting of a heavy machine gun detachment with 7 heavy machine guns, a trench mortar detachment with 2 heavy trench mortars and 1 light, and an artillery detachment with 2 anti-tank guns."

And then it sets out the various units, breaking them down. I don't think we need more than comment on these. I would like to call the Court's attention again that now the political commissar is listed for the first assault brigade, and again for the first battalion of the brigade, and again for the second battalion, and then next the secretary of the brigade, the deputy commandant, the deputy commandant of the first battalion, as well as the battalion commandant or battalion commander, and administrative officer.

Again carrying back with the Commissar of June 1941, the reference which has been made before which appears in Document Book I, if Your Honors recall, we submitted two copies, one from Field Marshal von Brauchitsch, at that time Commander-in-Chief OKH, and then an additional copy to show the two different types of distribution which I used. And we hope at a later time to carry the issuance of that order up to show the summary execution of political commissars.

I want to direct the Court's attention to the use of this term as we go through these documents.

DR. LATERNER: Your Honors, I would like to point out that the Commissar's order shows it was only valid for the Russian front, and so far I want to challenge what the prosecution has said and say the prosecution is bound to prove this assertion.

MR. DENNEY: Well, if we are able to. Of course, if we don't, however, we believe it right to call the Court's attention to these references as we go along. Document Book I is a long time back.

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In the Second Assault Brigade they again list the Commandant or the brigade commander, if Your Honors please, and the deputies both being unknown, however, they do give the commanding officer of one battalion. For the commanding officer of one company - they didn't have much information apparently about that.

"II Serbian Proletarian Brigade:

"Strength: Four battalions each consisting of three companies and escort company. Present strength of the entire brigade 200 men."

And then their:

"Armament and ammunition: 5-6 rounds in all, 10,000 rounds maximum. Each man having five or six rounds, which would indicate a strength of approximately 2,000 men."

Excuse me, Your Honor, while I check this figure here.

And then under the Second Proletarian Brigade they list the brigade commandant; the place for the Commissar was unknown, and the four battalions, with only one battalion commander known. The IV Brigade strength and armament unknown.

And then the statement:

"Allegedly four further brigades are on the march towards the area Jajce."

They recite: "1 Herzegovinian Brigade, V Montenegrin Brigade, Dalmatian Brigade, and the Sandzak Brigade."

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(Mr. Denney) And again the signature, "Geitner" is the General staff officer, not the defendant in this case.

And a further report with reference to the partisan situation, dated 10 November, the first paragraph recites the capturing of Communist documents in the second operation at Jajce, Glamoc, Prozor and Travnik which contained valuable statements concerning the formation and composition of the enemy:

And then they set forth the details in these documents.

I Distribution of enemy forces

II Enemy situation before and during operation I Jajce II

III Attack on Mrkonjic Grad

IV Organization

V Administration

VI General matters."

Then with reference to distribution they cite III detachment with 2 battalions in the area east of Glamoc; the II Brigade in the area northwest of Kupres; the IV Brigade with 3 battalions, area Kupres; Bacu Krajine Brigade, area Kupres-Bugojno; and V Brigade in Area Prozor. And then the enemy situation before and during this operation:

At the end of the month of September 1942, the separate brigades and detachments had already occupied their jump-off positions for the operation pending.

The III Krajina detachment left the area east of Glamoc for the area southwest of Jajce and went into positions underlined.

The II brigade was transferred from the area northwest of Kupres to the area south of Mrkonjic Grad and occupied the line: Trnovo.

The IV brigade went from the area Kupres - Vakuf into the area southwest of Jezero and occupied the line Stupna near Miocici.

The V Brigade was assembled in the area Bugojno.

No statements were found in the captured papers about the movements of the brigade, and the added statement that they did not participate in this operation. Then they assume that the III brigade was assembled from the area Kljuc into the area Gadjavica.

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And then they talk about the attack on Mrkonjicgrad:

" 8 Battalions participated in the attack, of those 6 took part directly, 2 were designated as reserve. It was remarkable that the Brigades were not employed in closed formation, but that single Battalions were taken out of Brigades in combat groups and were then formed out of mixed units".

2 Combat groups could be determined as follows:

And then they set up the combat group West and the combat group South.

a) Combat group west:

Commander: The deputy commander of the II Proletarian Brigade.

Composed of: 1st Battalion of the II Brigade, 1st Battalion of the III Brigade, 2 Battalions as reserve.

Command Post: unknown

b) Combat group south:

Commander: Chief of Staff of the Main Staff whose name was not known Composed of: 2 Battalions of the II Brigade, 1 Battalion of the IV Brigade, the Freiwillige Battalion of the III Krajina Detachment.

Command Post: At first Hocuna and later Previla.

With regard to the direction of attack of the individual units the following could be determined:

The I Battalion of the III Brigade which was in the area west of Sibovi advanced as far as Gradina. (6.5 kilometers west of Mrkonjic Grad) – Rogolje (4 kilometers west northwest of Mrkonjic Grad) and locked the road Mrkonjic Grad Sibovi at this point.

The I Battalion of the II Brigade advanced from the Sibovi area in the direction of Rogolje and occupied The line: Tomici (2 kilometers northwest of Mrkonjic Grad) – Brda (2 kilometers west of Mrkonjic Grad) in order to protect the left flank of the attack against Makonjic Grad and to be able to push back possible attacks from the northwest.

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The II Battalion of the II Brigade which was in Trnovo advanced toward Okruglo (2 kilometers southeast of Mrkonjic Grad) – Staro Solo (2 kilometers northeast of Mrkonjic Grad) and blocked the roads Mrkonjic Grad, Jajce and Mrkonjic Grad – Banja Luka.

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Then they set forth the advance plan of the 1st Battalion of the III Brigade, and then the advance plan of the 1st Battalion of the II Brigade, and then the 2nd Battalion of the II Brigade's advance plan is given, and then they recite the activities of two battalions, the 3rd Battalion of the II Brigade and the 3rd Battalion of the IV Brigade; in their line of advance, showing that they came into Mrkonjic Grad from different sides.

The 3rd Battalion of the II Brigade line of advance, and the 3rd Battalion of the IV Brigade. Then the 2nd and 3rd Battalions of the II, and the 3rd Battalion of the IV, subordinated to the main staff of the Brigade which was first in Hocuna at the command post which was listed for the Combat Group South.

Then after the occupation of Mrkonjic Grad, the III Brigade was withdrawn and given the task of preventing and repelling every attack from the direction Stinica while the II Brigade was encamped in the area Mrkonjic as follows: and they give the locations of the staff, of the 1st, 2nd, and 3rd battalions, showing the disposition of the troops at the conclusion of the action.

"Approximately in the area of Trijebovo a group of Chetniks had assembled: the partisans therefore had to reckon with an attack of this group in the direction of Mrkonjic Grad. The second brigade, concentrated in the area around Mrkonjic had therefore as its main task the preventing of an attack of this group of Chetniks."

Then the reserve is set up, 1st Battalion of the IV Brigade, and then the report continues on page 100 of the German text and page 94 of the English text, again reciting the units which opposed the 718th Division, in this same action.

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I will call the attention of the Court to the designations the "IV Brigade and the Third Krajina Detachment.

The IV Brigade consisting of a staff, three battalions listed I, II, and III and a V battalion.

The Third Krajina Detachment, Staff, Battalions listed, and a Freiwillige Battalion. Total strength 2300-3000 men. Armament 50-60 heavy machine guns; 100-120 light machine guns. Then again subordinate.

Then again, tasks of the various battalions, which I do not think need to be gone into. Your Honors are familiar with them.

They recite the II and III of the IV, the Freiwillige Battalion of the III Krajina Detachment, the I Battalion of the IV Brigade and the I of the III, of the III Krajina, detachment the V Battalion of the IV the III Battalion. II Battalion of III Krajina detachment and then the communication unit of the III Krajina detachment.

On page 101 of the German, and 95 of the English, the 1st Battalion of the III Krajina detachment, and then on page 102 of the German, still on page 95 of the English, "troops of the IV Brigade were pushed back into the area south of Jezero". Also the III Brigade were also brought up as reinforcements. The organization and strength of the III Krajina detachment was ascertained and compiled from original reports", then it is listed. 3 Battalions, each battalion with five companies, one of these as Assault Company. "The strength of the Company varies from 50 to 100 men, though the exact composition of all battalions could not be ascertained it may be assumed that are all the same.

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Then again this long list, on the next page, and covering the next four pages in English, and on 103-104 of the German, "Composition of the detachments", and this is for this battalion, the III Krajina Detachment, and lists the staff, the commanders, deputy, political commissar for the staff and also the commander, deputy, political commissar for the 1st Battalion; Battalion staff, of 15 men.

1 Company, the Commander, the deputy, the political commissar, the deputy, the platoon leaders, two platoons to a company; strength and armaments.

II Company, commander, deputy political commissar, his deputy, then two companies, strength and armament, 1 heavy, two light machine guns.

Third company, the same material, approximately the same strength; no platoon leaders listed, nor for the fourth company, there is no political commissar listed, as there is none for the Shock Company.

The second Assault Battalion, with substantially the same information, the battalion commander, political commissar, the battalion staff and strength.

1 Company, commander, political commissar, deputy; same information with reference to the second company and the third company.

It is to be noted here that no platoon leaders are given.

Then the same information for the III Battalion, but nothing below the Battalion is given here, except that they have three companies, but there is no information on the companies, and then the IV Battalion, very sketchy information concerning that, just the commanding officer, his deputy and the political commissar. And then continuing to.....

THE PRESIDENT: Perhaps this will be a good place to take a recess. The Tribunal will recess for a few minutes.

(Recess was taken)

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THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. DENNEY: If it please your Honors, again continuing with Document [NOKW-279](#) which is Exhibit 236 which is being offered for the purpose of showing the prosecution's contention that the forces here were very well organized and that they were substantial in number and carried the insignia of rank had a regular setup, even as army units of other countries. On page 105 of the German and 100 of the English, the organization of the Freiwillige Battalion which is part of the Krajina detachment, which we are discussing, is set forth. Again the officers are listed: Commanding Officer as deputy, Political Commissar as deputy, strength and armament. The only information they had on this was the name of the Commanding Officer and of the deputy for the Political Commissar. Then they have a portion on subordinations during operations with reference to the organizations.

"During large operations the brigades and detachments committed are subordinate to a "Staff of the Brigades" which is Composed of the Commanding Officers and Commissars of the individual Brigades and Detachments. It comprises a Chief of Staff, his Deputy, a secretary, an Operation Officer and various Political Commissars and couriers.

During the operation Jajce II the II, III and IV Brigade as well as the III Krajina Detachment were subordinated to a "Staff of the Brigades" the head of which was the Commanding Officer of the IV

Brigade, Peko Dabčević. As Political Commissar Mitar Bakic was appointed the Commissar of the IV Brigade.

Every Battalion possesses a so-called "Elite Company", composed of young men from the age of 17 to 20. This Company is equipped with the best arms available and designed for special tasks at each assignment. During the operation Jajce II this Company was employed to construct road blockades and for special surprise attacks against the attacking troops.

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"As the stocks of ammunition are only small, thriftiness was ordered in that respect. From a captured order, instructions were ascertained that as much ammunition as possible be captured at every operation since only in this way the stock of ammunition be replenished.

"During every operation each Battalion detaches 2 men on horseback as couriers to the Staff of the Brigades where special groups of couriers exist. The couriers are exclusively used for the connection between the individual Brigades Staffs."

And then with rank insignia, they refer to the enclosure-

"As the Partisans lack radio apparatus the individual Battalions communicate with one another by flag signals. The signals in use are the following:"

And then they give the various signals for the formal movements of units; Fall in line; Break off; Ready to receive; Wait; Change of position; Understood, Repeat, with their equivalents following them in dots and dashes.

Then they recite the dash being equivalent to a rather long -- in the text it says "short" but that should be "long;" it is long in the German -- a rather long signal with a flag or a rather long flash with a pocket lamp.

The dot is a short signal with a flag or a short flash with a pocket lamp.

"Administration.

"The entire area of Croatia occupied by the Communists is divided into 4 operational zones. Of these only the fourth zone is especially mentioned in the captured documents and it was only established in August 1942 and comprises the area Livno - Glamoc - Grečovo (?) "The leader of this operational zone is a certain Jovic who is assisted by a certain Terzic who is the Chief of General Staff and a certain Milic who is Political Commissar.

Again the reference to the Political Commissar. The operational zone is subdivided into separate areas and these areas again into separate local headquarters.

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The local headquarters have at their disposal Partisan guards to whom similar tasks are assigned as to the gendarmerie.

The area as such is composed of the Commander of the area, his deputies, his assistants and various technical auxiliary personnel and a court of justice. The local headquarters are set up in a similar way and its position is that of a security office.

In addition to these Divisions there are also Administration Districts and Communities at the head of which is a District or Community Committee. Both these administrative units are directly subordinated to the military authorities and have primarily the task of looking after and safeguarding the needs of the fighting troops.

The district committee consists of 30 members and the community committee of from 3 to 5. Each district and every community committee has available its own funds which are replenished by voluntary contributions, captured money, requisitioned sums and by money from the sale of booty. It is the duty of the District and Community Committees to deliver 70% of these funds to the units while 30% remain as funds from which the remaining expenses are to be covered. The funds are administered by a member of the district or community committee. The members are to be covered. The funds are administered by a member of the district or community committee. The members are re-elected every six months by a selection committee which is formed by as many persons as there are members in the committee in question. The election is carried out by acclamation. Men and women from 17 years upwards may participate.

Communists who have not had yet an instruction, receive their instructions in the use of arms from the Ordnance Officer of the individual Brigades. The hours of instruction are from 2 to 3 in the afternoon.

"The Partisans also have courses for the instruction of Political Commissars and Commanding Officers of Battalions and Companies.

"The Partisans have a military and political school in Benkovac;

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there courses of 1 month's duration are given. The director of the school is a certain "Bosko" and the superintendent of the courses is a certain "obrad".

Courses for Commanding Officers of Battalions and Companies are given in Glamoc and in Drvar. If possible the participants are to be well instructed people (former officials with talent for leadership).

The medical service of the Partisans is very bad. The Partisans have several hospitals at their disposal. There are hospitals in Glamoc, Ribnik, Skakavac, Vodjenica, Grmoc, Koricanica, Bizovac, The central hospital is in Grmoc. In smaller places, where individual Brigades are located, there are 1 or several dispensaries.

The convalescing Partisans are sent to the sanatorium in Dubovik. In Lukici there is a "Super Medical Examination Commission."

The food supplies of individual Battalions are very bad. The daily ration consists of 300 grams meat and 300 grams bread. There are no vegetables at all.

With regards to clothing, they lack shoes, so that individual Battalions (the Kupres Battalion and the III Krajina Detachment) are barefoot.

The operational staff of the Partisans has at its disposal a little theatrical group which organizes performances in the various hospitals. The members of this theatrical group are mostly one time female teachers.

In every Battalion the political commissars hold twice a month a military and once a week a political meeting.

And again this is signed for the Commander of the Division by an officer of the Division Staff.

Then the enclosure which was recited on page 101 of the English, 106 of the German with reference to Rank Insignia gives the insignia of:

Commanding Officer of a Brigade or Detachment group:

Triangle (1 side 5 centimeters long) with a star in the middle.

Deputy of the Commanding Officer of a Brigade or Detachment Group:

Near the rank insignia that was worn up to now by the Commanding Officer of a Brigade or Detachment Group.

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Chief of Staff of a Brigade or Detachment Group:

Wears the rank insignia of the Commanding Officer. Above the insignia is placed the letter "N".

Chief of Staff of all units:

Wears the rank insignia of the Deputy of the Commander with the Latin letter "N" above the rank insignia.

The Chief and the Political Commissar of the Main Staff:

3 rhombus with a star above them.

The Deputy and the Chief and Political Commissar of the Main Staff:

1 rhombus with a star above it.

Commanding Officer and Political Commissar of the Detachment:

1 star and 4 vertical stripes (1 centimeter broad and 3 centimeters long) below the star.

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Deputy of the Commanding Officer:

Deputy political Commissar:

1 Red star, on the star in gold, hammer and sickle, below it 2 horizontal stripes.

Commanding Officer of the Battalion and Political Commissar of the Battalion:

1 Star and 3 vertical stripes under the star.

Deputy of the Commanding Officer of the Battalion:

Deputy of the Political Commissar of the Battalion:

1 Red Star, on it embroidered in gold hammer and sickle.

Commanding Officer of the Company and Political. Commissar of the Company:

1 Star and 2 vertical stripes (1 centimeter broad and 3 centimeters long) under the star.

Deputy of the Commanding Officer of the Company:

3 Red stars.

Deputy of the Political Commissar of the Company:

1 Red star and embroidered on it in gold, hammer and sickle. Commanding Officer and Political Commissar of a Zone of Operations:

Deputy of the Commanding Officer and of the Political Commissar:

Commanding Officer of an Area:

Commanding Officer of Local Headquarters:

Head of Partisans or Village Guards:

Inspectors and Instructors of the Partisan Guards:

Political Instructors:

All members of Military and Civil Administration in the Rear Area:

Wear on their cap the red star in the green pentagon.

All rank insignia are worn on the upper left arm.

718th Infantry Division Divisional Combat Staff 30 December 1942 Department Ia Enclosure:

- 1 Evaluation of the Captured Documents Operation Jajce III The German troops captured enemy documents in Jajce from which the combat actions of the Communists in the area Jajce could be ascertained.

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The papers were exclusively papers of the III Assault Division and its movements could be calculated in detail while with regard to the 1st Proletarian Division determinations were only possible insofar as that Division was mentioned in orders of the 3rd Division.

The following sections could be worked out in detail:

I. Preparation for attack and the segregation of a security group "South".

II. Attack on Jajce.

III. Advance in direction Turbe – D. Vakuf.

IV. Retreat of the Communists.

I. Preparation for attack and segregation a Security Group "South". 2 divisions participated in the attack on Jajce:

I. Proletarian Division III.

Assault Division.

In addition a security group "South" 3 battalion strong which had been formed from elements of the individual brigades of the III Assault Division was withdrawn.

Composition: Of Units I Proletarian Division.

Commander: Koca I Brigade II Brigade III Brigade 1 battery of howitzers III Assault Division, with its Commander:

V Montenegro Brigade X Herzegovina Brigade XIV Dalmatian Brigade III Krajina Command 1 Artillery Detachment (2 guns) Security Group "South" Commander:

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Deputy Commander and Deputy Political Commissar of the V Brigade.

Composed of:

1st Battalion of the V Brigade 1st Battalion of the X Brigade One Battalion of the III Krajina Command Then some figures on rifles and men on the III Assault Division:

of their various units, Headquarters, X Brigade, XIV Brigade, V Brigade and the units of the II-Krajina detachment, a total of approximately 4,000 men, and a total of approximately 3,290 rifles.

"Since the 1st Proletarian Division can be assumed to be of like strength the forces facing the German and Croatian troops at the operation Jajce III totalled: 8,000 men, 6,582 rifles and 6 guns. Details can be ascertained from the enclosure.

Then they give the missions of the various units: "The 3 Brigades of the I Division were commissioned with assigned missions; the 2nd Battalion of the III Brigade on the 22nd November '42 and on 23 Nov. '42 the same unit was to establish contact with the XIV Brigade of the III Division.

"On the 24th the I Brigade was to occupy a line; the III Brigade went into the line; the II Brigade in reserve, partly at Mrkonjic Grad and partly at Jezero."

And, it gives the assigned tasks of the two elements of the II Brigade and then after the attack on the 24th and 25th of November the I Proletarian Division departed about 1 December.

Then the Security Group "South" which consisted of 3 Battalions, its mission and its commitment, one battalion sending a strong patrol daily toward Ljubuncic and then the location of another battalion at Staro Solo with the mission to reconnoitre in the direction of Drinovac and one battalion in reserve.

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Then the Third Battalion with its mission, 20 November - Division left its assembly area and took up its position on the stated line. The division command posts were at Pribeljci and on the 21st it advanced and rested one day. The Command Posts of the Division and its brigades were given at Division Headquarters at Pribeljci: V Brigade at Vagan, X Brigade Pribeljci, XIV Brigade Sipovo. The Command Post for the III Krajina Command was not established because one battalion each was attached to the individual brigades.

Then they recite a conference on 21 November between the Commanders between the I and III Divisions, when the details of attack on Jajce were arranged. The V and X Brigade sent companies with the mission of cutting a railroad line from D. Vakuf to Turbe. A company of the V Brigade destroyed the railway tracks as did the company of the X Brigade. The III Division started its advance on 23 November, on the jump off position which they reached on the 21st of November. The V Brigade marched as did the X Brigade and the XIV Brigade. The II Battalion of the V maintained contact with the individual brigades and the Division.

During the evening of the 23rd the V and X Brigade and parts of the III Krajina Command reached the heights west of the road Vijenac.

Then they recite the activities of the Right Group consisting of the II and V Battalion and the baggage train of the X Brigade, field hospital and the Administrative Staff.

And, the Reserve: IV Battalion of the V Brigade and II Battalion of the III Krajina Command.

I think we can omit the next paragraph and follow down to the following one on page 118 of the German which speaks of the material captured by the V Battalion: 1 heavy mortar, 40 rifles, 6,000 rounds of ammunition and 58 Croatian soldiers.

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The losses of the V Battalion was 6 wounded including 3 girls.

And then it recites the activities of the II and V Battalions thereafter and the II Battalion of the III Krajina Command. At the end of the paragraph just before the Left Group, shows that they established road blocks.

Then it sets forth the left group which comprised the III and IV Battalions of the X Brigade and III Battalion of the 7 Brigade and the activities of the group.

The following paragraph describes the material captured: 1 light machine gun, 30 rifles, 3,000 rounds ammunition, 37 hand grenades and other equipment. 1 Officer, 1 Sergeant, 25 Croatian soldiers and 1 Ustascha man taken prisoner. Losses of the Left Group were 3 slightly wounded.

Then the III Battalion of the V Brigade advances and takes Skela on the 24th of November. Then it recites the changing of the Division Command Post, and the further mission of the II Battalion of the V Brigade; and in the area the 1st Proletarian Division, on page 120 in the German, the I and III Brigades, Northwest and West of Jajce, the XIV Brigade of the 3rd Assault Division in the area, held ready for the attack on Jajce; and, the Howitzer Battery of the 1st Proletarian Division, was assigned an anti-tank gun as protection. The batter was used in support and was placed in position in front of the road blocks.

And, the last two paragraphs, in addition a group of surgeons and a booty and prisoner collecting center were organized at Jezero. A hospital train was held ready at Mliniste to transport the seriously wounded. And advanced message center to forward orders and messages was set up by 1st Division at Jezero.

Signed by General Staff Officer.

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Then the last three pages of the document contain rather detailed reports of the various units, three in particular -- the headquarters Third Division, the five Battalions, Engineer platoon, and the Hospital of the 10th Herzegovina Brigade, and the 4 Battalions, the Headquarters Staff and Platoon, Engineering Platoon and Mortar Platoon, and the Hospital for the 14th Dalmatian Brigade. Of course there are some of these bits of material that the units don't have, but the size of the units is called to the attention of the Court. The fact that a baggage train and signal section, reconnaissance section, and administration section.

And I would like to direct the Court's attention to the fact that this unit also had a band, and that band is not the term "band" as we have been accustomed to hear it, but a band to play music.

And then the 10th Hercegovinian Brigade with components of troops, male and female, this weapons, ammunition, machine gun ammunition, pistol ammunition, hand grenades, riding horses, draft horses and baggage animals; and the 14th Dalmatian Brigade with similar notations as to the same elements mentioned for the prior units, both as to personnel and materiel.

I don't think it is necessary to read the figures. However, I would direct the Court's attention to the amount of ammunition they had. The fact that they had light and heavy machine guns, a few mortars, not very many, pistols and rifles, mortar ammunition.

Turning then to page 124 in the German, 117 in the English, NOKW 969, which is offered as Prosecution Exhibit 237, in evidence. These are some orders and reports, -- these are orders and reports of the 704th Infantry Division.

The first one with which we are concerned, these reports are for the period on the cover page, from 1 September to 31 December, but the reports that we have here are only during the period November and December.

On the 5th of November, 1942

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"Division suggests reprisal measures to the Commanding General and Commander in Serbia for the two kidnapped members of the Luftwaffe:

- 1) Execution by shooting of 10 of the Cetniks arrested in the district of Pozarevac for each of the two members of the Luftwaffe.
- 2) Arrest of 50 hostages from the area of D. Milanevac-Madjanpek.
- 3) Execution of these hostages to take place on 1 December unless members of Luftwaffe are released by that date.
- 4) Population to be informed of these measures.

"19 Nov. 1942.

The Division is to publicize by means of posters the capture of 20 hostages for the two kidnapped members of the Luftwaffe. The Division will have the proclamation of the commander of the Security Police and SD Belgrade regarding the execution of 20 DM followers who had been sentenced to death by a summary court martial posted.

"21 Nov. 1942 The Division will post Proclamation of the Commanding General and Commander in Serbia stating that Serbian Officials of the civil service are under German protection and in the event that such persons should be wounded (5) hostages will be shot to death and if such persons should be killed, 10 hostages will be shot to death.

Officials of the civil service who resigned their Post without compulsion will come before summary court martial.

"23 Nov. 1942 The Division suggests that the Commanding General and Commander in Serbia that he authorize an operation after thorough previous reconnaissance for February 1943.

The operation for the purpose of destroying by draconic measures the partially disintegrated organizational staffs of the DM-Movement, hidden camps and Communist Bands. The combat area should be declared an operational area. All male inhabitants from 16 to 50 years of age are to be sent to the labor agency, and villages offering resistance are to be utterly destroyed.

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In connection with the use of the term "Summary Court Martial" lest your Honors confuse it with the term which is used in the American Military Manual, this Court which is referred to here is a court Martial in the terminology used by the Americans, is a court which is limited in jurisdiction, both as to offenders whom it may try and as to the punishments which it may give. An American Summary Court, for example, may not try an officer. An American Summary Court may not try noncommissioned officers of the first three grades, unless the trial by a Summary Court is ordered by a commander, such as a General, who would have power to direct that those officers be tried by a higher court. As to punishments, the punishment of a Summary Court in America, which is an one-officer court, is limited to confinement at hard labor for 30 days, and forfeiture of two-thirds of one month's

pay. At least there be any confusion, this is the closest by way of translation that we can come to the German, but this Summary Court is not the same as the American Summary Court.

"23 Nov. 1942 The Division does not consider the present orders regarding the discovery of weapons sufficient and applies to the Commanding General and Commander in Serbia:

- 1) Whoever is found in possession of arms and ammunition is to be shot on the spot.
- 2) Whoever owns buildings wherein arms and ammunition are found is to be shot on the spot.
- 3) Family members of people executed by shooting and other inhabitants of buildings in which arms and ammunition are found will be arrested and sent to the German labor agency.
- 4) Buildings in which arms and ammunition are found are to be burned down.
- 5) In Communities where arms or ammunition are found 10 additional men are to be shot to death on the spot.

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"28 Nov. 1942 The Commanding General and Commander in Serbia orders that hostages from the district of Zagubica be shot to death in reprisal for OT (organization - Todt) - man found murdered.

And if Your Honors, please, you are probably familiar with the Organization Todt, the builders of the West Wall, and the labor units which accompanied the German Wehrmacht wherever they went for purposes of construction.

"6 Dec. 42 Pozarevac.

Pursuant to order of the Commanding General and Commander in Serbia the Division ordered the execution by shooting of 25 hostages as reprisal measure for the Organization Todt - man found near Zagubica. Execution to be carried out on 8 Dec. by 734 Grenadier Regiment at Krst, 12 Kilometers East of Zagubica on the spot where the murdered man had been found.

"8 Dec. 42 Pozarevac 25 hostages shot to death on the spot where the murdered Organization Todt man had been found.

Two civilians who were assigned to dig the graves were shot to death while trying to escape

"18 Dec. 42 Leaflets are dropped over Pozarevac announcing the execution of 50 DM followers on 15 Dec.

42 for the German sergeant shot to death near Zlatave and for the blasting of a bridge between Pozarevac and Petrovac.

"21 Dec. 42 District Headquarters Pozarevac announces the execution of 10 hostages every three days up to a total of 60 hostages, for the German Wehrmacht driver "Organization Todt" who was kidnapped by Mihailovic followers on 24 Oct.

, if the missing organization Todt man does not return by 11 Dec.

That is what appears in the original German, however, it is submitted that it means 1942, and not 1943. I don't think it is a reasonable interpretation that they would wait for a year to determine whether he came back.

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"The population is asked to assist in the release of the Organization Todt-man.

.....

"30 December 42.

District Headquarters announces by means of posters that by order of the Commanding General and Commander in Serbia, Ten hostages will be shot to death every 3 days until "a total of 50 hostages has been reached, if the Organization Todt-man who was kidnapped on 21 December 42 has not returned by 15 January 43.

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1200 hours. The Serbian State Guard Station of Boljetin, 9 kilometers Southeast of D Milanovac surrounded allegedly by 250 D.M. Draga Michailovic men. Serbian state-guard men kidnapped. Three of them were able to escape and stated: The D.M. group wearing farmers clothing with Cetnik cockade is armed with Italian automatic rifles and with English rifles. The former German soldier Max calling himself Martin Tomarovic is with the band. Tribredjanin is also alleged to there." and there are various garrisons recited.

24 Dec. 42. "Lt. Koenig, Executive Officer, II/Battalion 724th Grenadier regiment and 2nd Lt. (Med) Dr. Engelhardt, the Battalion physician of the 2nd Battalion 724th Grenadier Regiment were fired on in Mladenovac at 14.13 hours by a 20 year old woman who is assumed to be a Communist. They were severely wounded (shot through the lung and the stomach) and immediately transferred to the Military Hospital in Belgrade. A former Cetnik leader was also shot to death by the woman while trying to arrest her. Later she shot herself. The 724th Grenadier regiment has ordered the encirclement and a search of Mladenovac. 72 men and 52 women were arrested. A part of the population fled immediately after the attack on the officers. Local Police and Serbian state-guard participated without causing trouble in the measures of the military. 3 Pistols were found.

The Division applies for authorization to shoot to death 50 hostages and/or people detained as retaliation prisoners in reprisal."

On the 21st December 42, one day after the incident "49 men and I woman shot to death in Mladenovac for the attack on the two officers of the 2nd Battalions/ 724th Grenadier Regiment. 2nd Lt. (med) Dr. Engelhardt died in the Military Hospital in Belgrade. The Division applies for authorization to shoot to death an additional 25 hostages and/or all people detained as retaliation prisoners from the district of Mladenovac. The execution will be carried out by the SD in Belgrade. The Division announces the Fuehrer order pertaining to procedure in the combat against bands.

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According to this, the fight against the Communist Bands which are operating with all possible means is to be carried on ruthlessly and without any limitations in the sense of soldierly chivalry or of the Geneva Convention. Considerations of any kind and pity for members of bands or for followers does not exist."

At this point I should like to direct your Honor's attention to an earlier order offered as an exhibit.

Document No. C 81, which is on page 41 of the German, and page 28 of the English in this book. The Hitler order, with reference to the execution of Commandos, dated 18 October 1942. Unfortunately, in the notes from the Division, there is no marginal note indicating what the source is, but if your Honors will recall the original order it states that it is to be transmitted only by officer. There is no distribution list on it, and it is submitted that in case of an order like this, that they do not deem it expedient to put a distribution list on it, and the language of this order, it is submitted, corresponds to the language of the original order.

They mentioned the Geneva Convention, and the Geneva Convention is mentioned on the second page of the original order, page 44 of the German text, and page 29 of the English text, and I should just like to call that to your Honors' attention, in passing. Also the reference to "no limitations in the sense of soldierly chivalry".

Then turning again to document 969, Exhibit 231, which we have been discussing which we have been discussing, - the 704th Infantry Division activity reports, the last report is for the 31 December. The Division Commander reports to the Commander, and Commanding General in Serbia, losses for December, '42;

Own losses: 6 dead, 2 wounded, of which 5 were killed and 1 injured in a railroad accident.

Losses of Cetnik and volunteer units: 1 dead and 9 wounded.

Losses of the Serbian State Guard: 1 wounded Enemy losses:

4 dead and 6 wounded Prisoners of the unit:

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128 Shot according to martial law:

19 Transferred to the Division:

25 Transferred to SD Belgrade:

84 Turning then to page 132 in the German, and 127 in the English we offer document No. [NOKW 1562](#), this is Prosecution Exhibit 238 in evidence.

These are a series of daily reports from the Commander in Chief, Southeast to OKH. And again these are mostly teletype as were those before.

The first one for 4 November, on page 132 of the German, and 128 of the English;

"Serbia: 35 km South of Kraljevo a detachment of Cetniks 500 men strong was disarmed. Mopping up continues in the area 50 km south of Nisch. 23 arrestees shot". Then for the 6 November, page 134 of the German, 129 of the English:

"Mopping up 40 km south of Nisch has been concluded. 35 Communists shot."

On 134 of the German and 130 of the English:

"Near Ivanjica, 40 km southwest of Kraljevo, an enemy hideout has been destroyed, 24 followers of Draja Mihajlovic shot; arms and ammunition seized."

For the 15th November, page 135 of the German, 131 of the English:

"In Belgrade 30 arrests made, including the property administrator and two leaders of the Draja Mihajlovic movement; 20 members of a railway sabotage staff were shot."

At the bottom there is a stamp for the OKH code reception showing that it has been received, and at the top of this page it is interesting to note the people to whom this report went:

"To OKH/Army General Staff/Operations Sections.

Forwarded to: OKW/Wehrmacht Operations Staff.

To OKW/Wehrmacht Propaganda

OKH Group Foreign Armies Southeast and various officers there listed."

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On the 14 November, page 136 of the German, 132 of the English; "20 hostages were arrested for signal sabotage; near Leskovac 15 insurgents were shot."

For the 17th, page 137 of the German, page 133 of the English: "North of the Save: Near Ruma 3 Insurgents were shot."

For the 19th, German 138, 134 of the English:

"In Belgrade and Mladanovac 33 arrests were made; out of these 13 Mihajlovic followers were shot in Belgrade."

At 139 of the German, bottom of the German, and 136 of the English: "9 arrests made in Belgrade. The leader of an Insurgent unit and 7 Mihajlovic followers were apprehended. Will be shot after interrogation."

At 140 of the German, 137 of the English, on the 1 of December, "North of Save: 29 Insurgents shot. Individual surprise attacks."

At 140 of the German, 138 in the English, 2 December: "80 arrests in Belgrade. 12 Mihajlovic supporters were shot."

At 142, the bottom in German, 140 in English, 3 December.

"4 arrests in Belgrade. 7 Communists and 3 Draja Mihajlovic couriers shot."

THE PRESIDENT: We will take a recess until one-thirty this afternoon.

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THE MARSHAL: Persons in the Courtroom will please find their seats. The Tribunal is again in session.

THE PRESIDENT: You may proceed, Mr. Denney.

MR. DENNEY: May it please Your Honors. Turning now to page 159 of the English and the German we have an evaluation of the enemy situation in Crete by the 22nd Division. This is Document No. [NOKW-1054](#), and it is offered as Prosecution's Exhibit No. 239. This is dated 3 November

THE PRESIDENT: What page are you reading from now?

MR. DENNEY: Page 159 of the English and 159 of the German, Sir.

THE PRESIDENT: I may be in error, but I left my papers on page 141 in the English. Am I in error in that respect?

MR. DENNEY: We had just concluded, I believe, Your Honor--no, Your Honor is correct. We had not finished the last part of that exhibit, page 141 of the English and page 143 of the German. Your Honor is correct.

THE PRESIDENT: Document No. 1562?

MR. DENNEY: Yes, Your Honors, which is Exhibit No. 238. That is a report for 4 December 1942, "16 arrests in Belgrade. 59 suspects arrested, 8 Draja Mihajlovic followers shot." Again, this is directed to OKH, from the Armed Forces Commander Southeast. And then, an entry for the Saloniki-Aegean area:

"By the timely arrival of reinforcements brought in by rail from the North and from Saloniki it was possible to defeat an attack on the important Gumenlissa bridge across the Fardar committed during the night 3/4 December by Greek bands.

"Own losses: 1 soldier dead, 1 wounded, as well as 5 members of the Organization Todt wounded.

4 Greek suspects, including 1 officer, were arrested and will be shot after interrogation."

MR. DENNEY: And then on page 144 of the German and 143 of the English, the Daily Report for the 6th of December, "20 Reprisal Prisoners and 2 Communists were shot.

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26 arrests." All that is for Serbia. And then the report for the 7th, which I believe is in error in the German. It is on page 145 of the German and page 144 of the English, again for Serbia, from the Armed Forces Commander Southeast, to the OKH, "In the whole area 19 arrests were made. 9 Communists and 11 Draja Mihajlovic leader and 3 companions, who were shot after interrogation." And page 146 in the German and page 145 in the English, report for the 8th of December, "SERBIA: In Belgrade 24

arrests, 11 Communists shot. A Cetnik detachment was disarmed on account of unreliability. At the Zajaca Antimony factory 300 workers went on strike. Brought to work by compulsory measures." Page 147 of the German and page 146 of the English a report for 9 December, "Serbia: 25 reprisal prisoners shot. Cetnik detachment (130 men) disarmed. 16 suspects arrested." Next page, report for the 10th, "SERBIA: 9 Draja Mihajlovic followers shot." Report for the 11th of December, "Serbia: 20 Draja Mihajlovic followers shot and arrests made." Report for the 12th, "SERBIA: 62 arrests, of these 26 members of Mihajlovic signal staff who will be shot after interrogation." Report for the 16th, "In Belgrade 8 arrests. 60 Draja Mihajlovic followers shot." Report for the 17th, "In Belgrade 6 arrests. During patrol operations 40 km Southeast of Pozarevac 16 Insurgents were shot."

Report for the 23rd, "Serbia: During patrol operations 13 Insurgents were shot." Report for the 24th, "In Belgrade 37 arrests. 7 Insurgents shot, including 2 Draja Mihajlovic followers." Report for the 25th, "SERBIA: In Belgrade 23 arrests. At Mladenovac (50 km South Southeast of Belgrade) 2 German officers were seriously wounded in public by Communists' shots. The perpetrator shot herself while escaping. As preliminary reprisal 50 Communist suspects were shot..... In the area Southeast of Pozarevac 3 attacks on communities. During Bulgarian mopping up operations West of Nisch 87 insurgents were shot

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MR. DENNEY: And that is the incident which was reported in the prior Exhibit No. 237, the report from the 704th Division. Your Honors will recall it; we had it in the last document. Report for the 27th of December, "Serbia: 11 arrests in Belgrade. 250 Draja Mihajlovic followers shot in reprisal for attack on members of Organization Todt."

Report for the 28th of December, "Serbia: 9 arrests in Belgrade, 2 well known Draja Mihajlovic leaders arrested by pursuit detachment and shot after interrogation. 35 reprisal prisoners (Draja Mihajlovic adherents) were shot. An attack with explosives on railway bridge 25 km North Northwest of Nisch was driven off. Sporadic attacks on communities.

MR. DENNEY: For the 29th of December, "Serbia: In Belgrade 10 arrests. Draja Mihajlovic radio station Belgrade seized. Head of Draja Mihajlovic Station's news service in Serbia arrested together with 4 insurgents; will be shot after interrogation." Now, coming to page 159 in the English and page 159 in the German, Document No. [NOKW 1054](#), which is Prosecution's Exhibit No. 239. This is the report on the enemy situation on Crete, dated 3 November 1942, submitted by the 22nd Infantry Division.

"Estimate of Enemy Situation on Crete The Island of Crete, as seaplane tender in the Eastern Mediterranean Supply base for Africa, naturally continues to be a target of the English, and according to the situation in Africa its importance is more or less in the spotlight.

The main targets of the English are therefore:

1. The Air Fields, 2. The installations of the ports, 3. The supply roads to these installations.

Except for 1 air field, all installations are along the North Coast of the Island and are therefore, in the first place, exposed to air raids. Larger attacks from the sea are at present rather unlikely, however, this does not preclude that disturbances by submarines and also larger Commando operations.

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MR. DENNEY: And the attention of the Court is directed to the term "Commando operations", in connection with the Commando order, Document C-51, in this book, which is in evidence as Exhibit No. 225. "carried out by parachutists will not occur. The air raids of the adversary are in the first place directed against the air fields Iraklion, used as a jumping-off base for combat units to Egypt, and against Malemes, trans-loading point for supplying the Panzer army in Africa with troops and supplies. The other jumping-off bases, Kastelli and Timbakion have thus far been attacked only in a small measure. The installations of the ports Suda and Iraklion were attacked comparatively little and most of the time without success.

The above mentioned objectives will, in connection with the combats in Africa, continue to be important targets for the adversary.

In the activity of the adversary thus far, the following special cases are to be noted; the firing on several places of the North Coast by submarines and the attempt to land small detachments on the Island Kufonissi, off the Eastern part of Crete, and near Palaeochora, these attempts remain so far without success. Furthermore, the landing of a sabotage Commando by a submarine in the area East of Iraklion is noteworthy; this Commando seriously damaged in the night from the 13 to 14 June 42 on the air fields Iraklion a rather great number of planes partially, Four members of this Commando, 1 Major and 3 Gaulist soldiers (1 shot to death) were taken prisoners as they tried to reach the South Coast. One English Captain and 1 Greek Lieutenant were able to escape.

According to reports, leaflets, food packages as well as pieces of clothing are being dropped from planes in the Messara area and in the area southeast of Rethimnon. Landings of submarines in the Maricaki bay to fetch Englishmen who are on the Island and to leave agents and land arms and equipment have been confirmed. Also illegal ship traffic with Egypt by means of small sailing ships from various points of the South Coast has been reported by confidential agents.

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Since the conquest of the Island, at the end of May 41, a large number of English soldiers are still at liberty on the Island, who in part had not yet been imprisoned and in part had escaped from imprisonment.

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In the course of time, a great number has been seized by means of several fairly large operations, and other occasions such as surrender statement made by Greeks, etc. According to reports of confidential agents another number succeeded to get to Egypt by means of submarines and illegal sailboats. The number of English soldiers on the Island, outside of agents that have been landed by plane is not thought to be very high any longer and again the Court's attention is directed to the landing of agents by plane

according to statements of English prisoners about 2 to 300. They stay in the mountains in the Western Part of the Islands, and in the area around the Ida Mountains. The support that was given to these Englishmen at times by the civilian population has diminished considerably as a result of the severe sentences. This has led to denunciations on the part of the inhabitants of the country or compelled Englishmen to surrender just because they lack this support. For the reasons mentioned above, one can count on the fact that the remainder will soon be apprehended. Due to foreign domination, that has lasted for centuries, and the combats against the oppressors, the population is accustomed to the possession and the use of arms, and it is therefore difficult for the population to part with them. Campaigns, searches and fixing dead lines, brought considerable amounts of arms to light. As however, it is certain, that before, every Cretan possessed a rifle, and that during the combat in the last year a part of the arms of the combatting parties went over into the possession of the population, it may be assumed, with a fair amount of certainty that there is still a considerable amount of arms in the possession of the population.

Robber bands and cattle thieves have always been a plague to the population, and now too, these must continue to be tough with all available means. The main areas of the activity of these bands are:

1.) The area around the Ida mountain range, the Messara plain and the Asterusi mountain range which is situated South of it. In these mountain ranges several rather large bands of robbers (Panduwas, Satanas) render the country insecure.

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It has been established that there is cooperation with the English. These bands are also responsible for the murder of persons friendly towards Germany, persons who in part were appointed mayors, in the area of the Messara plain, which occurred inside of four weeks in May and June of this year. Shooting of 12 hostages search of a whole series of villages held under suspicion, requisition of property belonging to Pandawas, arrest of his relatives, burning down of his house, offering of a reward for his head, evacuation of a broad strip of the Messara plain along the coast as far as the Italian sector, has brought about a considerable pacification in this area. According to reports of confidential agents Panduwas is said to have fled to Egypt.

The cattle thieves are all equipped with firearms and continue to be a considerable plague to the population.

Comparatively few acts of sabotage have been committed up to now. Only in July and August of this year, a certain number occurred in the district Chania. So far a unified organization could not be proved. It is mostly sabotage of cables, evidently with the aim of obtaining precious metal to manufacture copper nails, copper sulfate to combat parasites of the wine plants, material for bandages and such. Only in very rare cases could the perpetrators be captured. Measures taken, such as contributions, guarding of the lines by the population, arrest of hostages, advancing hours of the curfew brought about a considerable pacification in this matter also.

Franc-tireurs: Right after the termination of the combats, a serie of reprisal measures were carried out due to the participation of the population in the battle against German troops, the murder of

parachutists and the atrocities which had been committed. Later on after a careful preparation a rather large scale troop operation was conducted at the beginning of August and September 1942 in the Western part of the Island, that is, in the area Alikianu - Lakki - Prasses and the Omalos Plain. During these operations a fairly large number of Greeks were shot to death by court martial, because their participation in combat had been established.

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The population consisted and still consists, for the greatest part of Venezilists, that is of elements, friendly towards England, which does not mean that in general German soldiers are not treated politely and with especially pronounced hospitality. The reason for this is found in the character of the people. The hope of a large part of the population for the return of the English, depends considerably on the situation of the war in Africa and has accordingly suffered in the various ups and downs in times gone by.

The sensible part of the population has however on account of the development of war events gradually given up this hope, whereas the other large part still under the influence of the "Whispering propaganda" and the enemy radio broadcasts, which they listen to in spite of its being forbidden. The bad food situation and incapacity of the Greek authorities to bring about a change (inflation) also contribute to a lack of improvement in the attitude towards the occupying power. Summing up, it may be said that larger actions of the population are hardly to be expected as long as an attack by the English does not occur with the purpose of reoccupying the Island from outside. The general tendency of the occupying power naturally is to achieve a general pacification of the country in every respect. Nevertheless, in view of the friendliness toward England described above, it is necessary to keep strict reserve when associating with the population. This refers especially to the maintenance of secrecy.

For the Division Command The 1st Officer of The General Staff Dr. LATERNSEER:

Your Honor, I believe there has been a translation mistake here which might be of importance. On the last page of the document which has just been read, it says in the middle of the page, page 161 in the German and page 163 in the English document book, the English text says:

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"A fairly large number of Greeks...." It is actually on page 163 of the English text, It says: "During these operations a fairly large number of Greeks were shot to death by court martial, because their participation in combat had been established." Oh, "Established". I have made a mistake. I withdraw my objection.

MR. DENNEY: The next document is to be inserted, your Honors. I don't know whether your Honors have it in your document book. It is NOKW -- no, I beg your pardon, this is one later.

The next document, is [NOKW-132](#) which is at page 165 in the English and 162 in the German. This is offered as Prosecution's Exhibit 240. This is an order of the General Braeuer who is commanding the fortress at Crete and it is dated 3 November 1942 and the first reference is to the OKW order of 16 September 1941 which is their order No. 2060/41 which has already been placed in evidence as

prosecution's exhibit 53 and it is to be found on page 57 of Document Book II, and your Honors will recall the Keitel order which was offered at that time. It is the order setting up the ratio of 50 to one for the reprisals. The second page of the order, "In such a case the death penalty for 50 to 100 Communists generally must be deemed appropriate as retaliation for the life of a German soldier."

O R D E R For the Combatting of Insurgent Movements I.

1.) The OKW has ordered that all insurrections of bands in all countries occupied by the German Wehrmacht including all seemingly minor individual incidents are to be blamed on an insurgent movement prepared by Moscow. In view of the many economic and political tensions in the occupied territories, that means in Crete also, one must also take into consideration that nationalists and other circles will exploit this opportunity in order to bring about difficulties for the German occupation Wehrmacht in connection with the Communist revolt.

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2.) Measures taken up to now to counteract this general Communist insurgent movement have proved inadequate. As early as Fall 1941 the Fuehrer ordered severest measures to be employed to combat this movement. And that of course is referring to the Keitel order of 16 September.

3.) The following directions on procedure are to be followed:

a) Each incident of insurrection against the German Wehrmacht regardless of particular circumstances must be assumed to be a Communist origin.

b) In order to nip these intrigues in the bud the severest measures are to be applied immediately at their first instance in order to demonstrate the authority of the occupying power, and in order to prevent a wider development.

One must keep in mind that frequently a human life does not count for anything in the affected countries and a deterring effect can be achieved only by unusual severity. In such a case the death penalty for 50 to 100 Communists generally must be deemed appropriate as retaliation for the life of a German soldier and that language, it is submitted, is the same as the language in the Keitel order.

The manner of execution must increase the deterrent effect.

The opposite procedure of employing relatively mild punishment at first and being content with the threat of more severe measures as a deterrent is not in line with these principles and is therefore not to be applied.

c) Propagandistically it is to be underlined that a severe procedure rids the indigenous population of Communist elements, cattle thieves and other criminals and thus, will also benefit the population.

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Consequently a clever propaganda of this kind will not lead to undesirable effects in the right thinking sections of the population following upon the increasing severity of measures against Communists and bandits.

d) The indigenous police generally will fail in the execution of such measures of force. That is why the troops themselves are to carry them out.

However, the cooperation of the population in combatting bandits is absolutely essential. Rewards and recompense for people deserving it are to be given liberally and in no picayune amounts.

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They are to be real incentive. And on the other hand, the reprisal measures for any assistance to the bands must be the severer.

e) If in exceptional cases court martial proceedings are initiated in connection with insurrection, sabotage, etc., the severest punishment is indicated. Here only the death penalty can be a real deterrent agent. Especially must espionage activities, acts of sabotage, and attempts to join a foreign Wehrmacht always be punished with death. Also in cases of unauthorized possession of arms is the death sentence generally to be pronounced. Persons who are met with the weapon in hand or who are under suspicion of having participated in combat action must be shot to death.

f) Persons fleeing or committing an assault on a soldier with intent to kill are to be shot at immediately with live ammunition.

The men are to be trained again and again to hardness and ruthlessness. In this way only will the lives of German soldiers be spared.

II.

In carrying out the above policies the units are to proceed according to the following directions:

1.) The Winter ahead will compel the bands, etc., still in the mountains, to return to settled areas more than it was necessary in Summer. Mostly they will appear as harmless farmers and will not easily be recognized. To catch these bandits is the most important task of the units at the beginning of the Winter. Coincidentally all villages must be cleared of non-residents. For this purpose the population must be checked even now. The commandant of the fortress, Gr. Inn, will take the necessary steps. Greatest suspicion of the mayors is indicated.

However, our units, too, will find increased difficulties of terrain and of the weather in pursuing the bands.

2.) The units will take these facts into account:

a) By increased guard control of the isle,

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b) By increased training of the searching commandos and patrols.

The entire control of the island is to be organized and directed by the sector commander. All planned patrol and other operations are to be reported to them. At his discretion he can request troops of all

Wehrmacht branches for guard duty in his sector in so far, as he does not thereby endanger their special assignments (For instance anti-aircraft).

3.) To 2.a) is ordered

a) The guard of the islands must be increased to the extent the occupation forces are increased. Through frequent maneuvers in the terrain, particularly in remote parts of the island, through regular sending of patrols even into rough areas up to the remotest mountain villages, the population must become aware again it cannot escape the German Wehrmacht guard at any spot on the island.

b) This guard must be carried out not only by the Infantry but by all branches of the Wehrmacht. Precisely those troops that are permanently stationed (for instance, coast artillery, flak) will welcome being sent on patrol as a change from service with the troops.

d) All guard assignments are to be carried out with arms because the bandits are equipped both with machine guns and machine pistols.

e) The guard must fulfill its duties especially well at night.

4.) To 2.b) is ordered

a) All leaders of patrols must adapt themselves to the methods chosen by the enemy in band combat. The enemy fights with cunning. The combat will admittedly be hard.

b) The unit employed is to be instructed on its task and prepared for the difficulties awaiting it by briefing as well as by physical training.

5.) Carrying out of the Guard Operation A difference must be made between guard and search operations.

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Generally, the search operation will be ordered by the Commandant of the Fortress, but may become necessary during a patrol operation if the pursued men find refuge in a village or the patrol are shot at. In such a case the leaders concerned will act on their own authority and responsibility. Consequently only experienced soldiers are to be used as leaders.

In the same way sector and sub-sector leaders can order searches on their own authority where there is danger in delay.

However, all independently executed search operations are to be reported immediately afterwards to the Commandant of the Fortress Crete.

6.) Insofar as the population behaves loyally correct treatment is indicated. Exaggerated hospitality is to be rejected. Inappropriate confidence in the inhabitants of the country, particularly in those working for the Wehrmacht is to be opposed sharply. One must be on the alert everywhere for spies and informers.

7.) The unit may – for search operations – find it advantageous to ask the cooperation of the Secret Field Police and of the Field Gendarmerie

8.) It is forbidden that the unit take reprisal measures subsequent to a search action without approval by the Commandant of the Fortress Crete. Should such measures be necessary this approval is to be secured with all possible speed.

9.) Drum-head court martials are not necessary on the island since summary courts are available at any time. (KSTVO 13s).

10.) A short report on all guard and search operations is to be submitted to the sector commander. He will pass on important points to the Commandant of the Fortress.

11.) Otherwise all guard operations are to be carried out according to the policies laid down in the "Order for the Defense of the Island of Crete" (1300/42 1.11.42).

(signed) Braeuer Generalleutnant And the distribution to the Regiments, and also to the 3 Summary Courts of Division, one of the Division, one of the Fortress Brigade and one of the Commandant of the Fortress and a handwritten note at the bottom:

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"All civilian officials to be notified." The "2" is illegible.

We now come to the document which is to be inserted which is NOKW 1710. It has two pages and we ask that they be inserted as pages 170 a and b in the English text and 166a and b in the German text. This is offered as Exhibit 241. Three copies have been handed to the court; there are 11 copies for defense counsel; a copy in English and German each for the interpreters and reporters.

This is a communication of 14 December 1942 from the 187th Reserve Division and it is distributed down to its three component regiments, Artillery Battalion, and other copies within the Headquarters unit. It is to be noted that this is passed on only through hands of officers.

(Handwritten notations)

Enclosure 7 II b n 187th Reserve Division Dept.

Ia File 11 Local quarters, 14.12.42 No. 42/ 42 top secret Top Secret 8 copies.

7th copy.

Reference:

- 1) Teletype of Wehrmacht Commander Southeast (12th Army) No. 3370/42 top secret, of 7.12.42.
- 2) Teletype of Wehrmacht Commander Southeast (12th Army) No. 3371/42 top secret, of 7.12.42
- 3) Teletype of Wehrmacht Commander Southeast (12th Army) No. 4852/42 secret of 8.12.1942 Refer:
- 4) Teletype Wehrmacht Hq. XVII Dept. Ib/Org. No. 1177/42 top secret dated 12.12.42.
- 5) 187th Reserve Division Dept. Ia File 11 No. 402/42 secret of 12.12.1942.

ONLY THROUGH HANDS OF OFFICERS Subject:

Intensified combatting of bands.

In this case: formation of Reserve groups.

I.

With the overall situation in the Mediterranean area, becoming spread the enemy powers will seek to create the prerequisites for a new front in Europe by supporting the insurgent movement in the Balkans.

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The combat of partisans in the Croatian territory must therefore be conducted ruthlessly and with the utilization of all available means. The method of combat must be adapted to the methods used by the insurgents. Surprise, speed, cunning and ambush, attacks, reconnaissance and effective reprisal measures (hostages) represent means which will suppress band activities.

All measures, which serve to reinforce the fighting strength and appear to contribute to the solution of specific problems are correct. There should not be any bureaucratic impediments.

And the courts' attention is called to the references to the various communications in this connection from the Supreme Commander Southeast.

And the last document in this book is [NOKW 1489](#), which is offered as Prosecution's Exhibit 242 and is on page 171 of the English and 167 of the German. This is the Hitler order which appeals the earlier Hitler order of 9 June 1941 which was placed in evidence as Exhibit 15 at page 55 on Document Book I and although we don't come to the portion until the end of the document perhaps we ought to call the court's attention to it at this time. It does not appear until the last paragraph on page 178. This is dated 28 of December 1942, transmitted by officers only, 24 copies of which this is the 10th.

Instruction No. 47

I.) The situation in the Mediterranean area renders feasible an attack on Crete and the German and Italian footholds in the Aegean and the Balkan Peninsula in the not too far future.

It must be expected that this attack will be supported by revolts in the western Balkan countries.

Page Unlabeled

The augmented influence of the Anglo-Saxon powers on the attitude of Turkey demands increased attention in that direction.

11.) Based on this situation and on the development in North Africa I transfer the defense in the Southeast area including the neighboring islands to the Wehrmacht Commander Southeast who as "Commander-in-Chief Southeast" (Army Group E) is directly subordinated to me.

For the carrying out of the coastal defense the rules of instruction No. 40 are valid.

The army forces of the allied powers will be directly subordinated to the Commander-in-Chief Southeast tactically only in the case of an enemy attack.

The Naval and Air Forces of the allied powers will then be submitted tactically to the High Command of the Headquarters of the corresponding German Wehrmacht unit.

This chain of subordination will be made effective by special orders.

For the preparation of such defensive combat the following tasks devolve on the Commander-in-Chief Southeast:

- 1.) Preparation for defense along the coast with main efforts in the Dodekanese, Crete and the Peloponnesus which are to be developed for fortresses. (Exceptions Mytilene and Chios).
- 2.) Final pacification of the Hinterland and destruction of the insurgents and bands of all kinds in cooperation with the Italian 2nd Army.
- 3.) Preparation of all measures which become necessary in case of an enemy attack with the aid or consent of Turkey against the Balkans, in agreement with the Bulgarian High Command.

In addition the Commander-in-Chief Southeast controls for the German area: 875 macht committed in the Southeast, according to their request and the transport space available for the purpose.

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Decisions in all questions which result from the unified Command of all transports and communications in the occupied Southeast area for all three sections of the Wehrmacht.

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Organization of Command

A) In the German area:

- 1.) The Commander-in-Chief in the Southeast is the supreme representative of the Wehrmacht in the Southeast and exercises executive power in the areas occupied by German troops.

He supervises the Civil Administration established by the Commanders and the Commandant of the Fortross Crete.

The subordination of the Wehrmacht Commander Southeast under the Commander-in-Chief, South, is cancelled as of 1 January 1943.

2.) Subordinated to the Commander-in-Chief Southeast are:

- a) For the area Croatia "The German General Plenipotentiary in Croatia" (except for his position as Military Attache) and "The Commander of the German Troops in Croatia".
- b) For the area Old Serbia "The Commanding General and Commander in Servia."
- c) For the area Saloniki and the islands Lemnos, Mytilene, Chios and Strati as well as for the neutral zone towards Turkey in Thrace, the "Commander Saloniki - Aegean."

- d) For the area of the port of Piraeus, the quarters and area of the German troops in Attica as well as the island Melos the "Commander Southern Greece."
- e) For the area Crete "The Commander of the Fortress Crete."
- f) The "Admiral Aegean" in all questions of coastal defense.
- g) The "Military Attache in Sofia" in the scope of his tasks beyond the asks of an attache. For the Navy the limits existing up to now between Navy group

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3.) Luftwaffe:

- a) Command of Air Warfare aa) The Command of the Air Warfare in the entire Mediterranean area, except for the Mediterranean area belonging to the south of France, remains the task of the Commander-in-Chief South.

He receives instructions for the conduct of battle.

- (1) in the middle Mediterranean through the Commando Supremo.
- (2) in the eastern Mediterranean and the Balkan area through the Commander-in-Chief of the Luftwaffe, according to my directions.

The Commander-in-Chief of the Luftwaffe and the Commando Supremo adjust their essential intentions for the conduct of aerial warfare with one another.

- bb) In order to guarantee in joint combat actions especially in the coastal defense the centralized conduct of battle in the eastern Mediterranean and the Balkan area, the Commander-in-Chief South must designate a Headquarters which cooperates with the Commander-in-Chief Southeast with regard to the command of air warfare in that area. To this also belongs the preparation of the ground organization in the Balkan area, and the preparation of cooperation with the allied powers in case of enemy attacks.

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b) Air Defense:

- aa) Preparation and command of the air defense in the Mediterranean is the task of the Commander-in-Chief South under the Commando Supremo.
- bb) In the Balkan area the preparation and command of the air defense is incumbent on the Commander-in-Chief Southeast, according to the instructions of the Commander-in-Chief South, in order thereby to establish uniformity of Command of the Air Warfare also for the eastern Mediterranean.

B) The preparation of the conduct of battle and the internal pacification of the country is to be guaranteed by close cooperation with the allied powers. In cases where it has not yet been done, Liaison officers are to be exchanged.

1). Italy:

a) Army:

Instructions considered necessary for the Italian area are to be submitted to the High Command of the Wehrmacht and synchronized by the latter with the Commando Supremo, who then gives the corresponding orders to the Italian armies operating in the southeast area.

b) Navy:

Instructions of the Commander-in-Chief Navy Group south to the Italian Admiral Dodekanes intended for preparatory measures are to be submitted to the Operations Division by the Navy Group South as orders in draft, and the Operations Division decides upon the corresponding orders together with Supremarina. The orders in question are issued by Supremarina after the consent of Commando Supremo has been obtained.

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c) Luftwaffe:

Instructions considered necessary for the Italian Luftwaffe in the southeast area are to be submitted to the Commander-in-Chief South who synchronizes them with the High Command of the Italian Luftwaffe after having obtained the consent of the Commando Supremo, and effects the issue of a corresponding order.

2.) Bulgaria:

A similar procedure in cooperation with the Bulgarian Wehrmacht is being strived for (the result of the conversations with the Bulgarians is not yet available).

3.) Croatia:

The cooperation with Croatia and the utilization of the Croatian Wehrmacht continues as previously. It is the duty of the Commander-in-Chief Southeast, and the headquarters of the German Navy and Luftwaffe, to guarantee the centralization of preparations for defense in the entire Southeast area and they are authorized to examine the measures ordered for the purpose.

IV.) The Commander-in-Chief Southeast possesses all powers of a territorial Commander in relation to the three sections of the Wehrmacht and the Waffen SS in those parts of Croatia, Serbia and Greece including the Greek islands, occupied by German troops.

The areas exclusively occupied by German troops form an Operational area there, the Commander-in-Chief Southeast holds executive power via the Commanders subordinated to him.

Those parts of Croatia occupied by German troops or in which German troops operate are also counted as operations areas.

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In the areas belonging to the Italian area of occupation in which German troops are located, he holds supreme military rights for all parts of the Wehrmacht insofar as it is demanded by Military tasks of the German Wehrmacht.

For the limits of the authority of the Commander-in-Chief Southeast, with respect to the "Plenipotentiary for the Reich for the Reich for Greece", see the enclosure.

V.) Instructions No. 31 of 9 June 1941 and OKW No. 5551743/42 Top Secret Chiefs of 13 October 1942 are hereby cancelled.

Signed Adolf Hitler Certified Correct:

(signature)

Freiherr von Buttlar Colonel in the General Staff Distribution:

General Staff of the Army/Operations Department 1st Copy Organization 2nd Copy General of Engineers and Fortresses 3rd Copy Chief of Army Equipment and Commander of the replacement Army 4th Copy Luftwaffe and Navy 5th Copy and 6th Copy Commander-in-Chief Southeast 7th Copy Commander-in-Chief South 8th Copy German General at the Headquarters of the Italian Wehrmacht 9th Copy And thereafter the copies went to the OKW, and the copy which we have is No. 10, which went to the Chief of OKW.

Then the enclosure, which bears at the top the words "Enclosure to No. 552273/42," which is the order number of the original order on page 171.

Limits of Authority of the "Plenipotentiary of the Reich for Greece" and the Commander-in Chief in the Southeast"

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I.) The relations of the "Plenipotentiary the Reich for Greece" and the "Commander-in-Chief Southeast" between one another and toward the Greek government result from the following:

a) Fuehrer Decree of 28 April 1941 for the Plenipotentiary of Reich in Greece":

"1.) I appoint a 'Plenipotentiary of the Reich for Greece'. His office is in Athens.

2.) The Plenipotentiary of the Reich has to represent until formal diplomatic relations are taken up with Greece, the political, economical and cultural interest of the Reich in Greece with the new Greek government.

3.) The Plenipotentiary of the Reich has furthermore to establish the necessary contact with the Italian offices of occupation for the carrying out of his tasks."

And that is the order of quotation from decree of 28 April.

b) "The executive power is carried out by the Commander-in Chief Southeast in the areas occupied by German troops.

II.) The Commander-in-Chief Southeast has to support the Plenipotentiary of the Reich and to synchronize his own measures in Greece with the latter.

III.) The tasks in the political, economical and cultural sphere till as a rule devolve on the Plenipotentiary of the Reich.

The negotiations with the Greek government for the representation of interests of the Reich in the above mentioned sphere are incumbent on him.

The Plenipotentiary of the Reich in Greece informs the Commander-in-Chief Southeast about those questions of foreign policy, the knowledge of which is necessary for the carrying out of his military tasks.

IV.) In military instructions which may have repercussions on foreign policy, the Commander-in-Chief Southeast has to reach a prior agreement with the Plenipotentiary of the Reich for Greece, insofar as the military situation will permit.

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V.) The control of propaganda in Greece insofar as Germany is concerned is the task of the Foreign Office which cooperate for that purpose with the High Command of the Wehrmacht (WFSSt/Wehrmacht Propaganda).

That concludes this book.

I would like to offer the pages which are at the end of Book VIII. Three copies for the Court, to be inserted at the end of Book VIII. Page 103-A and numbered Exhibit 215-A, for identification. Three or four copies for defense counsel, a copy for the interpreters, the stenographers and Major Hatfield. And this of course, is numbered, solely for the purposes of identification, as has been the rule before.

THE PRESIDENT: Have you given it an identification mark?

MR. DENNEY: Yes, Your Honor, it is to be marked 215-A, for identification, and is to be paginated page 103, A and B, for Document Book VIII; and in the German the pagination, I believe, will be, -- can you tell me the last page in the German Book VIII, Dr. Laternser, please?

DR. LATERNSE: 77

MR. DENNERY: In the German book it will be pages 77-A and B, I should like at this time, if defense counsel have no objections, to renew the offer of the balance of Exhibit 100-B, in evidence, the first part being the pictures which were submitted to defense counsel yesterday, and then some newspaper clippings, copies of placards that were posted, and then an affidavit by one George Kiessel. All of these are from the National Commission for the investigation of War Crimes of Yugoslavia.

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DR. LATERNSE: Your Honors, I object as well against the submission of the pictures, as well as the record of the interrogation and the statement of George Kiessel.

First of all, regarding the pictures, I want to say this: Most of these pictures represent, undoubtedly, the killing of human beings. All countries know the death sentence according to legal procedure. In England, for instance, death sentences are, on principle, carried out by hanging, but even without a trial, according to International Law, the execution of a person may be carried out in the case of a reprisal; so this on this matter, Your Honor, I refer not only to the International Law, but also to the rules of your country which are laid down in the rules of Land Warfare, issued in Washington in the year 1940, you will find that they are expressly laid down, and this rule of the Surrogate, in see 58 B of this regulation, it says expressly: that for certain cases the killing of hostages is said to be admissible.

Your Honor I say this for the following reason. By the submission of pictures on which -- well the killing of human beings is represented, it cannot be proved that by the execution of these murders or killings a War Crime has been committed.

I will refer to the individual pictures in detail. These pictures are certainly not very beautiful. It is a great lack of tastefulness to make such pictures, but this lack of taste is not only committed by Germans.

In the Kesselring trial which took place before the British Court, the question arose also regarding such evidence. The Court, at that time only accepted in evidence photographs when witnesses could at the same time testify when the photograph was made, where it was made, and what it was supposed to represent.

In my opinion this principle should be taken into account by this Court.

Now to the individual pictures:

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The Picture 2412 represents three persons hanged by the neck. It cannot be established, Your Honor, who has hanged these persons. It is known to me, and I maintain, that the inhabitants of the hinterland which were unwilling to follow the orders of the partisans, were hanged by Partisans.

I do not know either whether these persons have been hanged after a legal trial. I do not know either whether they were hanged within the framework of a reprisal admissible under International Law. For this reason I object to the submission of this photograph.

The photograph 2809 also represents an execution. It can only be submitted as proof of any illegal action if at the same time the prosecution proves that this execution did not take place after legal sentence, or not within the framework of a reprisal contrary to International Law. For this reason, I object to the submission of the Photograph 2809.

For the same reasons, Your Honor, I object to the photograph 2805. Here again there is a definite possibility that it was preceded by a legal trial. The same reasons also speak against the acceptance of a picture No. 2806.

Now as regards the photostat, No. Y103, in this case it is a placard or poster fixed on a wall that has been photographed. This poster contains no date, whatsoever but if a date is not established, the court will not be able to find out which of the defendants can be blamed for instance, for this poster.

Supposing, of course, that one can see in this poster, a commission of a war crime. For this reason, because of the lack of any definite data of this piece of evidence, I object to its submission.

Now let us turn to picture 889. Here again the picture can only be used if additionally it can be proven that this shooting did not take place after a legal trial, and not within the framework of a reprisal admissible in International Law.

The same reasons are applicable against the admission of picture 22, against picture 26, against picture 33, against picture 24, and photograph 32.

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I also object to the submission of picture 2695. The picture represents a burning house. In the foreground German soldiers. What is to be proven by that?

First of all the picture does not show who set fire to this house. It does not show either whether the destruction of this house took place during combat. We all know that during war, many houses have been destroyed. Should this house – we will take the worst case have been set fire to by German soldiers, then a justification for the setting fire to this house may have been good. The justification of setting fire to this house, I also refer to the American Rules of Land Warfare, in which it says expressly that villages and houses from which hostile actions have been committed may be burned down.

This follows quite clearly from paragraph 358 (g) of the American Rules of Land Warfare. Accordingly, this picture, because it does not represent anything, must be refused.

The picture 995 represents the shooting apart from a thing that can be seen with any certainty in my view; I don't know what the original photograph looks like, or by whom this shooting was carried out. ... The prosecution handed the original to Dr. Laternser for his inspection ...

This picture can also only be used if the prosecution proves additionally that the shooting did not take place legal trial, and not within the framework of a reprisal admissible under International Law.

Picture 149, shows dead persons. It would have to be proven who has killed these people; and when that has been proven, and if it turned out that the dead persons had been killed by Germans, then in addition to that, it would have to be proved what I have repeatedly said.

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For the same reason, I also object to picture 161. It is from my copy hardly possible to say what it is supposed to represent.

For the same reasons, Picture 952 cannot be used.

Picture 1030 proves nothing at all. There are a various people on this photograph, and nothing proves that this is a picture of the Camp Savac.

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DR. LATERNSEER: Now, as regards the photostat No. "Y" I assume that there has been a wrong translation. I said that on this picture, 1030, a number of persons are shown. One can not see from this picture for what reason these persons have come together. It has just been pointed out to me that this may be a matter of a motor car race, and that the people may be spectators. The Tribunal will perhaps kindly look at it to consider its admissibility. Against Picture 953 I also object because on this picture only people who cannot be recognized are represented there. For instance, no German can be seen on this picture. For the same reasons I object to the submission of picture 954 in the appendix to it it is asserted that this woman, who is pictured on that photograph, has been hunted by the Germans to be shot while running. I want to draw the Tribunal's attention to the fact that opposite to the photographer's position there are presumably Germans. If these Germans had shot this woman, then the German who has taken the photograph would have been in great danger. Picture 147 further does not prove who has killed the dead persons. The soldiers pictured on this photograph--we can see the whole surroundings--don't carry any rifles. For the same reasons I object to the submission of Pictures 205 and 206. That, by no means, proves who has killed these people. Against the submission of Picture 204 I object because the picture does not prove anything. If this photo would be accepted, then any other photograph could also be accepted. To Picture 861 I also object; to its submission, I also object for the same reasons as applied to the other pictures. I don't know whether the shooting took place after a legal trial, in the framework of an admissible reprisal. May I call the attention of the Tribunal to this. In the statement which is added it says that some of the victims gave some signs of life. It also says in this statement that this picture was made by a captured German soldier. That person who made this statement can not have found out more either than the person looking at this picture now; and from this it follows that the statement added to this picture was not made with the necessary care.

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Those are the objections, Your Honors, against the submission of these pictures. I would like to justify my objections against the acceptance of the interrogation record of Kiessel. I object to this statement because this is not an affidavit. This statement was apparently made by Kiessel during his interrogation as a defendant. This statement of the witness Kiessel could be of considerable importance, and I want to point out that the Prosecution, in such cases, should be asked to present to the Court the best evidence available in every such case. And that in this case would be the witness himself.

MR. DENNEY: May it please, Your Honors, I would again like to turn to the original premise of the offer--the pictures, the affidavit, the photostatic copies of proclamations, and the phonostatic copies of newspaper excerpts--they are all official reports presented by the National Commission for the Investigation of War Crimes for Yugoslavia, and it is submitted that they are admissible, and they are to be given such probative value as the Court determines.

DR. LATERNSEER: May I say something quite briefly to this?

THE PRESIDENT: The ruling as expressed yesterday, as to 4a and 4b, 100a and 4a indicate our attitude as to the exhibits presented.

MR. JACOBSON (The Interpreter): Your key, Your Honor.

THE PRESIDENT: Repeating, the expression in this Tribunal in our ruling as to 100a and 4a, as expressed yesterday, indicate our attitude as to the exhibits here presented, and the objection will be over-ruled.

MR. DENNEY: These 24 pictures, Your Honor, are offered as part of Exhibit 100 (1 to 24), if that is agreeable.

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THE PRESIDENT: Agreeable to the Tribunal.

MR. DENNEY: And then the excerpts from the newspaper and the affidavit, and the placards--the excerpts which start with the one for 5 August 1941--will be offered as 100b-25; and then the one starting out with the "Proclamation of the Population of Valjevo, and the Neighborhood," which is part of Document No. [NOKW-1639](#), will be 100b-26, and then the affidavit of Kiessel, which is part of Document No. [NOKW-1637](#), will be 100b-27. But it is suggested that they be inserted following a prior insert, which follows page 77, and the first picture will be 77p (p for Peter); and then it's submitted that we continue on through the alphabet, and then start out with double numbers.

THE PRESIDENT: Double letters.

MR. DENNEY: Double letters. Thank you Sir.

THE PRESIDENT: Do you propose to give some further attention to them?

MR. DENNEY: Yes, Your Honor.

THE PRESIDENT: Before you do that, it is now 3 o'clock, and we will now take our afternoon recess.

(The court recessed from 1500 to 1515)

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THE MARSHALL: The tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. DENNEY: With reference to the pictures, your honors, the sources which were given yesterday as being captured, that is being taken from German soldiers who were captured during combat, or delivered by Allied troops to the National Commission for the Investigation of Crime by these troops who had in turn found them on captured German soldiers, and the third source is confiscated originals from the German Administrative sub-area Headquarters in Belgrade. I don't think it is necessary to read the certificate on each one of them as to the Commission. However, I would like to read into the record a small portion of each of the caption, with reference to the Commission's findings.

The first picture in the group of pictures, which is 100b-1, picture No. 2412, investigation established that the picture represents the hanging of civilians in Serbia. The caption of this picture, written by the photographer, himself, shows that this incident occurred in the Spring of 1941. The caption of the picture reads, "Trees in Bloom in Serbia, Spring 1941."

100b-2, which is picture No. 2809, Investigation established that the picture represents the hanging of civilian population in the City of Pancevu-Voinodinje, 23 April 1941, a few days after the arrival of German troops in the city. And then, the printed material, rather the handwritten material which is photostated to the right of the picture, is dated Pancevu 23 April 1941, Reprisal for Four Murdered Comrades. Obviously, this is written by a German soldier and I believe it is to be fairly assumed that it either is in a letter or was affixed to the picture. 22 Hanged and 18 Shot to Death for Every German Soldier 10 Serbs; For every additional Soldier who was shot at the number of Serbs who will be hanged or shot to death is doubled.

Then the picture, which is 100b-3, picture No. 2805. Investigation established that the picture represents the hanging of the civilian population of the City of Pancevu Voinodinje, 23 April 1941, a few days after the arrival of German troops in the city and the handwritten part on the right, on the original, "A Roman owned a Restaurant, Secret passage went from there underneath the road to the Cemetery 200 meters, leading to a camp.

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The German guards were shot to death from the Cemetery; all hanged persons were caught in the Cemetery."

Then 100b-4. This represents the same scene as the prior two pictures and therefore I won't read it. However, the writing at the right states, "After the ropes of the gallows had stretched the feet of hanged persons touched the ground, soldiers put a top hat on the Serb on the right", and it can be seen in the picture.

100b-5, which is a photostat of the placard; the translation of the placard is, "Confirmation Military Commander Serbia announces in the village of Skela a Communist band has fired on a German Wehrmacht vehicle. It has been established that certain village residents had the opportunity of notifying unobserved nearest Serbian Gendarmerie stations. It has been established that these village residents had the opportunity to notify German vehicles concerning the plot without being observed. They did not make use of this opportunity and consequently have sided with the criminals. The village of Skela has been leveled to the ground by fire. At that time ammunition exploded in some houses proving the complicity of the residents whose complicity has been proven were shot to death. 50 Communists were hanged on the spot." This photostat corresponds to the original of the German poster issued on 15 August and found in the burned out Archives of the German Administrative Headquarters in Belgrade under No. 559 and your Honors will recall from the evidence the incident which is cited.

The picture No. 889/920 which is 100b-6; the picture represented the scene from the mass shootings to death of hostages and civilians in the village of Skela in Mokva -, Serbia in 1941.

The picture No. 22218, 100b-7; The picture is one of MilovardProkeac who was hanged by the Germans in the main market of Belgrade on 17 August 1941.

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The picture 24/1216, which is 100b-10 represents Belovir Jovanovic was hanged by the Germans in the main market of Belgrade on 17 August 1941.

The picture No. 32/1219 which is 100b-11 represents Radko Jeptic who was hanged by the Germans in the main market of Belgrade on 17 August 1941.

The picture which is numbered 2695/2209 which becomes 100b-12 represents the setting afire of the village in Bosnia in the year 1941 at the time of the penal exhibition.

The picture which is numbered 9995/5530 which is 100b-13 represents a scene of mass shooting to death of hostages and civilians by the Germans and of course of the penal exhibition in Sabac, Serbia in 1941.

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The picture which is numbered 149-55, which is 100 -B-14, represents bodies of executed civilian population in the street of the city of Sabac. These people were killed by Germans in the course of a so-called penal expression on 21/22 August 1941.

The picture 161/567, which is 100-B-15, represents the burial in a common grave of the murdered civilian population in Sabac, who had been killed in the year 1941 by the Germans.

The picture 912/527, which is 100-B-16, represents the bodies of persons killed in Sabac, which were hanged on electric telephone poles on 21 and 22 August 1941.

The picture 1030/1075, which is 100-B-17, represents the camp in Sabac, Serbia, where the civilian population was collected toward the end of September 1941, and from there to be taken on a so-called death march for mass annihilation and mistreatment.

The picture marked 953/528, which is 100-B-18, investigation established that the picture represents a scene from the so-called death march in Sabac on 26 September 1941. The Germans forced these people to run for 30 kilometers. Those who stopped because they were tired were shot to death.

The picture which is numbered 954/529, which is 100-B-19, represents a scene from the death march in Sabac on 26 September 1941. The Germans chased this woman in order to shoot her to death while she ran, and then photographed the scene.

The picture which is 147/553, which is 100-B-20 represents the road along which the bloody march of Sabac, Serbia took place in September 1941. It is strewn with corpses killed by the German soldiers on that occasion. The dead came from the civilian population of the city of Sabac.

The picture 205/603, which is 100-B-21, represents mass shootings to death of civilians on 21 October 1941 in Sabac, Serbia, where the penal expedition executed more than 5,000 men and women.

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And Your Honors, will recall the exhibits in the early part of Book III, which had to do with the Kragujevac retaliatory killings.

100-B-22, which is 306/604, represents a group of dead peasants, in the village of Marsec, near Kragujevac, who were killed by Germans on the 28 of October 1941, in the course of a penal expedition in Kragujevac. In the neighborhood on that occasion several thousands of civilians were executed. This refers to the same incident with reference to which the prior picture refers.

The picture which is numbered 204/604, which becomes Exhibit 100-B-23, represents a group of persons who were taken in Kragujevac for mass shootings to death on 21 October 1941, when the penal expedition of the German Wehrmacht executed more than 5,000 civilians.

The picture 861/997, which is 100-B-24, represents the mass shooting to death of the civilian population in the church of Vare-Skela near Sabac, in October 1944.

With your Honors permission I should like to withdraw the original and substitute photostatic copies, if agreeable with your Honors.

THE PRESIDENT: It is so ordered.

MR. DENNEY: Major Hatfield, I have indicated the exhibit numbers on the bottom, and I believe the set of photostats which I am giving you are the same, so if you will copy them off so I might have them back, at your convenience.

MAJOR HATFIELD: May I just keep the copy I have?

MR. DENNEY: Surely, if you have a copy very well. I did not know the copies were marked; we marked the originals, so if you will check them with your copy which you have marked and return them to me I will appreciate it.

And Your Honors attention is directed to Exhibit 85, and the succeeding and prior exhibits, with reference to the matter herein cited.

Then coming to the first of the three documents, -- the one which has at the top the identifying number, 100-B-25, which is an excerpt from the Novi list (Jeues Blatt) of 5 August 1941, reciting "The Communist Plague will be Rooted out."

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In this instance I believe the first page will become 77(P). I believe Your Honors have copies of that, which came to Your Honors yesterday.

THE PRESIDENT: I have them; I trust my associates have.

My associates have indicated that they have these copies.

MR. DENNEY: Perhaps Your Honors would like to have a copy to follow. The first excerpt is from the Novi List ("Neues Blatt") 5 August 1941, "The Communist Plague will be Rooted Out."

"90 Serbian Communists were shot in Veliki Beckerek Belgrade, 4 August 41.

Under the heading "The Communist plague will be rooted out", the Belgrade newspaper "Novo Vreme" dated first instance published the following official report:

Because of criminal attempts of irresponsible Communist elements in Banat to sabotage the Nation's wheat supplies by fire, and because of treacherous assaults on members of the German Wehrmacht, which occurred recently, it has become necessary to take severe measures.

For this reason 90 known Communists from the Banat were shot on 31 July 1941 in Veliki Beckerek. It is again called to the attention of the population that it is to its own interest to cooperate actively with the authorities in fight against bolshevism."

The next page, which is 77 (Q), (for queen):

"Novi List (Neues Blatt), 19 August 1941

ONE SERBIAN VILLAGE LEVELED TO THE GROUND BECAUSE OF ASSISTANCE TO COMMUNISTS.

Belgrade, 18 August 1941 The Belgrade newspaper "Novo Vreme" of Saturday, the 16th publishes in large letters on the front page this communique of the Commander of the German Wehrmacht in Serbia:

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In the locality of Skela a Communist band shot at a German Wehrmacht car. It has been ascertained, that several inhabitants of the locality had noticed the preparations for this attack. It has been ascertained, that the inhabitants were in the position to alert the Serbian Gendarmeria station located in the vicinity without danger of being observed. It was ascertained, that the inhabitants could have notified the German Wehrmacht car of the planned attack without endangering themselves at all. They did not take advantage of this opportunity and thus have sided with the criminals.

The locality of Skela was leveled to the ground by fire. On this occasion ammunition exploded in several houses. Thus the participation of the inhabitants has been proved.

Those male inhabitants of the locality, whose complicity could be proved, were shot. 50 Communists were hanged on the spot.

And then the similarity between that and the placard which was the only placard among the pictures which have been offered, which was submitted so as to get no comment.

THE PRESIDENT: What page number did you give this?

MR. DENNEY: 77 (Q), for Queen, sir.

THE PRESIDENT: Are you numbering them by following the alphabet down as you go?

MR. DENNEY: Yes, starting with "A" and then starting with double letters, double "A" and "B", etc., if that is agreeable with your Honors.

THE PRESIDENT: It is agreeable.

MR. DENNEY: Then 77(R), (for Roger), "The Communists sentenced in Sarajevo."

Sarajevo, 18 August 1941 MIHAILO POPOVICI and SALOM AIBAHARI had to defend themselves before the Senate of the mobile summary court-martial because of Communist propaganda.

Through court proceedings it has been ascertained that the above-mentioned organized a Communist party and distributed pamphlets with Communist contents and thus the Senate of the mobile summary court-martial condemned them to death.

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The punishment was carried out by shooting after a legal respite.

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Next is 77s:

"Donauzeitung, 2nd September 1941 "Cruel Revenge, "Belgrade, 1 September 1941 "In the area of the district headquarters of Sajetschar seven Jews and Communists were shot.

"In the homes of a male and female teacher from Turija, who had been active as leaders of bandit groups, pictures of Stalin and other Communist leaders were found hanging on the walls. The houses were burned down, likewise the house of Popovitsch, Wujiza, from Turija, who together with his son Josef also participated in the bandit attack on Kutschewo.

"In addition seven more houses were burned, which are owed by members of bands."

77t is the translation sheet. 77u:

"Donauzeitung, 4 September 1941" With the caption "Fifty for One"."An authoritative source states:

This morning a German soldier was openly shot on a street in Belgrade. In retaliation for this cowardly assassination 50 Communist bandits were immediately shot."

77w:

"Novo Vreme (Neue Zeit), 16th September 1941 "Punishment for Common Murder "Belgrade, 15th September 41 "As penalty for a common murder of a German soldier 50 captured persons known to be Communists were shot."

77x:

"Novo Vreme (Neue Zeit), 25 September 1941 "Execution of Communist Leaders "Belgrade, 25 September 1941 "From an authoritative source it is stated that in the Banat villages Kumane, Melenci, and Mokrin ten Communists were shot on 6 September 1941 and hung up for 24 hours.

They were found to have been the instigators of Communist cruelties and acts of sabotage."

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77y:

"Combat against the Communists in Serbia "12 Communists Were Shot as Reprisal Measures.

"Zagreb, 27 September 1941 "The Belgrade newspaper 'Novo Vreme' dated 27 September 1941 publishes the following report on the shooting of Communists in Serbia:

"As reprisal measures for sabotage acts on the railroad line Veliki Beckerek – Pancevo 12 Communists were shot and hanged within 24 hours.

"Zagreb, 29 September 1941 "In the Belgrade newspaper 'Novo Vreme' dated 27 September 1941 the combats of the Communist-Chetnik bands near Mladenovac with units of the public security were described:

"In this fight 15 Communists were killed and 15 caught alive. Thirty rifles and 5 machine guns were found. During the fight 2 persons of the units of the public security were killed and 8 wounded."

77z:

"Novi List (Neues Blatt) 23 October 1941 "200 Jews and Communists Were Shot in Belgrade "Zagreb, 22 October 1941 "The Belgrade newspaper 'Novo Vreme' dated 19 October 1941 publishes the following official report on the first page:

"On 17 October 1941 200 Communists and Jews were shot as reprisal measures for assaults from an ambush on two members of the German Wehrmacht in the streets of Belgrade."

77aa:

"Donauzeitung, 28 October 1941 "Communists Do Not Escape Retaliation "Belgrade, 27 October 1941 "A German sentry was attacked and wounded by Communists on the 15th of this month in Belgrade.

In retaliation for this malicious attempt at murder 50 Belgrade Communists were shot today."

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77bb. This is an account in a different paper, the Novo Vreme, which was referred to in the Donauzeitung for the same date, the 27th of October, and recites the shooting of 50 Belgrade Communists for the attack on the 15th of the month on a German sentry, which resulted in his being wounded.

77cc. This is another recital of the incident first reported in Donauzeitung, and then in the last excerpt at 77bb, and now here:

"Novi List (Neues Blatt), 30 October 1941 "50 Belgrade Communists Were Shot "Zagreb, 29 October 1941" the shooting to death of 50 Communists for the attack on a German sentry.

77dd:

"Hrv. Narod (Kroatisches Volk), 30 October 1941.

'50 Belgrade Communists Were Shot for Attacking a German Sentry.

"Zagreb, 29 October 1941 "The Belgrade newspaper 'Obnova' of the 27th of this month prints the following official information in heavy type on its front page:

"On the 15th of this month Communists attacked and wounded a German sentry. In retaliation for this malicious murder attempt 50 Belgrade Communists were shot today."

This again recites the same incident from a different paper.

77ee:

"Novo Vreme (Neue Zeit), 4 November 1941 "Retaliation for Cowardly Attack "Belgrade, 3 November 1941 "An authoritative source states:

"In retaliation for a cowardly attack on a German sentry on 3 November 1941 100 Communists and Jews were shot."

77ff:

"Serbia "Attack on a German Sentry "Berlin, 4 November 1941 "The Southeastern Radio (Suedostfunk) reports from Belgrade:

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"According to the statement by an authoritative source, a number of Jews and Communists were shot Monday in retaliation for a cowardly attack on a German sentry."

77gg:

"Novi List (Neues Blatt) 7 November 1941 "In Belgrade 100 Communists and Jews Were Shot "Zagreb, 6 November 1941 "The Belgrade newspaper Novo Vreme of November 4th, 1941, prints the following official notification on its front page:"

And there again the same incident that was referred to on "77ee", with reference to the "shooting of 100 Communists and Jews for an attack on a German sentry 3 November 1941".

And the last page, 77hh - and this is for 6 November 1941:

"Kroatisches Volk, 8 November 1941 "100 Communists and Jews Were Shot in Belgrade "Zagreb, 6 November 1941."

And it refers to the Belgrade newspaper Novo Vreme which is "77ee" and recites the same incident of 100 Communists and Jews being shot for an attack on a German sentry 3 November.

The next pages are those other than the affidavit, which are part of NQKW 16939, which has been labeled 100B-26, and the pages will continue on, the first one being "77ii".

This is a placard to the population of Valjevo and neighborhood:

"Pursuant to proclamation of 20 October 1941, 50 hostages were shot to death as a reprisal measure because a member of the German Wehrmacht of the garrison Valjevo was wounded by bandits in the neighborhood of Valjevo near Iverak on 20 October 1941."

(Signed) "The Garrison Commander" 77kk:

"Proclamation from the Garrison Headquarters "Kragujevac, 21 October 1941 "The cowardly and treacherous attacks on German soldiers during the last week, during which 10 were killed and 26 wounded, must be atoned.

"That is why 100 residents of the country were shot to death for each German soldier killed and 50 for each German soldier wounded, a total of 2,300 – mainly Communists, bandits and their accomplices.

"In the future each similar case, even though it may be merely an act of sabotage, will be met by counter measures of equal severity.

"The Garrison Commander" Your Honors will recall in Exhibit 85 there is a reference to Kragujevac, and also in Exhibit 86, where there is a reference to 2200 Serbs.

7711:

"Garrison Headquarters Kragujevac Local Headquarters 22 October 41 "Proclamation:

If shots are fired from any house, all residents of this house from 15 years of age upwards will be arrested and shot to death.

"The house will be burned down.

"The Garrison Commander" 77mm:

"Serbs.

"The winter with its snow storms is right around the corner. The Communist bandits hiding in the forests will attempt to withdraw into the villages in order to find shelter and food among the peaceful peasants.

"The German Wehrmacht and the Nedic Government has resolved to clean up finally the Communist pest and to secure quiet and order for the Serbian population.

"It will not tolerate that these bandits find shelter with peasants, that they will be hidden there in order that they may again pursue their band activities in the spring.

"For this reason it is proclaimed that:

"Persons giving shelter to insurgents, "Persons not reporting their place of sojourn, "Persons supplying them with food, "Persons transmitting messages to them, "Persons committing acts of sabotage by their orders, "Persons supporting them either by working for them or otherwise will be considered insurgents themselves and will be shot to death.

"Serbs.

"The fate and the future of your families and your nation rest with you. You may choose between quiet, order peaceful work and reconstruction or annihilation as handymen of the Communists bandits."

Mr. DENNEY: The next page, which is 77n (for Nann):

No. 98 Received from District Headquarters Belgrade Text:

Serbs

Certified that this poster of the German Military Occupation Administration was found in the library of the municipal authorities of the City of Belgrade which had received it officially.

MR. DENNEY: And this applies to the prior poster. Next 77oo (for Oboe) proclamation to "Citizens of Tschatschak: Our troops have left your city because you did not display any good will in the fight against Communist Bands. You, yours elves have felt the entire brutality and thirst for blood of the mercenaries of lost Red Moscow and of Jewish London. You saw the effect on your city of a small penal expedition by our dive bombers." Here the Germans use the term "penal expedition" themselves.

You, yourselves, must decide as to what will happen to your city and yourselves.

There are two possibilities:

- 1) You, yourself, liquidate the Communist Bands to the best of your ability or
- 2) You prevent the Communist gangsters from shooting from your city at any member of the German penal expedition.

If you do not choose either one, you may ascribe the guilt for the ruin of your city, of your family and of your own life to yourselves and to the monsters which have caused all that, to the Jewish - Moscovite Communist profit and to the beaten Slavic bloodhound Josip VISARIONOVIC DZUGASCHVILJ - STALJIN who fled from Moscow to the frontiers of Persia.

One of these days, the German Wehrmacht will restore order in Western Serbia and in your city. The best example for the methods applied are:

SAPAC, VALJEVO, the entire MACVA, VITKOVAC, VITANOVAC, ZICA, RIDNICA and the other villages through which the troops of the penal expedition of the German Wehrmacht have marched.

MR. DENNEY: And the last page will be 77pp (for Peter). Coming now to the last part of the offer, which was 100b-27, which was the affidavit of one George Kiessel, the first page of this is 77qq (for queen). "Minutes of Interrogation, recorded in the Military Prison Belgrade, 24 March 1947",

THE PRESIDENT: Pardon me, Mr. Denney. Is there any other identifying mark at the top of the identification of the exhibit?

MR. DENNEY:[NOKW-1637](#), Your Honor.

THE PRESIDENT: And part of Exhibit 100b?

MR. DENNEY: 100b-27, Sir.

THE PRESIDENT: Thank you.

MR. DENNEY: And the first page is 77qq (for queen) "Present:

Vladislav Sambaher, Interrogator Mihailovic Leposava, Stenographer Georg Kiessel was brought in and answered the questions put to him as follows:

My name is Georg Kiessel. I was born in Nuremberg on 31 October 1907. Home address: Pommelsbrunn near Nuremberg. Profession: Senior Government Councillor with the State Police Main Office - Waffen SS: Untersturmfuehrer. Married to Ilse nee Daubenspeck. Father of 3 children.

The office of Military Commander Serbia was established in Belgrade on 20 April 1941. The 1st Military Commander was General der Klieger i.e. of the Luftwaffe Foerster. After a brief period of subordination to the OKH he was subordinated after a few days to the Commander-in-Chief 12th Army i.e. to the Wehrmacht Commander Southeast. This was General Field Marshal List in Athens, later in Saloniki. The Military Commander had at his disposal immediately subordinate to him a General Staff with Gravenhorst Lieutenant Colonel G.S.C. as its Chief and an Administrative Staff with the Prussian State Councillor Dr. Thurner as its Chief.

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MR. DENNEY: And here, if Your Honors please, "Thurner" is spelled with an "h". As we have had in Exhibit 17, which he signed, the "h" was omitted in the English; but it is submitted that it is the same man that they are talking about. That exhibit is on Page 63 of Book I. "It was in compliance with conception of Military Administration that military interests took precedence over all other interests. This was necessary for the military security of the troops. Thus the General Staff did not only attend to military interests, as such, but it also represented military interests in so far as these impinged upon civilian matters, as for instance in the case of the police of the occupied country (number and equipment). Regional defense battalions and Field Gendarmerie units were available to the General Staff."

It was the duty of the Administrative Staff to render expert advice to the Military Commander. Even as far as numbers were concerned it was constructed in accordance with the system of a supervisory administration, i.e. its main task consisted of checking up on the administration of the occupied country only in so as far as German interests were concerned. For instance there was a civil servant for the Minister of Justice, a civil servant for the Minister of Culture etc. Thus all Ministries in so as far as they belonged within the competence of Administration had one civil servant each at their disposal. Another voice in Military Administration was the Plenipotentiary General for Economics, Consul General and NSFK (National Socialist Flying Corps) - Gruppenfuehrer Neuhausen. However he was subordinate to the Military Commander only formally i.e., in military matters. Directives respecting his specific assignments he received from Goering in the latter's capacity as head of the Four Year Plan. Subordinated to the Military Commander as genuine outfits (Organe) were four Administrative Sub-area Headquarters: Belgrade; Smederevo; Pancevo and Vrnjacka Banja; Uzice

later Sabac and Nish. They were set up by the OKH (Generalquartiermeister) outside of the country as self-sufficient structures.

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The Feldkommandant (Commander of Sub-area Administrative Headquarters) was the actual representative of the Military Commander for his area. The organization and structure of his office corresponded essentially to that of the Military Commander, however on a much smaller scale. The So called Major with the Staff corresponded to the Ia with the Chief of the General Staff. The Ic corresponded to the Ic. There was a Law Officer and all other duties were concentrated in the hand of some officers. The so-called Administrative Group consisting of at most 3 to 4 officials corresponded to the Administrative Staff. The Administrative Group in due course was joined by 3 or 4 Economics Officers. As far as I can recall they worked in fields of agriculture and food which were included formally in the Administrative Group. The Feldkommandant was the jurisdictional authority for his area and simultaneously Garrison Commander, i.e. he was responsible for the preservation of public peace and order as well as for the discipline of his own troops. The General Staff Administrative Staff of the Military Commander could issue orders and/or directives to the Administrative Sub-area Headquarters where their affairs were concerned. In such a case both Chiefs signed: For the Military Commander in Serbia the Chief of the General Staff and/or the Administrative Staff. It was quite customary in current matters that the Chief himself let alone the Military Commander did not sign. Instead the corresponding Branch Chief and/or Group Chief of both Staffs - signed "i.A." by order, i.e. by order. The issuance of orders by the Economics Staff was very difficult. Neuhausen, who wanted to maintain his independence, channelled his orders through the Administrative Sub-area Headquarters by way of the Military Commander at the latter's request. I do not know the detailed channels since we were excluded from it. However since both the Military Commander as well as we ourselves disagreed with Neuhausen's system in essential points and Neuhausen on the other hand was supported by Goering's authority, the grotesque situation frequently developed wherein the Sub-area Administrative and District Headquarters - hence the authorities of the Military Commander - were obliged to carry out orders with which the Military Commander himself was in complete disagreement.

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.....
In the beginning of July 1941 the Chief of the Uniformed Police Berlin sent Police Battalion 64 with Major Josten as Commander to Belgrade as a police unit complete within itself. It was tactically subordinated to the Military Commander. Notwithstanding Thurner's objections General von Schroeder subordinated the Police Battalion to the General Staff.

MR. DENNEY: Here, if Your Honors please, you see this uniformed police battalion coming down and being subordinated to the General Staff. "The 3 Companies were transferred to Belgrade, Uzice and Valjevo. The Company in Belgrade was employed for guard duty but the General Staff also misused it for reprisal measures contrary to its real duties. (Operation Skela) and for special purpose employment of the Einsatzgruppe Security Police and for blocking off roads and also for reprisal measures."

The Commanding Officer as well as other officers of the Battalion protested against the last named employment so that Thurner finally succeeded in Berlin in having some influence on the Battalion beginning 1 October 1941. From this moment on all activity of the Battalion pertaining to reprisal measures ceased. Now, aside from the remaining armament tasks ordered partially by the Military Commander himself, its main duty consisted of training Volksdeutsche in the Banat for the tasks of Uniformed Police which was to be followed by the training of Serbs and Hungarians. Before the first course had been finished the office of the Senior SS and Police Leader had been installed, whereupon the Battalion came under the command of the Commander of the Uniformed Police General Nay who was with this office. I can make no further statements regarding its employment.

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In my opinion the Staff of the Wehrmacht Commander Southeast knew of the subordination and employment of the Police Battalion. I base this belief on the following reasons:

DR. LATERNSEER: Mr. President, I can feel that it is certain that a witness, where he can only testify in writing, cannot do more than he would be allowed to do if he were present here as a witness. It is recognized that a witness has to testify to facts. To testify as to opinions is not permitted for him. For the Tribunal has to form its own opinions, and when the defense objects, the Tribunal may also not receive opinions of a witness. This paragraph which starts -- that is, in the English version, "In my opinion etc," does not contain facts, but an opinion as is shown later. The witness, later on, gives a justification. That is something that is not permitted to a witness; and I therefore, move that the reading of this paragraph may not be admitted, and, inasmuch as it has already been read, this testify should be stricken from the record, which I move herewith.

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THE PRESIDENT: The Tribunal is conscious of the rules of evidence to which counsel refers and we wish to state that we will give consideration only to facts presented and not to conclusions announced.

MR. DENNEY: 1) When General von Schroeder subordinated the Battalion to the General Staff, Thurner protested so vehemently that a heated argument with the General developed who, thereupon, referred to the agreement of the Wehrmacht Commander Southeast to this subordination.

2) When I protested against the Operation Skela to Lieutenant Colonel Gravenhorst and at first requested an investigation, Gravenhorst expressly referred to the order of Chief of General Staff Southeast Foertsch. And it is submitted here that although an opinion is cited up above, this part clearly recites what the witness did.

5) In addition the General Staff of the Military Commander must report to the Military Commander Southeast regarding the employment of subordinate units. (These reports) also showed clearly how the Police Battalion was employed. The three occupation divisions transferred to Serbia were not subordinate to the Military Commander regarding training and command but to the so-called Corps Commander. And that is 69 in the English; that should be 65, under the command of army Lieutenant General Rader and the Chief of General Staff Colonel G.S.C. Kewisch. These were so-called Divisions

of the 15th Wave; they were not assault divisions and were to be trained and equipped properly until they arrived in Serbia. As far as I can recall they were numbered 704, 714, and 717. The Division Generals I can recall were Brigadier General Hoffmann and his successor Brigadier General Hinghofer.

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The staff of General Bader, like that of the Military Commander, was organized like the staff of a German Infantry Corps (Chief, 1a, 1c, 11a, 11b, 111, Intendant etc.).

THE PRESIDENT: Mr. Denney, pardon me. I take it that you will not be able to complete this document this afternoon?

MR. DENNEY: No, your Honor, there are still four pages.

THE TRIBUNAL: The Tribunal is personally conscious of the heat. Those associated with this Tribunal, I take it, are also conscious of that fact. That being the circumstances, we will—adjourn at this time until 9:30 Monday morning.

(The Tribunal adjourned until 28 July 1947 at 0930 hours.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List, et al, defendants, sitting at Nuernberg, Germany, on 28 July 1947, 0930, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal 5. Military Tribunal 5 is now in session. God save the United States of America and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, you will ascertain if all the defendants are present in the courtroom.

THE MARSHAL: May it please Your Honors, all the defendants are present in the courtroom.

THE PRESIDENT: You may proceed, Mr. Denney.

MR. DENNEY: May it please Your Honors. On Friday, just prior to adjournment, we were considering the affidavit of George Kiessel, a former SS-Untersturmfuehrer, and this affidavit, if Your Honors will recall, is concerned with the organization and chain of command in the Southeast. There was one portion which I would like again to call to Your Honors' attention which we had just completed prior to the adjournment. That is on page 27 of the English, Document No. [NOKW-1637](#), which is 100B-27, and is at page 77tt ("t" for tare). It appears opposite letter "2", and Kiessel is speaking here of a personal experience, although it appears to be an opinion, as pointed out by the defense counsel earlier. Nevertheless, at paragraph 2 he states:

"When I protested against the Operation Skela to Lieutenant Colonel Gravenhorst and at first requested an investigation, Gravenhorst expressly referred to the order of the Chief of the General Staff Southeast Foertsch.

And there we have a subordinate speaking of an order which he received from the Chief of Staff of the Wehrmacht Commander Southeast. Turning then to page 77uu, at the top of page 3 of the original:

"The staff of General Bader, like that of the Military Commander, was organized like the staff of a German infantry corps (Chief, Ia, Ic, IIa, IIb, III, Intendant, etc.)

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. Only the Ib was lacking, i.e. the quartermaster branch which the Military Commander and the Corps Command had in common. It was the duty of the Corps Command to direct the management and training of the three divisions. Regarding commitment (of troops) General Bader had to take orders from the Military Commander in the latter's capacity as so-called Territorial Commander. However, the operational and tactical execution was exclusively his affair. Because of personal differences the connection was such a lax one that in practice General Bader and his General Staff regulated all measures pertaining to troop command and troop employment according to their own discretion. The immediate subordination of the Corps Command to Military Commander Southeast enabled General Bader of course to request direct orders from there personally. It was significant of the situation, for instance, that during the first visit of General Field Marshal List in 1941 List landed first in Nish asking General Bader but not the Military Commander to come there so that the General Field Marshal received his first local information from the Troop Commander and not from the Military Commander.

"Notwithstanding the report of General Field Marshal List 23 August 1941 in Belgrade - after Nedic had been appointed Prime Minister - the OKH sent Boehme, Lieutenant General of Mountain Troops, with the staff of the XVIII Mountain Corps, which was in Greece, to Belgrade with the mission to suppress the insurrection. Boehme bore the title of Commanding General and Commander in Serbia. This double title obviously was to show authoritatively that he was simultaneously the superior of Military Commander Dankelmann and of the troop commander Bader."

And it is submitted that this supports the earlier exhibits, which Your Honors will recall, where List, in September 1941, requested that Boehme be sent there, and then the OKW order, ordering Boehme there, and List of course sending him there, where he became the Supreme Commander for the area of Serbia, responsible only to List, and of course, subsequently too for the Armed Forces Commander Southeast. "Anything regarding military organization and units was subordinated to him."

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That, of course, is speaking of the Commander General and Commander in Serbia.

"Chief of the General Staff was Pemsel, Colonel, GSC. Otherwise his staff was organized like a real corps staff (as above) which however was particularly suitable for combat. Genuine combat divisions put at his disposal were the 342nd Infantry Division, which, as far as I know, came from France, and the 113th Infantry Division. When Boehme had reported to the Wehrmacht Commander SE that the insurrection in Serbia had been suppressed and that peace had been restored, he was recalled with his entire staff. At the end of November or beginning of December he went to Salzburg with his entire staff...

"The office of the Wehrmacht Commander Southeast developed from the General Staff of Commander-in-Chief 12th Army General Field Marshal List. This event was a result of a political argument between the OKH and the OKW whereby the OKH was eliminated from the Balkan area in so far as command authority was concerned. The designation Wehrmacht Commander did not only designate the subordination of all troop units but the quality of territorial commander and bearer of the sovereignty of the Reich."

And this, of course, is submitted to show the vast powers which were held by the Armed Forces Commander Southeast, List, at that time, and his subordinate, or his follower, Kuntze, and then those who followed him.

"I am not acquainted with the detailed organization of the staff. Senior Military Administrative Councillor Dr. Parisius was with the Staff in charge of affairs of the Military Administration in its narrower meaning, that is to say, affairs of the Administrative Staff. Chief of General Staff was the later Brigadier General Foertsch. Colonel GSC Josef Kuebler was Ia up to November 1941 and he was followed by Brigadier General Macher. Lieutenant Colonel GSC Pfafferoth was the Ic. He later became Chief of the General Staff of Combat Group Bader. There was an extremely close connection between the General Staff of the Military Commander in Serbia with the General Staff of the Wehrmacht Commander Southeast.

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Gravenhorst repeatedly emphasized to me that he had daily telephone conversations with Foertsch."

And then, of course, this sets up the Command Staff connection between those units and the statement that there were daily telephone conversations with the defendant Foertsch.

"Colonel Kewitsch also had very close connections with Foertsch."

Of course, Gravenhorst is the Chief of Staff of the Military Commander, and Kewitsch is Chief of Staff to Bader.

"In addition regular reports of the General Staff and extra immediate reports in case of special events kept the General Staff of Wehrmacht Commander Southeast currently informed. A regular monthly report had to be made by the Administrative Staff regarding its activities which also had to be submitted to the Wehrmacht Commander. In turn the Wehrmacht Commander Southeast published a situation report in which it was stated literally several times that the Military Commander Serbia did not agree with the opinions of the Administrative Staff.

"The first reprisal measures which became known to me were carried out by order of General von Schroeder between 28 June 1941 and 10 July 1941 for an attempt to dynamite a grandstand. According to the statements of the General and of von Gravenhorst these orders had been approved by Wehrmacht Commander Southeast. During the many arguments I had with Gravenhorst during the following weeks he simply asserted that he had been empowered to request ten reprisal victims for one German victim."

Now, the Gravenhorst here is the same one, the Chief of Staff of the Military Commander Serbia, and here Kiessel is talking about Schroeder who was then the Military Commander Serbia; and he says that according to the statements of General Schroeder and Gravenhorst as Chief of Staff these orders for the execution of reprisal measures came from the Wehrmacht Commander Southeast, which at that time, in June and July 1941, was the defendant List.

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"As I was told after returning from my father's funeral, fifteen persons had been hanged for this attempted plot. They had nothing at all to do with the affair but five of them, by the express order of von Schroeder, were reported to have been Jews. Before the start of the insurrection, i.e. before 22 June 1941, the General assigned the Belgrade population to guard duty liable with their own person because of several destructions of telegraph poles. At the time we had been successful in deterring him from seizing hostages in connection with that affair. Furthermore I know - through a report from Acimovic - of the shooting of hostages in and near Uzice after the attack on General Lontschar."

And Your Honors will recall the attack on General Lontschar, which has been the subject of discussion at earlier times.

"I immediately telephoned the Administrative Group Chief of SubArea Administrative Headquarters, Dr. Dietrich. But he told me that the operation, which was known to his office also, had been carried out by the troops because of the attack on the Regimental Commander and it was done without the participation of Administrative Sub-area Headquarters.

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A further reprisal measure known to me is the case of the village of Skela. Arriving at my office on that morning I found a note by Gravenhorst asking to come to a conference. This conference was already underway. Some officers of the General Staff and 2 Police Officers participated. Gravenhorst was dictating strict orders to one of the police officers according to which a number of men, if I remember correctly, - about 50 were to be hanged in the village of Sjela and the village to be burned down. Thereupon I asked Gravenhorst to interrupt the conference and went outside with him to ask him what had happened. He explained that a 1st Lieutenant of the Police Battalion and 3 to 4 men returning from Sabac to Belgrade had been attacked near Skela and killed. Their bodies had been thrown into the Save. To my query as to whether an investigation had been conducted, I received a negative reply. The report sufficed him. This gave rise to an unusually vehement altercation between us and he defended himself with the explanation that the order had been issued and had to be carried out and that he had to explicit approval of the Chief of the General Staff Wehrmacht Commander Southeast Brigadier General Foertsch to proceed with such severe measures. I asked him why he had called me at all and he told me I was to inform the Serbian government of the impending measure. General Dankelmann, if my memory serves me right, did not play any part at all in the Skela events. All I can remember is that his name stood at the end of the subsequent proclamation to the population. Along with the severe orders which he brought to suppress the insurrection General Boehme also transmitted the order to the troops (Fuehrer Order) according to which 100 Serbs were to be shot to death for 1 dead German. The

independent reprisal measures of the 342nd Infantry Division in the Macva and the incidents in Kragujevac and Kraljevo were a result of this. Boehme allegedly did not hear about this until later"

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This Fuehrer order that they are talking about, it is submitted, is the Keitel order, Exhibit 53 of 16 September 1941 which is at page 67 in Document Book II, and the Boehms order of 10 October 1941 is Exhibit 8 which is at page 34 of Book III, and this whole thing shows the military in connection with the police and the SS people getting together and discussing this Skela operation, and then the chief of the military commander Serbia telling this affiant Kiessel that this reprisal measure for the attack on the Lieutenant of the Police Battalion and three to four men had been ordered by the Chief of the -- that is, that he had the explicit approval of the Chief of the General Staff of the Wehrmacht Commander Southeast, Brigadier General Foertsch, to proceed with these measures and that the order had been issued and had to be carried out.

And turning over to page 74 -- YY, "All orders of the OKW went by normal channels via Wehrmacht Commander Southeast to the Commander in Serbia," so it is submitted that that establishes the fact that the orders from OKW did not by-pass the Wehrmacht Commander Southeast and come down to the Plenipotentiary and Commanding General in Serbia as well as the Military Commander Serbia, but that they all came through the Wehrmacht Commander Southeast first.

"I know that in 1941 the Security Police frequently exchanged information with both General Staffs and that the Security Police participated in several operations. The Administrative Sub-area Headquarters also informed us of arrest actions carried out by order of the General Staff whereby the arrestees had to be transferred to the Security Police in Belgrade. When I say 'two Staffs' I refer to that of the Military Commander and that of General Bader."

Now here as early as 1941 the Security Police. Your Honors recall the reports of Security Police and SD have been issued from Berlin at various times beginning with October 1941 setting forth what has happened down here and here they have been exchanging information and the Security Police participating in operations and that the arrest actions were carried out by them by order of the General Staff, whereby the arrestees had to be transferred to the Security Police in Belgrade and the affidavit continues:

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"The above has been read to me, it entirely corresponds to my own statement which I made voluntarily and without any compulsion. (Signed) George Kiessel." There follows then the certificate of Colonel Zvonimir Ostric, Delegate of the Government of the Federated Peoples Republic of Yugoslavia with the Office of Chief of Counsel for War Crimes.

That concludes this Exhibit, and now Mr. Fenstermacher will continue with a new book.

THE PRESIDENT: Mr. Fenstermacher, will you wait just a few minutes until we get our paper ready?

DR. LATERNSE: Your Honor, in consideration of the statement which has just been read, I would like to ask the Tribunal to ask the prosecution that this witness be called for cross-examination by the defense. The witness has as his own statement shows -- he has testified about matters which he cannot testify to. Your Honor, I would ask that the witness Kiessel, whose statement has just been read, be called.

THE PRESIDENT: Just a moment, please. There is trouble here in the translation.

(There was a short delay due to mechanical difficulties.)

DR. LATERNSE: Your Honor, I am repeating. I am asking that the prosecution make available to the defense the written statement of the witness Kiessel, that the witness Kiessel has dared to make statements which he cannot make, which he is not in a position to make; for if he could make them, he would have had to be present, for instance when he says that all orders by the OKW went via the Commander Southeast and the Commander Serbia. He can indeed only say that if he had been constantly with the Supreme Commander Southeast. However, he was never there really. I just like to point out this one item. Since the witness makes statements referring to important material matters and voices opinions, I believe that the defense is justified to ask that a witness who makes such important statements be put at the disposal for cross-examination.

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The Tribunals in Nurnberg have up to now in similar cases given the prosecution the right to cross-examine such persons whose statements have been put before the Tribunal.

THE PRESIDENT: I thought you just stated that the right had been given to the prosecution. Did you not mean to say the defense?

DR. LATERNSE: The defense had been given the right to cross-examine witnesses in important cases whose statements had primarily been submitted in writing by the prosecution.

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MR. FENSTERMACHER: If Your Honor, please, I have been informed by the Yugoslav delegate to the Office of the Chief of Counsel for War Crimes that George Kiessel has already been executed as a war criminal in Yugoslavia.

DR. LATERNSE: Your Honor, can this be proved by the Prosecution? For I would have to insist that this assertion be proved in such an important case?

MR. FENSTERMACHER: Your Honor, I think we can get a statement from the Yugoslav delegate to that effect for the defense.

THE PRESIDENT: Pending the receipt of this information the Tribunal will reserve ruling on this matter and the application made.

MR. FENSTERMACHER: If Your Honors, please, with the presentation of the documents in Document Book 10 we take up the period from January 1943 until August 1943. This is the second half of the period which the Prosecution calls the period of Foertsch and Geitner.

Your Honors will recall that as of January 1, 1943, the 12th Army goes out of existence and in its place we have the Army Group E as the Supreme Command authority in the Southeast Area.

The cast of characters with which we are concerned in this period from January 1943 until August 1943 is for the most part, the same as during the earlier portion of the period from August 1942 until January 1943. General Loehr is Commander -in-Chief of the Army Group E, and his Chief of Staff is the defendant Foertsch.

JUDGE BURKE: From what document are you reading?

MR. FENSTERMACHER: Your Honor, I am just interpolating very briefly before passing on to the documents.

Generals Loehr and Foertsch are in the Supreme Headquarters of Army Group E. In Serbia General Bader is commanding General and his Chief of Staff is as before, the defendant, Geitner. In Croatia, General Lueders is in charge of the German troops, and Horstenau is the liaison between the German Army and the Croatian Government, and finally in Greece, as Commander of Southern Greece we have the defendant Speidel.

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Turning to the first document, page 1 of the English and page 1 of the German, [NOKW-1132](#), which is offered as Prosecution Exhibit 243. This is an order of the Commanding General in Serbia, dated 16 January 1943, to the 704th Infantry Division. Its subject is "Daily Reports."

- 1) "The High Command of Army Group E demands that the daily reports be more precise than hitherto so that a more detailed report can be furnished to the OKW.
- 6) Especially important is the immediate notification of reprisal measures and counter-measures taken or planned in case these should result from the subject of the report according to the orders given. Also a report, that for instance counter-measures are not possible or not planned at the moment, by mentioning the reasons in code language if occasion arises, is indicated and necessary.
- 7) When arrests are made, the reason is to be given, Communists activities or suspected of having participated in a reported sabotage attempt. Here however I expressly refer to the Fuehrer decrees which deal with the combatting of bands and the treatment of Sabotage-groups."

If Your Honors, please, we believe that the reference treatment of the Sabotage groups is a reference to the Commander order of October 18, 1942.

"When, according to this order, the necessity of shooting arises one is, for instance, to add to the report: "Were Shot." In case by way of exception a shooting is not planned, the report is to read: "Will not be shot at the moment, is useful for own reconnaissance reasons."

"The Fuehrer has banned the term "Partisans." It is however still used frequently. In the Southeastern area it is to be replaced by the word 'Communists' or 'Communist bands.'" The order is signed by the Commanding General and Commander in Serbia, the Chief of the General Staff and Your Honors will note on the original the initials of the defendant Geitner.

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Next on page 3 of the English and page 3 of the German document book, document [NOKW 1634](#), which is offered as Prosecution Exhibit No. 244, This is an order of the Commanding General in Serbia, dated 3 January 1942, which relates to the offensive against Partisan Groups in Croatia and various insignia worn by the partisans.

THE FIGHT AGAINST INSURGENTS IN CROATIA.

The Insurgents in the eastern part of Croatia have withdrawn to their Winter quarters (see the enclosed sketch). From these places they harass the Croatian Troops and continuously commit acts of sabotage. They advance more and more towards important arteries of traffic and towards the economically important works. For details see enclosure 1.

In order to stop these enemy activities the 342 Infantry Division and the 718 Infantry Division will attack the enemy on 15 January 1942 in the southeastern part of Croatia and will destroy him. The German troops shall be supported by Croatian troops. In order to make the 718 Division available for the duration of the operation, Croatian troops will take over the securities tasks which were fulfilled by the division up to now.

All German and Croatian troops employed in the mentioned operation are subordinated to the Commander of the 342. Infantry Division Brigadier General Hoffman as of 12 January 1942.

Then the various divisions which will be concerned in the operation are listed, and the document is signed "Bader, General of Artillery," and again the distribution list is given on the document.

At the bottom of page 4 of the English and page 4 of the German is the enclosure which was referred to in the body of the Order.

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"Insurgents Groups in the Frontier Area Croatia," and then follows, the list of the Partisan units, political affiliation and strength and their intended activities, which we believe shows the precise knowledge the Germans had of Partisan affiliation along military lines, the size leadership and the various insignia which they wore.

I should like to read from the bottom of page 6 of the English and page 6 of the German:

"Romanija Mountains east of Sarajevo Strength : 3000 Armament:

2 Mountain Guns.

Commander: Cica (Nickname for Jew Weinert, engineer from Sarajevo) Tito, Commander in the General Staff of the Juvoslav Peoples Party of Liberation before the destruction of the units in West-Serbia end of November 1941.

Political Affiliation: Communists (numerous Moslems) Activities:

Continuous serious unrest in the area northeast of Pale, threatening of Pale and disturbance of communication from Sarajevo to Mokro and Pale.

8. Southeast of Sarajevo.

Strength: 250 Armament:

2 Mountain Guns.

Commander: None listed.

Political Affiliation: Presumably Cetniks.

Activities: Repeated attacks, in part successful, on water works Bistrica southeast of Sarajevo.

9. West of Visegrad Strength:

2500 Armament:

and Commander: Not listed Political Affiliation:

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Communists, probably from Serbia.

Activities: Threatening of Visegrad from the south, beaten by Italians on the 30 December, subsequently crossing of the Drina in the area west of Visegrad.

Then on page 8 of the English and Page 8 of the German, are sketches of the Cap Insignia for the Croatian Wehrmacht, and Cap and collar insignia of the Croatian Ustascha Units. And reading again:

"The Croatian Wehrmacht and Croatian Units do not wear either Fur Caps or Cartridge belts (crossed over breast and back.)" This, the Prosecution believes, is a reference in a negative way to the manner in which the enemy was dressed.

If Your Honors will look on the original document you will note the map which shows the enemy situation and the various groups of the Partisans and where they are located. This we believe will show the precise knowledge which the Germans had of when and where the the various insurgent groups were located.

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Turning next to page 9 of the English and page 9 of the German, NOKW-919, which is offered as Prosecution Exhibit 245 - these are two reports from the Commanding General in Serbia, General Bader, whose Chief of Staff was the defendant Geitner. The report is sent to the Wehrmacht

Commander Southeast, who at this time, in January 1943, was General Loehr, and his Chief of Staff was the defendant Foertsch.

The first report is dated 1 January 1943 and, in addition to being sent to the Wehrmacht Commander Southeast, it was sent for information to the German Plenipotentiary in Zagreb, which was Gleise-Horstnau at this time, as well as for information to the Commander for the German Armed Forces in Croatia, General Lueters. The date of the report is January 1, 1943. Under "704th Infantry Division":

"During pursuit operation northeast of Petrovac sixteen Draja Mihajlovic suspects arrested. Arms and ammunition secured; farms in which these were found were burned down."

Then, under the "SS Division Prinz Eugen", of which we will hear much in the course of this trial:

"South of Pozega, of twelve suspects arrested eleven were shot while attempting to escape."

The report is signed "Commanding General and Commander in Serbia".

Then the next report is the Daily Report for 5 January 1943 which is on page 10 of the English, page 10 of the German:

"Belgrade city headquarters: Two arrests; ten Communist reprisal prisoners shot because of surprise attack on the community and railway station south of Mladenovac (see Daily Report for 25 December)."

And again this report, as the previous one, is signed: "Commanding General and Commander in Serbia" by his operations officer, the "Ia".

Turning now to page 11 of the English and page 11 of the German, Document [NOKW-973](#), which becomes Prosecution Exhibit 246 - this is an order dated 5 January 1943 from the Commanding General and Commander in Serbia to Administrative Sub-Area Headquarters 809. The subject is "Reprisal Measures":

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"The Deputy Commanding General, Major General Juppe, has approved the application of District Headquarters Leskovac of 89 December 1942 to shoot to death 35 hostages.

"Thus it is ordered:

"Of the hostages detained in the area of Administrative SubArea Headquarters 809, 35 hostages (D.M. followers or convicted Communists) are to be shot to death as far as possible in the villages in which the crimes have occurred.

"Ten hostages in D. Lokosnica for the murder of the village elder on 11 Dec 42.

"Ten hostages in Orasje for the murder of a Serbian border official on 13 Dec 42.

"Five hostages in Dzigolj for wounding the District Civil Servant on 20 Dec 42.

"Ten hostages in Balcak for the murder of the village elder on 21 Dec 42.

"Everything else is to be arranged directly with the SD Branch Office in Nish.

"The Senior SS and Police Leader is asked at the request of Administrative Sub-Area Headquarters 809 to set up the execution commandos from the police of the Serbian State Guard."

The order is signed: "For the Commanding General and Commander in Serbia, Chief of the General Staff," the defendant "von Geitner".

Your Honors will note the signature of the defendant Geitner on page 3 of the photostatic copy.

If Your Honors please, on page 11 of the English and also on page 11 of the German, I read that this order was dated 5 January 1943. The date appears on the English document book but does not appear on the German document book, so the defense counsel may correct their copies.

Continuing now on page 12 of the English and page 12 of the German, there is an order dated 6 January 1943 from the Commanding General and Commander in Serbia to the Administrative Sub-Area Headquarters 809.

Page 929

Again the subject is "Reprisal Measures." The Deputy Commanding General, Major General Juppe, has ordered:

"In reprisal for the sabotage plot on the main railroad line Belgrade-Nish on 3 January 1943 near Luzane the six arrested guilty civilian guards are to be shot to death. Administrative Sub-Area Headquarters will attend to publication. Ten copies of the proclamation are to be sent to the Commanding General and Commander in Serbia. Report of completion of mission is to be submitted."

Again the order is signed: "For the Commanding General and Commander in Serbia, Chief of the General Staff," the defendant "von Geitner".

On page 13 of the English and page 12 of the German is a public proclamation. I think here again Your Honors might look at the original photostatic copy. You will note that on one side of the proclamation the language is written in the Yugoslav language and on the other side in the German language. I would like the Tribunal to see how Document NOKW-973--

JUDGE BURKE: You refer to page 13?

MR. FENSTERMACHER: That is on page 13 of the English and 12 of the German and I should like the Tribunal to note the original photostatic copy of the proclamation which is referred to on the page I am about to read. It's on page 8 of the photostatic copy, Your Honors. The proclamation reads as follows:

"On 9 January 1943, by order of the Commanding General and Commander in Serbia, the following six persons were shot to death in reprisal for the sabotage on the railroad line Belgrade-Nish on 5 January 1943 near Luzane: Elizabeth Andrejevic, Nish; Ivan Rakic, Mramor; Mihailo Ignjatevic, Nish; Draginja Ignjatovic, Nish; Ratornir Ignjatovic, Nish; Uros Dinic, Nish."

The proclamation is dated "Nish, 9 January 1943", signed "The Commander" by "Muller, Major".

Turning now to page 15 of the English and page 13 of the German document book, Document [NOKW-1090](#), which is offered as Prosecution Exhibit 247, these are various excerpts from the War Diary of the Commanding General and Commander in Serbia for the month of January 1943.

Page 930

Reading the extracts from page 16 of the English and page 13 of the German, the entry for 10 January 1943, Enclosure 28 to the War Diary:

"Notification of the shooting of 33 persons as reprisal measures for the murder of 3 Bulgarian soldiers near Dunis."

And the entry for the 18th of January 1943, Enclosure 60:

"Notification of the shooting of 30 persons as reprisal measures for the murder of the Serbian mayor of Gornja Lokosnica, of the mayor or Palcak, and of a Serbian rural police guard in Orasje."

Finally, the entry for 19 January 1943:

"Written agreement with the proposal of the Serbian Ministry of the Interior in connection with the shooting of 10 persons each for the murder of the community leader in Kramari and Vlaska. Report of execution has been ordered."

Next on page 17 of the English, page 14 of the German, Document NOKW-915, which becomes Prosecution Exhibit 248 – these are 8 series of orders by the Commanding General and Commander in Serbia to his various subordinate administration sub-area headquarters, the first dated 12 January 1943 and is to the Sub-Area Headquarters 809, subject: "Murder of Mayor of Turekovac":

"The application is approved.

"In reprisal for the murder of the mayor of Turekovac on 6 January 43, five DM followers and five Communists are to be executed by shooting. Administrative Sub-Area Headquarters 809 is to announce the execution in the Leskovac area. The execution is to be published in the garrisons of the headquarters Nish and Zajecar. Completion of mission is to be reported. Ten copies of the publication are to be submitted."

The order is signed "Bader, Commanding General and Commander in Serbia".

If Your Honors please, we have identified the initial which is listed on page 17 of the English and page 14 of the German as being illegible.

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We now believe that it is the initial of the defendant Geitner.

Page 18 of the English and page 14 of the German is an order of Bader dated 12 January 1943 to Administration Sub-Area Headquarters 809, subject: "Murder of Mayor of Koprivnica near Zajecar".

"The application is approved.

"For the mayor of Koprivnica murdered on 6 January 1943 ten hostages (5 each of the D.M. and 5 each of the Communist movement) are to be shot to death. The execution is to be published by name of the Administrative Sub-Area Headquarters 809 in the District of Zahecar and in the garrisons of the headquarters Nisch and Leskova. Completion of mission is to be reported. Ten copies of the publication are to be submitted."

Again signed "Bader", and again the "illegible initial" which we believe to be the initial of the defendant Geitner, the Chief of Staff to General Bader.

Turning next to page 19 of the English and page 15 of the German, another order of Bader, this time dated 13 January 1943, to Administrative Sub-Area Headquarters 809:

"For the murder of the mayor of Plavci, ten hostages (5 DM followers and 5 Communists) are to be shot to death." And there follows the same language we have seen in the two previous orders. The last paragraph is different: "Female persons are not to be shot to death either as retaliation prisoners or as hostages."

Signed: "Commanding General and Commander in Serbia, Bader."

Next, on page 20 of the English and page 15 of the German another order of Bader dated 14 January 1943 to the same subordinate Administrative Sub-Area Headquarters 809, "Reference: Your teletype 31/43 secret of 13 January":

"The application is approved.

"The two guards who neglected their duty and three arrested hostages (from the circle of the insurgents) are to be shot to death."

Again the order is signed: "Commanding General and Commander in Serbia, Bader."

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Finally on 21 of the English, 16 of the German, is the Bader order, dated 19 January, 1943, this time to administrative Sub-Area Headquarters 610, Your Honors will note also that informational copies of these orders were sent to the first Royal Bulgarian Occupation Corps:

"Reference: Report concerning blasting of bridge near Dunis during the night from 8 to 9 January 1943.

Subject: Reprisal measures.

In reprisal measures for the blasting of the bridge District Headquarters Krusevac is to execute by shooting 10 persons (5 D.M. followers, 5 Communists.) Administrative Sub-Area Headquarters is to publish the executions in the district of Krusevac. Report of completion of mission and submission of 10 copies of the publication is requested.

Female persons are not to be shot to death either as retaliation prisoners or as hostages.

The persons arrested who are innocent are to be released.

(Signed B A D E R").

And again the illegible initials, we believe to be that of the defendant Geitner.

Turning next to page 23 of the English, 17 of the German, Document [NOKW 1130](#), Prosecution Exhibit 249, this is an order of the 7 SS Prinz Eugen Division, dated 18 January 1943, Division order:

"The 13th enemy brigade hitherto located in the Uskoken mountains is supposed to have retired into the Bosiljevo area."

I now direct your attention to the term which the Germans are applying to the various units of the enemy. They refer to, "The 13th Enemy Brigade".

Page 933

9) "When combing through the area to be covered , all male population capable of bearing arms is to be seized without consideration; bearers of arms are to be shot immediately. The other captives are to be brought to the collecting point in Karlovac, which is under the command of SS-Hauptfuehrer Greindl.

Until its liaison with fighting group, West fighting group East will be in charge of deporting the captives to Glina; at which point the captives will be taken over by the Corps."

The distribution of the order is given, and it is signed "The Division Commander".

On page 24 of the English, and 17 of the German, is the Division Commander's Signature, "SS-Gruppenfuehrer Major General of the Waffen-SS"?

Turning next to page 25 of the English, and page 18 of the German document [NOKW 899](#), which becomes Prosecution Exhibit 250, these are letters written by the Commanding General and Commander in Serbia to the Prime Minister of Serbia, "Neditsch".

Turning first to the top of page 26 of the English, and page 19 of the German, in order to give the correspondence its correct chronological order, we have the letter dated 25 December 1942 to the Prime Minister Neditsch:

"The Commanding General has agreed, that in the future, the reprisal measures for attacks by insurgents against persons who are to be considered members of the Serbian government and in which such persons were either wounded or killed, shall be carried out and made known in public by the Serbian government itself.

However, we wish to point out, that the incriminating effect of these reprisals is only reached when the persons designated to be killed are persons with the same political beliefs as the perpetrators. Therefore, it is important to find out in every case whether the perpetrators were Communists or followers of Draza Mihajlovic. In case the government is not able to use Draza Mihajlovic followers for reprisal measures, this will be done by the Germans.

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Until further notice is given, the intended orders concerning individual measures of reprisal are to be made known to us; also listing the names of the persons to be killed as reprisal, their age, residence and

political group, the act for which the reprisal was taken as well as the place where the execution will be carried out."

The letter is signed, "For the Commanding General and Commander in Serbia, the Chief of the General Staff", by the defendant von Geitner.

Then continuing on the bottom of the page 26 of the English, page 20 of the German, is a letter dated the 22nd of January, 1943, from the Commanding General and Commander in Serbia.

Now, on page 27 of the English, page 20 of the German:

"Enclosed we send a letter to the Prime Minister Nedic for his information.

It is desired that the Serb government itself attended to reprisal measures for the murder of its mayors. Up to now this was not carried out in any single case.

When mayors are murdered to report and the reprisal intended is to be submitted as before. The Commanding General and Commander in Serbia will give orders, depending on the situation, either to the Serbian government or to the German administrative sub-area headquarters, concerning the reprisals to be carried out. If the reprisal measures are carried out by the Serbian Chiefs of districts, the necessary support is to be given to them in case they ask for it. The carrying out of the operation must always be supervised."

Page 935

The letter is signed, "For the Commanding general and Commander in Serbia, for the Chief of the General Staff, "illegible signature but there is an initial on the original document which we believe to be that of the defendant Geitner.

Turning now to page 25 of the English, page 18 of the German another letter dated the 22 of January, 1943, from the Commanding General and Commander in Serbia, to the Prime Minister Nedic, Subject Reprisal measures.

If your Honors please this is the enclosure which was referred to on page 27 of the English, page 20 of the German:

"I agree to the petition for shooting to death 10 insurgents as reprisal for the murder of the head of the community of Samaila on 26 December 42.

I ask you to tell the head of the district to get in touch with the administrative district headquarters Kraljevo and to decide about the details. Please have the publication done by your administrative offices and inform us when this has been completed."

The letter is signed, "Bader, General of the Artillery", The initials we have indicated on the English, and I believe on the German document books as being an "H" is instead, the initial "G", which is the initial of the defendant Geitner.

Turning now to page 28 of the English, page 22 of the German, Document [NOKW 1099](#), which becomes prosecution Exhibit 251--

Dr. von JAKWITZ: (for defendant von Geitner: May I ask to stop for a moment before reading the new document, since I would like to compare the photostat with the defendant von Geitner.....

.....document shown to defendant von Geitner

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MR. FENSTERMACHER: Continuing now on page 28 of the English page 22 of the German, we turn with this document, and the next 5 or 6 that follow, to the picture in Croatia during the month of January 1943.

Your Honors will recall that General Lueters is in charge of the German troops in Croatia, General Glaise-Horstenau is the liaison between the German troops and the Croatian Government, and at the same time at higher headquarters, to whom General Lueters reported and was responsible, is General Loehr as Commander in Chief, Army Group E, and the defendant Foertsch, as his Chief of Staff.

On page 28 of the English and 22 of the German, we have an order dated 7 January 1943, from the Commander of the German Forces in Croatia, to this subordinate units. In the top right hand corner of the document is the receipt stamp for the 718th Infantry Division, dated 10 January 1943. The subject of the order is:

The development of the situation in Croatia again necessitates a clarification of the chain of command, together with a summary of the previous directives.

The areas of the 714th and 718th Divisions are operation areas.

Boundaries: German - Italian Demarcation Line. Drina-Save, line Sisak-Bihac (Up to Demarcation line). Separation line between 714th and 718th Divisions as before. Holders of executive power within their area are Major General Fortner and Brigadier General Reichert. The Commander of the German Forces in Croatia reserves to himself the right to issue directives. All armed Croatian units situated in the area designated in par. 1 are subordinated to the Divisions. If possible, some responsibility of their own is to remain with the Croatian headquarters. A breaking up of the croatian units just formed is unwelcome.

Page 937

The refitting and reorganization, and if necessary the purging of the Croatian Armed Forces is to be carried out vigorously. Ustascha units, as far as has not already been done yet, are to be incorporated into the Croatian Reserve and are to be formed into units not below battalion strength.

Rigorous measures are to be taken against the population.

In unreliable areas the male population from 15 - 50 years is to be lodged in assembly camps. Deportation to Germany is intended."

Partisans and partisan suspects as well as civilians in whose homes arms and ammunition are found, are to be shot immediately" Your Honors will note the next word, in your Honors document book, which

is "resp" should be changed to "read" "and/or", and this will be the case throughout the English document books when the abbreviation for the word, "respectively" is used.

It should always be changed to read. "and/or", Partisans and partisan suspects as well as civilians in whose homes arms and ammunition are formed are to be shot immediately and/or are to be handged; their homes are to be burned down."

"Town Headquarters (German, or Croatian in purely Croatian garrisons) are authorized to decide the hour of curfew for the entire population.

In cases of offenses against German regulations, fire arms are to be used ruthlessly and extensively.

Personages of the Croatian State, whose cooperation is not sufficient, are to be arrested for sabotage.

A general notification in the sense of these directives is being forwarded to the divisions. Further directives will be issued by the holders of executive power according to par, 1 The Plenipotentiary German General in Croatia is requested to notify all Croatian Headquarters of this order."

The order is signed, "Lueters," the Commander of the German Forces in Croatia.

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MR. FENSTERMACHER: Turning next to Page 30 of the English and Page 24 of the German, Document No. [NOKW-1422](#), which becomes Prosecution Exhibit No. 252. This again is an order of General Lueters as Commander of German Troops in Croatia, dated 7th of January. Your Honor's Document Book should read 7 January 1943, instead of 7 January 1946. Your Honors will note that the code numbers for this order "Ia No. 21/43" are the same as it is for the previous order, which was also dated 7 January 1943. The document which we are about to read we believe to be the order of General Lueters as it was finally sent out. We only need to read Paragraph 4 of this order.

"Severe measures are to be taken against the population.

a) In unreliable areas, the male population from 16 to 60 years of age is to be detained in collection camps. Transfer to Germany is intended.

b) Partisans and partisan suspects as well as civilians, in whose homes, arms and ammunition are found, are to be shot to death or hanged on the spot without formal procedure.

(page 2 of original)

c) Local Headquarters (German or, in exclusively Croatian Garrisons Croatian) are authorized to set curfew for the entire population.

d) In cases of violations of the German regulations, arms are to be employed ruthlessly and extensively.

e) Members of the Croatian State who co-operate insufficiently are to be arrested for sabotage."

MR. FENSTERMACHER: The order is signed "Lueters", and on Page 31 of the English and Page 24 of the German is the distribution list for the order. Your Honors will note that the Commander-in-Chief Southeast (High Command Army Group E) received the eighth copy of this order. Continuing

on Page 31 of the English and Page 25 of the German is another order of General Lueters, this time dated 20 June 1943, and it relates to a "Combat and Experience Report Concerning Operation 'Schwarz'". On Page 32 of the English and Page 26 of the German is a detailed tabulation report on the operation to which General Lueters refers.

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I think we need not read it in its entirety -- just point out the heading, "Losses and Booty Report Operation 'Schwarz'", the various units subordinated to General Lueters, which took part in the operation, and the German losses as compared with those of the enemy.

DR. FROESE: My name is Dr. Froese, substitute for Dr. Tipp, Defense Counsel for Defendant von Leyser. The Prosecution read just now on Page 24 of the German Document Book, Document No. [NOKW-4022](#). This Document consists of three pages. The first page is a communication from Lueters, the second page of the original, and the last page of the document contains an enclosure to the communication. I would like to point out that on page 2 of the index, where it reads later that also General von Leyser was involved in this, and that the directives of the Commander of the 15th Mountain Corps (Leyser) achieved these aims ruthlessly. As far as the Prosecution intends to incriminate the Defendant von Leyser by this document, I protest against the presentation of this document since General von Leyser was, at this time, not at all active in the Southeast area, and he was later successor of General Lueters, but only for the 15th Mountain Corps, not for the whole authority of power of General Lueters.

MR. FENSTERMACHER: If Your Honors please, we are not offering, at this time, anything against the Defendant von Leyser. There is nothing in the English Document Book, in this document, which relates to General von Leyser, and if there is anything in the German Document Book relating to General von Leyser, it should be disregarded at this time.

THE PRESIDENT: If the Counsel feels that the matter in any way affects General Leyser, it seems to me that is a matter which should receive attention regarding the presentation of the evidence on behalf of the Defendant.

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DR. FROESE: Your Honor, I just wanted to point out that there is an error in the index of the document which has just been read.

MR. FENSTERMACHER: If Your Honors will turn to Page 2 of the English Document Book, the top of the page, the description of the Document No. NOKW **22 -- I ask Your Honors to strike out the lines in the index beginning, "Found in files of XVth Mountain Corps (See NOKW971 and 1099); Directive of Commander XVth Mountain Corps (Leyser) to achieve aims through severity and brutal ruthlessness." It relates to nothing which we are offering against the Defendant Leyser at this time.

THE PRESIDENT: Does that satisfy Counsel?

DR. FROESE: Thank you, that suits me.

MR. FENSTERMACHER: Turning now to Page 34 of the English, Page 27 of the German, is Document No. [NOKW-971](#), which is offered as Prosecution Exhibit No. 253. This again is an order of the Commander of German Troops in Croatia, General Lueters, dated 7 January 1943. This document is the same as the two proceeding documents which we have just introduced. This document however, shows the receipt stamp of the 717th Infantry Division, dated 9 January 1943. The text is the same, and I think we need not read it again. Next on Page 36 of the English and Page 30 of the German Document Book, Document No. NOKW957, which becomes Prosecution Exhibit No. [254](#). This is a situation report from General Lueters in Croatia to the Commander-in-Chief Southeast, who was simultaneous to High Command Army Group E, at this time General Loehr whose Chief of Staff was the Defendant Foertsch. General Lueter's report is dated 10 January 1943 and is a situation report for the period from 27 December 1942 to 6 January 1943. "As enclosure we submit the Situation Report of the period from 27 Dec. 42 to 6 Jan. 43." And the communication is signed "For the Commander of the German Troops in Croatia, The Chief of Staff."

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And then on the bottom of Page 36 of the English and Page 30 of the German is the situation report as enclosed, "Estimation of the situation from 27 Dec. 42 to 6 Jan. 43: Political Situation: The development of the situation in the Croatian area once again necessitated a clarification of the orders in the operation area of the German troops with a summary of previous instructions. For the protection of the Wehrmacht in the area of the 714th Infantry Division and the 718th Infantry Division severe measures against the male civilian population were ordered. On the whole the following concentrations can be observed:" And here, again, I direct Your Honors' attention to the designations which the Germans used in referring to the units of the enemy.

"1. 2 Brigades in Samarica supposedly preparing an attack against the railway line Zagreb - Belgrade. From these originate the numerous railway line raids in the area of Sisak.

2. A strong group of Partisans, 5 Brigades, is uniting in the area around Travnik, their direction of action is presumably towards the area of heavy industries Zenica - Zavidovici - Tuzla - Vares.

.....

Teslic was taken by a Brigade of Partisans in a sudden attack during the period covered by the report, but could be taken back in sight of three days due to the counter measures that were quickly carried out and thereby Army economical damage was prevented.

.....

3. Acts of sabotage:

In spite of most careful military security and constant guarding of the railway lines by strong Jagdkommandos and adequate protection of the main railway lines is not guaranteed. This is due to the strength of the enemy and his methodical operations, and our present forces in a terrain which is in part difficult to survey.

The weakness of the Croatia Governmental authorities, who out of concern for the life of Franzetic, a member of the government taken prisoner by Partisans, do not dare to apply the necessary force is impeding the execution of intimidating measures against saboteurs of railway lines.

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The troop in the area Sunja-Sisak has already taken measures of reprisal against the civilian population living near the railway line. There is an impression that the railway personnel even up to the highest officials in Zagreb are on good terms with Partisans and tip them off as to the transport plans.

The following cases of sabotage and raids happened during the period of the report:

MR. FENSTERMACHER: And Your Honors will note the types of sabotage actions which were committed against the German occupation authority and the number of such attacks. Continuing with "Tactical Situation and Aims: The building up of effective protection for the industrial areas and reestablishment of the railway line Sarajevo-Jajce as well as replenishing the German and Croatian Units (sic). In carrying out the newly decreed instructions against the civilian population, both divisions intend to begin with the arrest of the male population in unreliable areas." The order is signed in draft by General Lueters. Continuing now with the picture in Croatia during the period of January 1943, Page 40 of the English and Page 32 of the German Document Book, Document No. [NOKW-958](#), which becomes Prosecution Exhibit No. [255](#).

THE PRESIDENT: We will take our morning recess.

(A recess was taken from 1100 to 1115)

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Proceed.

Mr. FENSTERMACHER: You will recall just prior to the recess we were considering Document [NOKW-928](#), Prosecution Exhibit No. [255](#), at page 40 of the English and 32 of the German. We are concerned factually with Croatia during the month of January 1943. This document is a Situation Report from General Leuters in Croatia, dated 19 January 1943, to the Commander in Chief Southeast. The report itself appears in the middle of the page 40 of the English and page 32 of the German. "Estimate of the Situation from 7th January to 16th January 1943."

1.) Political Situation:

No change.

2.) Enemy Situation:

Offensive activity from the "Partisans-state" situated west of the line of demarkation remained unimportant. In the operation area of the German troops the enemy pressure shifted in the main towards the security area of the 718th Infantry Division. In detail the enemy situation during the period reported on was subject to the following changes:

a) The 2 Brigades reported to be in the Samarica have increased their activity. In addition to fortifying their positions in the North Samarica they are trying to seize arms from the 369th Infantry Division by means of well prepared raids.

.....

c) During the period reported on several enemy brigades pushed forward to about 20 kilometers southeast and southwest of Banja-Luka, some of which must have reached Banja-Luka via the Vrbanje valley from the direction of Sanski Most and some from the direction of Travnik. The strength of the enemy is estimated to be about 4 brigades."

.....

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Continuing with the report:

3.) Acts of Sabotage:

East of Ruma an especially serious case of sabotage occurred, during the period reported on against a German train transport, whereby 24 people were killed and numerous people were wounded. As reprisal measures, of 2 of the villages suspected of the act of sabotage one was bombed and the able bodied males of the other were arrested as hostages. One of the latter was shot while attempting to escape. The population was warned by posters and leaflets dropped by plane. As a result of another serious case of sabotage in Syrmia all telephone connections from the Balkans to the Reich were interrupted for 20 hours. As yet measures of reprisal could not be taken because all German troops have left and there are no men in all the suspect villages. For the rest the sabotage activity has not changed since the last report.

And then there follows a table of the cases of sabotage and raids which have occurred, and the number of such acts of sabotage and raids, it's on page 42 of the English and 32 of the German, and the report is signed "Luters, General of the Infantry," Page 43 of the English, page 33 of the German, [NOKW-1037](#), which becomes Prosecution Exhibit 256.

This first portion of the document is an Order dated 12 January 1943 from the Commander of the German troops in Croatia. The receipt stamp of the 718th Infantry Division showing the receipt of the order on the 14 January 1943, appears on the right hand portion of the document. The order is concerned with the method of combat in the Croatian area. And this order, Your Honors, please, the Prosecution believes to be representative of the type of orders which resulted in the acts in the documents which have been described up to now, and which we will continue to be concerned with and describe.

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1.) The total war situation requires the pacification of the Croatian area. A spread of the present focal point of infection toward the north may seriously impair the main railroad line, and check the flow of supplies for the entire Balkan and for Crete and thereby lead to the collapse of the entire axis position in the southeast.

2.) Consequently rapid and thorough measures are necessary. These must be severe, since obviously Partisan and Cetnik terror has been more effective up to now than the law-abiding methods of the occupation troops.

3.) Consequently the following directives are valid for the Croatian area:

a) Any measure seemingly required for the security of the troops and for pacification is justified. In the area of operations, if necessary, formal law and even the sovereignty rights of the Croatian state must yield to this necessity. In the interest of real pacification the last mentioned (the disregard of Croatian sovereignty --) is to be done only in exceptional cases. Extensive and responsible cooperation of Croatian military and civilian offices is desired.

b) No one is to be called to account for over-severe measures; of course this does not cover any action showing a dishonorable attitude (for instance personal profit, mistreatment of women and children); in such cases severe measures will have to be taken.

c) By means of continuously combing through the country all men capable of bearing arms must be removed from the country as soon as possible.

d) The main mission of the occupation troops is the protection of plants vital to the war economy. They must remain in operation. All other economic problems will take a back place behind military necessities.

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4.) Treatment of the Population:

Anybody who has participated in the fight against the occupation troops or against the Croatian State is to be hanged or to be shot to death. This also includes all non-residents or anyone else encountered on the field of battle.

People suspected of participation are to be arrested. Leaders are to be kept with the Division as exchange prisoners, the other suspects so as to be shot to death in case of reprisal measures (hostages).

All other men capable of bearing arms (from 15 years of age) are to be deported from Partisan suspect territories into special collection camps under guard.

The divisions will be responsible for providing guards, rations, etc. until the delivery to the collection camps.

Villages which are difficult to reach as well as other points established as Partisan support points or otherwise suitable (caves, barrack camps, etc.) are to be destroyed. The same applies to villages from which shots were fired. Beyond that villages are to be destroyed only if the Division Commander has ordered it especially as a reprisal measure.

6.) Booty:

The Commander of German troops in Croatia alone disposes over the entire booty (arms, equipment, cattle, food, etc.) The troops may appropriate their required amounts within the limits of the allotted rations simultaneously reporting it to the Commander (Qu.)

However arms are to be turned over to the captured material collection point without exception.

Supplies which the troops cannot transport and where there is danger that these again will give valuable assistance to the Partisans are to be destroyed.

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7.) The above directives are to be communicated to all subordinate Croatian soldiers and to those participating in the commitments in Croatia. Each one must understand thoroughly that quiet and order can be restored only by the application of most severe measures and that only by this method can further losses of comrades as well as of the really innocent parts of the population be avoided.

The order is signed "Leuters," and the distribution is Down to Battalion Level, page 45 of the English, and page 36 of the German is the passing on of the Leuters Order by the order 718 Infantry Division. The distribution by the Division of the Leuters Order dated 18 January 1943:

"The Commander of the German Troops in Croatia on 12 January 1943 has decreed:"

And then there follows the same order we have just been looking at with the exception of the beginning on page 47 of the English and page 37 of the German which begins, "Implementation by Division":

"Once again attention is drawn to the fact that everybody who has acted energetically and decisively will be covered by me, but that officers and men who have harmed or caused disadvantage to the Croatian state, to German or Croatian troops by cowardice, inability of decision, or inactivity will be called to account by me without consideration, be placed before a court martial and without regard to rank, social standing or origin be sentenced mercilessly."

And this order of the division is signed in draft by the Division Commander Fortner.

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We continue now on page 49 of the English and page 38 of the German, document [NOKW-1031](#) which is offered as prosecution Exhibit 257, and now with these and the next five or six orders we turn again to the situation in Serbia where General Bader is Commanding General assisted by his Chief of Staff, the defendant Geitner. The document on page 49 of the English and page 38 of the German is a notice printed in both the German language and the Yugoslavian language:

"By order of the Commanding General and Commander in Serbia the following is brought to the attention of the population:

"Since the O.T. (Organization Todt) driver BRAUN had not returned as of 1 January 43.

"A TOTAL OF 50 FOLLOWERS OF DRAGA MIHAJLOVIC AND COMMUNISTS WERE SHOT TO DEATH -

"by 25 January 1943 -- as was threatened in the notice of 21 December 1942."

And the notice is posted: "Posarevac, 1 February 43" and is signed: "The District Commander Clausen, Major."

On page 50 of the English, page 39 of the German, Document NOKW1027 is offered as prosecution exhibit 258. This is again a printed public notice similar to the preceding document. This proclamation is dated "Belgrade 19 February 1943" and is signed : "The Commanding General and Commander in Serbia."

"On the forenoon of 15 February 1943 a passenger car of the German Wehrmacht was attacked by Communist Bands on the road of Petrovac -- Pozarevac near Toponica. The four passengers, 2 officer, 1 non-commissioned officer and 1 enlisted man were murdered and robbed insiduously, the vehicle was set afire. As a reprisal measure, 400 Communists have been shot to death today in Belgrade."

Your honors will note that there were 4 men killed, 400 persons shot in reprisal were at the ratio of 100 to 1; and the date is February 1943.

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"The village of Toponica was partly burned down. Several hundred persons arrested, who were seized in the District Area Pozarevac, will not return to their villages but will be given worthwhile employment elsewhere. The curfew for the District of Poazrevac has been set at 1800 hours until further notice. The German Wehrmacht is not willing to watch passively the disastrous activity of the Communists and of other insurgents."

Turning now to page 51 of the English and page 49 of the German, Document [NOKW-1249](#), which becomes prosecution Exhibit No. 259, these are situation reports of the 704th Infantry Division, the first one dated, "In the Field 17 February 1943.

The sources of information for the report are listed: "Reports of the troops, Reports of Confidential Agents, Results of Interrogations, Enemy documents, Reports from Police Offices, from Counter-Intelligence Report, Centers and from Administrative Officers."

Under sub-paragraph "d", "Special Events", page 52 of the English and page 40 of the German, the text of the report relates to the proclamation which have just been noticing. The proclamation dated 15 February 1943 relating to the execution of 400 Communists for the --in reprisal for the death of 400 insurgents.

"Action against the German Wehrmacht. Attack by a Communist band, evidently composed of 12 men and 1 women probably belonging to Sima Simic, on the command car of the Commanding Officer of the 724th Grenadier Regiment on 15 February 43 near Toponica, 14 kilometers SouthSoutheast Pozarevac. The 4 passengers, Colonel Hensel, another Officer, 1 non-commissioned officer, 1 enlisted man were murdered and robbed and the car was set on fire. As a reprisal measure, 400 men will be shot dead in Belgrade by the SD. 240 Serbian male civilians from the area South of Pozarevac were arrested

and turned over to the SD in Belgrade. These people should not return to their villages but are to be sent for compulsory labor at the proper place by the Plenipotentiary General for Economics in Serbia.

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The village of Toponica was partly burned down. The curfew for the District of Pozarevac has been established for from 1800 to 0500 hours. The population has to count on additional and reprisal measures if it does not fulfill its obligation to report all observations regarding the insurgents in the interest of the Serbian country."

Continuing with the report, on page 53 of the English, page 40 of the German:

"A captured bandit, who participated in the kidnapping of two members of the Luftwaffe of the weather station Kapetanski Dr. Milanovac, states that the two soldiers had been dragged along alive for four days and then had been be ten to death with rifle butts on the road from Rudna Glava to Majdanpek, one hour by road from Rudna Glava."

Under "D.M.Movement: Did not show up much. The order to refrain from attacking German Troops strictly obeyed. Despite numerous operations in areas in which many D. M. Trojkas are present, the troops have as yet been unable to make contact with the enemy."

Under "Own Losses: Troops, 4 dead, 1 wounded; Serbian Volunteer Corps, 1 dead, None wounded; Organization Todt, None dead, 1 wounded (died in hospital):

"Enemy Losses: (including people shot to death by the troops for possession of arms), 55 dead, 8 wounded."

"Additional dead and wounded of D.M. units to be assumed but could not be ascertained. In addition, 21 bandits arrested while carrying arms shot to death by SD in Pozarevac. Arrests: 328."

And the report is distributed: "Down to Battalions and independent units."

Page 54 of the English and page 41 of the German, we have another and extremely important report of the 704th Infantry Division, this time dated 26 February 1943. The subject is: "Enemy Situation Reports from 17 to 26 February 1943."

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The first part of the report deals with "The Attitude of the Population."

"Attitude of the Population Fluctuates.

"On one hand, the events in the East and in Africa are regarded by the intellectuals and insurgents with confidence in the hope of a speedy liberation from the occupying power, due to the distorted reports of foreign broadcasting stations and the whispering propaganda ensuing from it. On the other hand, the severe reprisal measures, as announced in the last report and meanwhile carried out, have had a positive effect in the entire Divisional Area. While the shooting to death of 400 Communist hostages has lowered the morale among the bandits but did not break their will to fight, the effect of the evacuation for compulsory labor employment of more than 800 village inhabitants from the District of Pozarevac

should be estimated much higher than was supposed in the beginning as far as the morale of the population of the district and also as far as the DM followers are concerned. Consequently, the morale in the Districts concerned in Sector East has reached its lowest point. The population asks itself seriously the following questions:

1. Will the German Wehrmacht carry out additional arrests as reprisal measures and when are they to be expected?

A. What happens to those arrested up to now? Will they really be put to work or will they be shot?

3. When could one count on a possible return to their families?

4. What can the population do on its part to speed up the return and to avoid further arrests?

These questions were voiced openly for the first time during a propaganda operation by the Division with the loud speaker car of propaganda detachment Southeast in the district of Pozarevac on 24 Feb. 1943. It is true, the majority of the population fled in panic at the arrival of the loud speaker-car which was accompanied by a strong convoy guard and a radio car.

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However, the explanation of the loud speaker had a calming effect on those who were left so that the inhabitants who had meanwhile returned passed through the streets as usual during the return trip through the same villages. During the discussion of the speaker, a Sonderfuehrer of the Division" -- and, if your Honors please, the next three words, "with the population" should be stricken out of the English document book -- an offer by the population concerning the above problems, to turn over actual Communists and other suspicious elements and instigators to the German offices in exchange for those arrested up to now was discussed several times with the population. The Division will carry out such an experiment. Proper measures will be taken to counter the obvious danger of extensive denunciations. Anyhow, the operations of the troops have achieved that the fear of further reprisal measures for the first time outweighs the fear of Communist terror with the population in the District of Pozarevac."

And then, if your Honors please, there should be dots of discontinuance at the bottom of page 56 of the English and 42 of the German.

Continuing now on page 47 of the English and page 43 of the German:

"400 Communists and hostages shot to death in Belgrade. (Retaliation for the murder of Colonel Hensel and his companions).

"20 inhabitants of Brzohode, 11 kilometers West Southwest Petrovac pursuant to order OK (II) 378 shot to death by Serbian State Guard (Retaliation for the Serbian Labor Service Leader murdered there)."

Then, if your Honors please, we believe the illegible initials -- no withdraw it.

Continuing now on page 58 of the English and page 44 of the German, Document [NOKW-1413](#) is offered as prosecution Exhibit 260. This is a collection of orders by the Commander in Serbia, General Bader, to various subordinate Administrative Sub-area headquarters.

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The actual document relates to enclosures in the War Diary of the orders which have been issued by General Bader to the subordinate units. The first is dated "3 February 1943" and is "Enclosure 8" of the War Diary. It is an order to the 809th Administrative Sub-area headquarters.

"Penal guard duty of the destroyed telephone line near Knjazevac for the duration of 4 weeks is approved.

The shooting to death of 10 hostages as a reprisal measure for the murder of the municipal secretary Stanovic in Zubetinac is approved. Only persons who by their convictions are close to the circle of the presumable culprits may be shot to death. If the political affinity of the culprits cannot be established, one half each Communists and D.M. followers are to be used.

Completion of mission is to be reported. One copy of the publication is to be sent here for the records."

Signed: General Commander in Serbia" by his "Ia" or Operations Officer and the initial "B" which we have stated as found in the document should be changed to the initial "G" which we believe is the initial of the defendant Geitner.

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Turning to page 59 of the English, page 44 of the German, an order of General Bader dated 6 February 1943, this time to the 610th Administrative Sub-Area Headquarters, Subject, Reprisal Measures in the District of Jagodina:

"According to report of the Serbian Ministry of the Interior one hundred hostages were arrested in connection with the incidents in Svilajnac by order of the commandant of the district headquarters there. The arrest of the hostages was carried out without my orders and consequently is to be rescinded. Before the hostages are released a check is to be made with the Serbian head, which of the persons arrested are D.M. followers and Communists. These persons are to remain under arrest and may be used in later reprisal executions.

Reprisal measures in detail:

a) For the murder of the mayor of Kuseljevo on 19 January 1943 the ten persons suggested by the district head in Jagodina are to be shot to death. As far as they are inmates of the concentration camp Banjica in Belgrade they are to be shot to death by the SD in Belgrade, and in direct agreement with the letter."

"For the municipal treasurer Ilic of Vel. Popovic, murdered on 25 January 1943.

For the interpreter Magasic murdered on 30 January 1943.

For the district employee Borisav Stevanovic murdered on 30 January 1943.

For the Serbian State Guard Sergeant wounded on 30 January 1943, in Popovic.

For the Serbian State Guard Captain wounded on 29 December 1942 in Blagoje Milic," Now, if Your Honors please, the figure "10" should be inserted at the beginning of the line, 'DM followers,' and I believe also in the German if it is not listed.

"10 D.M. followers are to be shot to death for each person killed; five D.M. followers are to be shot to death for each person wounded.

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The Serbian District Head in Jagodina has been directed by the Serbian Ministry of the Interior to submit suggestions to the Commandant of District Headquarters Jagodina before 12 February 1943. The execution is to be carried out only after review by the German Commandant of district headquarters. In case the number of D.M. hostages is insufficient the Commander of the Security Police will make them available from the camp in Belgrade on request."

Order reference to Ia No. 148/43, is amended insofar as 20 persons are to be shot to death in the area of 832nd District Headquarters, 75 in the area of 833rd District Headquarters and 50 persons in the area of 834th District Headquarters."

(signed) Commanding General and Commander in Serbia Ia No. 156/43 Your Honors will note, if you look at the original photostatic copy that there again appears the initial "G" at the end of the text of the order, and we believe that initial belongs to the defendant, Geitner.

Continuing now with page 62 of the English, page 46 of the German, another order of General Bader to Headquarters, this time dated 9 February 1943, 809th Sub-Area, the references are given. The letters of the Sub-Area Headquarters to General Bader, dated 7 February 1943:

"Teletype order Ia No. 153/43 of 5 February 1943 concerning reprisal measures for alleged dynamite plot against express train Belgrade-Sofia is rescinded.

For the blowing up of the bridge on the line Doljevac-Prokuplje on 29 January 1943 the shooting to death of five persons is authorized.

In the event that civilians serving as guard during the attack are found guilty the persons concerned are to be shot, however, not as hostages or reprisal prisoners but as accomplices.

Concerning proposals to 2 and to 3 the Commandant of Administrative Sub-Area Headquarters can decide on his own authority.

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Report of execution of mission is to be sent here with a copy of the publication enclosed."

(Signed)"Commanding General and Commander in Serbia Ia No. 166/43" The initial "Y" on the English, and I believe on the German document book, should be changed to read the initial "G", which again we believe to be the initial of the defendant Geitner.

THE PRESIDENT: What is the occasion for the misinterpretation of these initials?

MR. FENSTERMACHER: If Your Honors please, the interpretation was done, in many cases, by a translator of the document in the English, and by a German stenographer into German, before the lawyer or some other person with full knowledge of the signatures could actually get to the document.

THE PRESIDENT: Do you have any proof of the signatures themselves?

MR. FENSTERMACHER: We have not as yet asked the defendant Geitner whether they are his initials or not. We believe that they will not be denied, and our basis for our belief is a comparison of his full signature with the initial.

THE PRESIDENT: You have no proof in the case in chief as to the signature?

MR. FENSTERMACHER: No proof in the case in chief, Your Honor. It is only our assumption.

THE PRESIDENT: These are your conclusions, or conclusions of the Prosecution?

MR. FENSTERMACHER: That's right. We simply direct Your Honor's attention to them, and when the defendant Geitner takes the stand, he may deny them.

THE PRESIDENT: All right.

MR. FENSTERMACHER: Continuing now on page 62 of the English and page 46 of the German, we have another order by the Commanding General, and Commander in Serbia, dated 9 February, 1943, again to 809th Administrative Sub-Area Headquarters -- I beg your pardon.

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Continuing on page 63 of the English, page 47 of the German, Order of 10 February 1943 to 610th Administrative Sub-Area Headquarters:

"Subject: Murder of mayor Ristic in Zalogovac.

The shooting to death of 10 Communists in reprisal for the murder of the mayor of Za. is approved. In the event that the operation of police district office 34 results in the arrest of accomplices of the culprits they will be shot to death as accomplices. The Commander of the Security Police will make available hostages which are lacking. Report of execution of mission is to be sent here with a copy of the publication enclosed.

Since according to your teletype of 9 February 1943 the attack on the community of Luznica was due only to the fact that the village guard there failed to act, the village guard will be called to account of her", the next word should read "incompetence", Your Honors, rather than "competence", incompetence by the chief of the Police District Office. Reprisal measures by means of the imposition of a fine can be considered only if further cooperation of the village population can be established. In this connection reference is made to the order Military Commander Serbia, Administrative Staff No. 144/41 secret V, II of 17 July 1941 pursuant to which the Commandant of Administrative Sub-Area Headquarters is authorized to impose fines up to 100,000 Dinars."

The order is signed "Commanding General and Commander in Serbia".

Again on page 64 of the English, page 48 of the German, is another order of General Bader, dated 12 February '43, again:

"To 610th Administrative Sub-Area Headquarters.

Subject: Reprisal measures for surprise attacks on railroad line Laskovac - Cacak.

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In reprisal for the attacks on the railroad line Laskovac-Cacak. executed in the night of 10 to 11 February 1943 30 Communists or D.M. followers are to be shot to death. Persons brought in by the Serbian State Guard may be used for reprisal after screening. If the occasion arises, they are to be shot to death as accomplices or helpers. The shooting to death of hostages lacking is to be proposed directly to the Commander of the Security Police. Report of execution of mission is to be sent here with a copy of the publication enclosed."

Signed: "Commanding General and Commander in Serbia".

Again on page 65 of the English, page 49 of the German, another order of General Bader dated 15 February '43, to the subordinate 809th Sub-Area Headquarters:

"As a reprisal measure for the wounding of the secretary of the district office of Knjazevac the shooting to death of five Communist hostages is approved.

Report of execution of mission is to be sent here with a copy of the publication enclosed."

Signed, "Commanding General and Commander in Serbia."

Again the initial "Y" on the document should be changed to read initial "G", which we believe to be the initial of the defendant Geitner.

Continuing on page 66 of the English, page 50 of the German, General Bader's order 15 February 1943, to the 832nd District Headquarters and the 610th Administrative Sub-Area Headquarters:

"In reprisal for the murder of the district head and former mayor of Raca, 20 men are to be shot to death who remained passive during the attack and thereby are to be considered as accomplices.

Report of execution of mission is to be sent here with a copy of the publication enclosed."

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Signed, "Commanding General, and Commander in Serbia."

Again the initial on the document has been misinterpreted, and should be changed from "Y" to "G". Again we believe it is the initial of the defendant Geitner.

DR. LATERNER: I am taking up the word now as the speaker for the defense, for the not present Dr. Sauter. The prosecution tries in its presentation to interpret letters which have been previously

interpreted differently, and as they are shown in the document book, to interpret them and substitute another letter.

I object to this because from the original, it is by no means shown that this pure assertion of the prosecution is correct. Either the letter is clear, then it has to be shown like this in the document book. However, if it is not clear what letter is meant, then that has to be shown in the copy of the original. The prosecution can not now argue what the letter is.

I summarize, either the prosecution has to indicate the letter as it is clearly shown in the original document, or if it is not clearly and unmistakably shown, then this fact has to be pointed out in the copy of the document.

I object, therefore, to this interpretation of the prosecution for this interpretation has to be proved first.

MR. FENSTERMACHER: If Your Honors please, our comments are only for the assistance of the Tribunal in interpreting the evidence which we are presenting.

THE PRESIDENT: The Tribunal is of the opinion that these documents which are presented here are presented as accurate interpretations and translations. Until such time as they are shown to be inaccurate by a statement of proper evidence, the objection will be sustained.

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MR. FENSTERMACHER: Continuing on page 67 of the English, page 50 of the German document book, is another order of General Bader, dated 16 February 1943, to 610th Administrative Sub-Area Headquarters:

"Reference: Your teletype of 12 February 1943.

"In reprisal for the telephone sabotage committed on the railroad line Arandjelovac-Mladenovac during the night 11 to 12 1943 five Communists and five D.M. followers are to be shot to death. These are to be taken, if possible, from the villages of Banja and Kopljare. The Serbian District Head is to participate in the selection of hostages.

"Report of execution of mission is to be sent here with a copy of the publication enclosed."

Signed by Commanding General and Commander in Serbia.

Next, on page 68 of the English, page 51 of the German, is General Bader's order of 16 February 1943 to 809th Administrative Sub-Area Headquarters:

"Reference: Your teletype of 16 February 1943.

"The suggestions in your teletype above concerning reprisal for the destruction of the two telephone lines Knjazevac-Svrljig and Knjazevac-Soko Banja are approved.

"Only persons suspected of being Communists or D.M. followers may be apprehended as hostages."

Signed Commanding General and Commander in Serbia.

Page 69 of the English, page 51 of the German, an order of General Bader, dated 22 February 1943, to the 610th Administrative Sub-Area Headquarters:

"For the murder of the railroad employee Tripkovic in the station of Stopanja on 19 February 1943 ten Communists or D.M. suspects are to be shot to death - according to the result of the investigations. If the political affinity of the culprits cannot be established, five D.M. followers and five Communists are to be shot to death.

"2) For the sabotage on the telegraph line near Darosava (10 kilometers NW of Arandjelovac) committed during the night of 10 to 19 Febru 288 Jul 47-M-11-2-EHM-Stone (Schaeffer) ary 1943 ten Communists are to be shot to death.

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"3) Report of execution-of mission is to be sent here with a copy of the publication enclosed."

Again signed Commanding General and Commander in Serbia.

Page 70 of the English, page 52 of the German, is another report of General Bader, dated 22 February 1943, to 809th Administrative Sub-Area Headquarters:

"Reference: Your teletype of 21 February.

"In reprisal for the blowing up of railroad tracks at the tunnel in the railroad station of Palilula on 10 February 1943 ten Communists are to be shot to death.

"Measures to 2 and 3 can be carried out on his own competence of Administrative Sub-Area Headquarters. (initial ill)" Signed Commanding General and Commander in Serbia.

Page 71 of the English, page 53 of the German, is the final order in this document, the order of General Bader, dated 26 February 1943, to the 610th Administrative Sub-Area Headquarters:

"A total of 40 Communists is to be shot in reprisal for the attack on the mines of Vrbica on 20th and 21st and Oraschatz. For the attack on Belanovica on 20th and 21st and the killing of three Serbian administrative employees which ensued 30 Communists for the destruction of the telephone line near Topola on 23 February ten Communists are to be shot to death." This should read "if": "If the area of Administrative SubArea Headquarters has not sufficient (Communists) available, they will be supplied by the Commander of the Security Police. Report of execution of mission is to be sent here with a copy of the publication enclosed."

And the order is signed Commanding General and Commander in Serbia.

Turning next to page 72 of the English, page 54 of the German, is Document No. [NOKW-1550](#), which is offered as Prosecution's Exhibit No. 261. These are a series of Daily Reports for the months of January and February 1943 from the Commander in Chief Southeast, who at this time was General Loehr, and his Chief of Staff was the defendant Foertsch, sent to Army Headquarters of the OKH in Berlin.

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First is the Daily Report of 1 January 1943. Under the section of the report dealing with Greece:

"Major General von Studnitz has taken over command in the Saloniki - Aegean sphere of command - in the area of Saloniki; 20 Communists shot dead in reprisal for attacks committed. The remaining two detachments of the Reich Labor Service, Group 40 and 45, arrived in Saloniki."

And this report, as are all the reports in this series, is signed by the Commander in Chief Southeast, who was simultaneously Commander of Army Group E.

Continuing on page 73 of the English and 55 of the German, the Daily Report of 4 January 1943:

"During mopping up northeast Bos. Novi 14 enemy dead, 2 villages of the insurgents burned down, enemy ammunition supplies destroyed."

And the next page in both the English and German, the report of 5 January, under Serbia:

"In Belgrade two arrests, 10 Communists shot dead in reprisal for attack. Plans for increased patrol activity during withdrawal movement."

"Message."

"Eight kilometers south of Sisak a transport train of the 369th Division struck a mine. Engine and four cars derailed. Train fired on from both sides. Eleven soldiers, one railroad employee dead. Train looted and partly burned out. Traffic interrupted presumably until 6 January a.m. Research under way. Panzer support did not arrive early enough because departure of transport from Zagreb had not been reported. Reprisal measure underway."

And the next page, the report of 8 January 1943 -- I beg your pardon, the report of 7 January 1943, under the sub-division "General":

"Increase of all kinds of acts of sabotage. Serbia: Radio monitoring of Mihailovic shows that the incipient weakening of the occupation of Serbia has been realized. Individual attacks."

And then continuing with the report of the 7th of January, on page 76 of the English, page 57 of the German, under West Bosnia:

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"In Teslic quiet. Reprisal measures started. Bomb attack on band shelters near Teslic is intended. Thirty kilometers north and 35 kilometers northwest Jajce enemy assembling."

"Navy transport train for Crete derailed due to mine 40 kilometers northwest Belgrade. Up to now 19 dead and 22 wounded were taken care of. Reprisal measures against surrounding villages not possible since inhabitants are national Germans."

"The mass of the male population has been drafted, the rest is with railroad security. Individual troop transport trains will travel only during the day until further notice. Supply trains will travel also at night with security car. North of the Save Communists have carried out several compulsory recruiting actions."

And then the section of the report dealing with Greece:

"On 6 January the 8th and 11th Company of the 11th Artillery Regiment of the 11th Luftwaffe Field Division arrived. One hundred ninetyseven men flown over to Crete, of whom 57 belonged to the 22nd Infantry Division. In the Piracus a balloon with tow rope shot down and secured.

"7 January, 0330 hours, attack by a multi-engined enemy plane on Athens. Six bombs dropped on the southeast edge of Athens; two Greek houses destroyed, three damaged, one Greek dead. A renewed sabotage attempt on the searchlight Salamis was repelled. Culprits escaped after losses. In the German occupied territory it has been ordered to turn in all radio sets and radio installations. Entire small boat traffic is stopped; 18 hostages shot dead, 45 new hostages arrested."

And on the next page, page 77 of the English, 55 of the German, is the Daily Report from the Commander in Chief Southeast to OKH in Berlin for the 9th of January 1943. Under "Serbia":

"In Belgrade, 14 arrests. Near Valjevo small Mihailovic group captured. Numerous attacks on communities. Near Djunis (45 kilometers northwest Nish) dynamite attack on railroad bridge, main line Nish-Belgrade. Traffic interrupted for eight hours, suspects caught. Shooting of hostages will be carried out."

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Turning to the next page, a Daily Report of the 12th of January 1943: "Serbia: Individual attack in northeast Serbia. In Belgrade eight arrests, in addition six more Communists shot dead in reprisal for railroad sabotage northwest of Nish."

On the next page, 79 of the English, 61 of the German, the Daily Report of the 19th of January 1943:

"Croatia.

"North of the Save.

"The German Plenipotentiary General in Croatia takes command of the areas north of the Save 20 January 000 hours. Syrmia quiet now after severe reprisal measures. Several attacks on subsidiary lines. In the area Pakrac-Nasice (40 kilometers north Brod) fair sized band repelled, 35 enemy dead."

Turning next to the report of the 22nd of January 1943 on the succeeding page. Your Honors will note that the same text of this report goes also to the Commanding General and Commander in Serbia:

"German Liaison Staff with CDO Supersloda: German Plenipotentiary General in Croatia - Commander of German troops in Croatia - OKW/WFSt/op (Army)," and the other units which are listed as having received copies of the report.

Daily Report of the 22nd of January 1943, turning to page 81 of the English and 62 of the German for the text of the report. Under Serbia:

"Several minor attacks in Bulgarian occupied territory. Successful employment of Pursuit Detachment. More than 100 arrested. Ten shot dead in reprisal. Belgrade - 17 arrested."

I think we may skip the next report of the 30th of January 1943 and look at the Daily Report of 2 February 1943 on page 83 of the English and page 65 of the German:

"SS Division -- Together with West Group encountered road blocks near Ripac. Their removal underway. Companies ordered to mop up to the left to the advance road encountered strong enemy (about three battalions) north of Bijelo Brdo.

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During successful battle 23 dead, 34 wounded. More than 100 enemy dead counted, 47 prisoners shot dead, 363 taken into temporary custody."

Next, the report of the 6th of February 1943, page 85 of the English and page 66 of the German.

THE PRESIDENT: We will adjourn at this time until 1:30 this afternoon.

(A recess was taken until 1330 hours, 28 July 1947)

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AFTERNOON SESSION

THE MARSHAL: Persons in the Court room will please find their seats. The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: If the Tribunal please, your Honors will recall that prior to the luncheon recess we were considering Document NOKM-1550 which is Exhibit 261, and we were on page 85 of the English and page 66 of the German Document Books, reading from a series of reports sent by the Commander in Chief Southeast during the period January and February 1943, reports which were sent to the OKH Headquarters in Berlin, Continuing now with the daily report of 6 February 1943, "Communist group near v. Lasce (Slovenia). 49 enemy dead."

Then the portion of the report dealing with Serbia, "47 Mihailovic followers arrested, among them two company Commanding Officers. Newly found leaflets attack Medic Government and call on the Serbian people to join D.M."

Then the report of 8 February 1943 on page 87 of the English, page 67 of the German, "Serbia:-- Weather, cloudy, temperature above zero, Pro paganda and pillaging expeditions of small bands stopped by successful patrol operations Valjevo, Petrovac, Lazarevac. 30 arrested persons shot dead after interrogation."

On the next page, the daily report of 10 February 1943, "Serbia, Near Pozarevac, 32 Serbian policemen (D.M. followers) arrested. Near Milanovac, 25 Communists arrested. 10 shot dead in reprisal for murder of mayor."

Next the report of 12 February 1943. "Serbia. Weather clear -- some attacks on communities - 36 bandits shot dead."

Page 90 of the English and page 70 of the German, the daily report of the 15th of February 1943, "Lest Bosnia: Elements of 714 Division together with the 2nd Battalion of the 969 Grenadier Regiment committed against Communist Groups Southeast Bos. Novi. - Enemy concentrations near Sitnica (Southeast of Klujuc) attacked by Luftwaffe, Line Jaice D, Vakuf again interrupted.

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10 hostages shot dead."

The next on page 92 of the English and 71 of the German, the daily report of the 17th of February 1943, under Croatia and under the 717th Infantry Division, "Dead: 6 officers, 112 non commissioned officers and men; wounded: 8 officers, 282 non commissioned officers and men; missing: 20 non commissioned officers and men; enemy losses: 6,521 dead, 1,725 wounded; 2010 arrested suspected males and 300 females. Of these 490 males and 285 females were sent to the camp Semlin."

Continuing with the reports on page 94 of the English, page 72 of the German, daily report for the 18th of February 1943, "Serbia: Increase commitment of Pursuit Detachment in area of Pozarevac. 27 enemy dead, more than 400 taken into temporary custody. In Banat, 24 Communists shot dead while trying to escape. Local attacks and skirmishes with insurgents. 55 Communists shot dead in reprisal."

The next page, the daily report of the 20th of February 1943, "Serbia: A total of 196 former Yugoslav Officers arrested during the arrest action carried out all over the country during the night from 16 to 17 February. They will be sent to prisoner of war camp. Near Pozarevac, 400 arrestees shot dead in reprisal for attack on Commanding Officer of the 734 Infantry Regiment. In Belgrade: 36 arrests."

Page 97 of the English and 74 of the German is the daily report for the 21st of February 1943: "Belgrade: Minister of the interior orders compulsory work for duration of 4 months for classes 1917 to 1921. To be employed in plants important for the war. Near Petrovac, 30 suspects arrested, 7 shot dead."

Turning next to page 99 of the English and 75 of the German Document Book, [NOKW-1336](#) which is offered as Prosecution Exhibit 262, this is an order of the Commanding General and Commander in Serbia dated -your Honor's document book should be corrected from the 26th of February, 1943, to read the 28th of February, 1943. This is an order of General Bader dealing with making the execution of hostages administration machinery more effective.

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Subject: Establishing of camps for Reprisal Prisoners In order to accelerate and increase the effectiveness of the reprisal measures which have been ordered, the establishing of camps for reprisal prisoners is hereby ordered in Belgrade for the districts Belgrade and Pozarevac Sabac for the districts Sabac and Valjevo Cacak for the districts Kragujevo and Uzice Kragujevad for the districts Kragujevac and Jagodina Krusevac for the district Krusevac Zajecar for the district Zajecar Nis for the district Nis Leskovac for the district Leskovac For the present, the establishing of a special camp for reprisal prisoners for the district Mitrovica is not envisaged.

The camps (with the exception of camps already existing in Belgrade, Sabac and Nis) are to be installed by the District Administrative Headquarters, utilizing existing facilities such as prisons, barracks, etc. They should be large enough at least to house 50 reprisal prisoners. The installation and the current upkeep of the camp is the task of the communities in which they are established. Feeding and medical care of the reprisal prisoners is to be provided for. The guarding is to be settled by the District Commandants in agreement with the heads of Police District offices and the local troop commanders. In case of difficulties reports are to be made to my office.

Installation capacity and guarding of the reprisal camps are to be reported by the 20 March 1943.

The camps in Belgrade, Sabac and Nis are subordinated to the Commander of the Security Police. The Higher SS and Police Leader reports by 15 March 43 what other camps can be taken over by Security Service Branch Offices." The order is signed Bader and your Honors will note the distribution of the order.

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THE PRESIDENT: Pardon me just a minute. Does the turning off of these lights make it a little cooler in this room? Does it affect the reporters? If there is any objection on behalf of the reports, please indicate it. The fact that you have not indicated it indicates it is all right, so until such time as we find it necessary we will leave the lights off and perhaps it will make it a little cooler under the present summer conditions.

You may proceed. Pardon the interruption.

MR. FENSTERMACHER: Your Honors will note that the order we are dealing with is signed by Bader and also note the distribution list. "To all Administrative, Sub-Area and District Headquarters; to the Higher SS and Police Leader; to the Commander of the Ordnance Police, and to the Commander of the Security Police."

Turning now to the final document in Document Book X, page 107 of the English, page 77 of the German, Document [NOKW-382](#), which is offered as Prosecution Exhibit 263, this, if Your Honors please, is an extremely important document because it establishes the administrative machinery for the execution of hostages. It outlines the pattern which will be followed from this period on with respect to these -

THE PRESIDENT: I didn't hear the reference to the page from which you are reading.

MR. FENSTERMACHER: This if your Honors please, is on page 107 of the English, page 77 of the German.

THE PRESIDENT: Thank you.

MR. FENSTERMACHER: It is this order of General Bader which sets the pattern which will be followed from this time on with respect to the seizure of hostages and the execution of hostages. The order is dated 28 February 1943. Subject: Reprisal by taking human life.

THE PRESIDENT: Page 107 of the English?

JUDGE CARTER: Page 101 of the English, isn't it?

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MR. FENSTERMACHER: Your Honor is correct. Page 101.

THE PRESIDENT: Does turning off the lights affect the translators or interpreters? It is all right.

Subject: Reprisal by Taking Human Life.

The increasing importance in combatting the insurgent movements in Serbia, of a uniform and clear procedure on this procedure - on the severest measure, the taking of human life - makes necessary a new and comprehensive summary of the orders in effect in this field.

All officers and heads of offices who participate in the carrying out of reprisal measures are charged by me with the duty of observing carefully the following regulations.

I. In what cases are reprisal measures applicable?

1.) Security of Personnel Reprisal measures will be applied in the case of any attack directed against the person or the life of:

a) A Reichdeutscher or a Volksdeutscher (Wehrmacht, Wehrmacht employee, or German civilian).

b) A member of the Bulgarian Occupation Corps.

c) A person in the service of the occupying powers regardless of his nationality.

d) A member of the Serbian government or a high Serbian official (District or Kreis Supervisor, Mayor), officers of the Serbian state guard, a member of the Serbian Volunteer Corps, et al., however, reprisal measures shall only result if

a) The perpetrators cannot be apprehended within 48 hours

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b) The attack on the protected person was based on political reasons, and

c) The attack resulted in a wounding or killing. Killing is presumed unless a kidnapped person has returned after a certain period.

Whether or not reprisal measures will be taken where members of the occupying powers or of the Serbian armed units were killed or wounded during combat action, depends upon whether these deaths or wounds resulted from an enemy attack or in the course of our own operations (for instance, searching actions or arrests).

In general reprisal measures will not be taken in the latter case.

2.) Security of Installations Reprisal measures also will be taken in the event of any attack against war important installations, in particular against the means of communication, transport and roads, communications installations, industrial installations, and supply installations, provided that

- a) Damage has been done, and
- b) The perpetrators cannot be apprehended within 48 hours.

II. Reprisal Quotas Until further notice the following quotas shall apply - unless in individual cases another number is ordered:

- 1.) For 1 German killed or 1 Bulgarian killed 50 hostages are to be executed For 1 German wounded or 1 Bulgarian wounded 25 hostages are to be executed.
- 2.) For the killing of one person in the category listed in I,1Ac) and d) Security of Persons) 10 hostages are to be executed For 1 person wounded 5 hostages are to be executed.

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- 3.) For any attack against installations to be protected according to Para. 2) up to 100 hostages may be shot to death, according to the seriousness of the case.

In less serious cases it will be sufficient to make reprisal through imposing collective punishments (burning down of houses, money fines, penal guards, arrests, etc.).

III. What persons are to be used for reprisal executions

1.) The confidence in the justice of the occupying power is shaken and the loyal part of the population too is driven into the woods by the procedure of arbitrary arrests of persons in reprisal after an attack or an act of sabotage near the locality where the incident occurred. This form of carrying out reprisal measures is therefore forbidden.

If, however, an on the spot investigation reveals an open or hidden cooperation or an intentionally passive behavior of certain persons toward the culprits, those persons are to be executed first, as bandit helpers. The proclamation is to point out expressly their complicity.

- 2.) If such accomplices can not be found, one must fall back on persons who are to be considered co-responsible although they may not have any connection with the particular incident.

Co-responsible are primarily persons who openly sympathize with Draja Michailovic or with Communism.

- 3.) The following are not to be used for reprisal measures:

- a.) Persons who have demonstrated by their behavior that they oppose the aims of the insurgents, to be protected, as for instance, office holders. Exceptions may be made for special reasons by the Commanding General and Commander.

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4.) Generally the Commander of the Security Police will furnish persons proper for reprisal measures in accordance with the above points, from the circle of suspected persons delivered over to him in accordance with Ia No. 509/42 Top Secret from the routine operations of the military and of the police, in so far as these are not to be released as innocent or transported for free or compulsory labor (hostages).

5.) These hostages are to be collected in hostage camps by districts. An order will be issued simultaneously regarding the direction of the hostage camps. A sufficient supply is currently to be kept available in the camps.

If in certain cases suitable hostages are not available or the available hostages are insufficient, the number needed is to be taken either from a neighboring camp or from the collecting camp in Belgrade.

6.) In the event that special actions for the procuring of hostages should be necessary, suspected persons shown in the reviewed lists of the Serbian district supervisor are to be taken first (see Ia No. 184/ 43, 14/2/43). The Commander of the District HQ. with the concurrence of the commanding general and commander (Section Ia) will order such operations.

7.) In the individual cases hostages are to be selected from those available who are connected by blood or political group with the circle presumed-to be guilty: With the enmity existing at present between the two insurgent groups it would be more an inducement than a deterrent for the perpetrators, if Communist party members were killed for attacks carried out by D.M. adherents and vice versa.

The individual selection of hostages consequently depends on the political adherence of the perpetrators. If this cannot be determined, Communists and D.M. followers are to be used in equal numbers for reprisal measures. If possible persons provided for the execution should come from the neighborhood of the culprits or from the locality where the incident occurred.

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IV. What authorities are authorized to carry out reprisal measures.

1.) The introduction of reprisal measures is the task of the commanders of the District HQs. These commanders after hearing the interested parties whether the conditions for the taking of reprisal measures are present in the specific case. If so, the commander of the District HQ submits to the Commanding General and Commander an application for the taking of reprisal measures.

The application must contain: a short description of the incident, losses or damages suffered, political origin of the culprits, number of hostages provided for execution.

2.) The Commanding General and Commander decides on the carrying out of the execution applied for by letter or teletype.

3.) The Commander of the District HQ orders the Kreis Commander in whose area the action took place or which is the home of the culprits to carry out the reprisal measures. After contacting the SD branch office concerned and getting the opinion of the competent Serbian Kreis supervisor, the Kreis Commander suggests to the District HQ Commander persons suitable for the execution, in accordance with III paragraph 7).

4.) The Kreis Commander issues the necessary instructions for the carrying out of the execution. Military and police units are to comply with this request to hold executions. Generally losses of the military will be retaliated for by the military. The police furnishes the execution squad in reprisal actions for their losses, and above that in reprisal actions for all attacks on non-soldiers and installations under protection.

5.) In general the executions of hostages will take place in remote localities without participation of the population. There must be no furnishing of Serbian martyrs.

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The interment must be sufficiently deep. A list of the names of the people killed must be forwarded to the District HQ concerned, which will furnish death certificates on special application.

6.) The Kreis Commander responsible for carrying out the reprisal measures will immediately report the execution to the Feldkommandatur (Admin. Sub-Area HQ). The latter will arrange publication and will inform the Commanding General and Commander in Serbia (Section Ia) by teletype of the carrying out of the execution. A file copy of the publication is to be sent in later.

V. Publication of reprisal measures Since the reprisal measure represents not only a punishment for crimes committed but is to serve primarily as a horrifying example and a deterrent to further crimes, every reprisal measure must be published.

Reprisal measures must be made public in such a way that they reach the culprits and circles close to them. The proclamation must underline the infamy of the deed and the complicity of those executed. Persons executed must not be described as "persons" but as Communists, D.M. followers, bandit helpers, etc. Publications are to be signed "Commander of District HQ".

VI The Taking of Hostages and Reprisal Prisoners

1) All the reprisal prisoners in the camps of the Kreiskommandatur (District HQ) are to be considered hostages. The names of the camp inmates therefore are to be published in the area of the Kommandanturs for the population with the threat that these inmates must pay with their lives for specified disturbances affecting the public order in accordance with paragraph I. If in individual cases a military unit requires hostages these are to be taken generally from the camps or the local Kreis Commander.

2) As far as persons are detained as hostages by subordinate units and offices by reason of orders issued previously, the chiefs of the offices in agreement with the SD will decide (in accordance with Section III, paragraph 1), which persons are appropriate as hostages and are to be transferred to hostage camps.

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There will no longer be an exchange of these persons as before. All other persons are to be released.

3) Carrying out of this order is to be reported by 20.3.1943. If arrests of persons as hostages become necessary for the prevention of anticipated conspiracies or attacks in certain individual cases, procedure

will be according to III, paragraph 6. In the execution of reprisal detainees as hostages as far as jurisdiction and procedure is concerned, Section IV is to be applied.

VIII. Validity of orders In cases of reprisals procedure is to be according to this order immediately after the time of receipt of this order and not later than 5.3.1943.

And then there follows a list of the orders which are rescinded by this order, dated 29 February 1943. The order is signed "Bader", and on page 110 of the English and 81 of the German is the distribution list for the order. Your Honors will note a copy of the order goes to the Higher SS and Police Fuehrer, another copy to the Commander of the Regular Police and another copy to the Commander of the Security Police.

That, if Your Honors, please, completes the presentation of the documents in Document Book No. 10.

DR. LATERNER: Your Honor, after the last order has been read almost in its entirety the important point should also be read, the last, which has been left out and in which those orders are listed which are being rescinded by this order. That is what should be done so that the Tribunal can get a better picture of the situation which began with this order.

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MR. FENSTERMACHER: I will be glad to do that, if Your Honors, please.

THE PRESIDENT: Very well.

MR. FENSTERMACHER: Page 109 of the English, page 89 of the German:

The following orders are rescinded:

- 1.) Military commander in Serbia - Administrative Staff - Diary Number 144/41 secret, VII dated 17.7.41, Section II, paragraph 4, Section IV, paragraph 3.
- 2.) All orders comprised in the summary Plenipotentiary Commander General in Serbia Ic No. 759/42 secret, dated 2.2.1942.
- 3.) Plenipotentiary Commanding General in Serbia - Administrative Staff - /Command Staff Ia. Diary Ho. 197/42. secret dated 20.2.42.
- 4.) Commanding General and Commander in Serbia, Administrative Staff/ Ic, Diary No. 532/42 secret, dated 21.4.1942.
- 5.) Commanding General and Commander in Serbia, Administrative Staff/Ic, Diary No. 861/42 secret, dated 14.11.1942.
- 6.) Commanding General and Commander in Serbia, Section Ia, No. 5993/42 secret, dated 22.11.42.
- 7.) Commanding General and Commander in Serbia, Ia No. 6090/42 secret, dated 1.12.1942.

(signed) B a d e r Mr. Denney will continue with the presentation of documents in Document Book XI.

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THE PRESIDENT: Mr. Denney, before you commence with any comments concerning this document, I think the Tribunal should make some announcement concerning Friday.

This coming Friday is the day which has been set aside and termed "Air Force Day" and under the European Command may be taken as a holiday.

MR. DENNEY: That's rights your Honor.

THE PRESIDENT: The Tribunal, however, has ascertained that all the other Tribunals will be functioning at that time. We feel that at this present -

MR. DENNEY: You're not getting anything out in the mike, Sir -- that is, if I interpret the signes through the window as being proper.

THE PRESIDENT: Repeating for purposes of the record only, on this coming Friday the date has been set aside as "Army Air Force Day" and under the orders of the European Command may be taken as a holiday.

All the other Tribunals that are now functioning, because of the fact that they are nearing the completion of their work or for other necessary reasons, have decided to continue their work on that day. This Tribunal feels that under the circumstances we also should continue to function and operate on this coming Friday.

I might state that we have been advised that we are making very rapid and satisfactory progress in the presentation of evidence, that we are getting -- that the prosecution is getting along faster than perhaps was originally anticipated; and it is quite possible that we may take, and can take, a recess at a later time.

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It might be arranged for the prosecution, if they have some matters which need to receive attention, that that could be done at the close at some weekend and we could get the benefit of this extra day which I understand, under the rules, may be taken as a substitute for the day that we will be working.

I am making that announcement so that all parties concerned may make their plans accordingly.

MR. DENNEY: The German line seems to be dead now, Your Honor.

DR. LATERNSEER: Your Honor, I believe that the translation was not clear to us. I could not understand properly. Is there a session on Friday or isn't there?

THE PRESIDENT: There will be a session on Friday.

MR. DENNEY: Continuing with the documents where Mr. Fenstermacher has left off, the next document in NOKW 1360 which is page 1 of the English and page 1 of the German. It is offered as prosecution's Exhibit 264. This contains various orders from the Commanding General and the Commander in Serbia.

The first one is dated 10 March 1943 and is to "Administrative Sub-Area Headquarters 610" -- and it refers to a teletype of the same date from the Administrative Sub-Area Headquarters and the sub-Area Headquarters and the subject is: "Operation 'Ibar'":

"People captured without resistance are to be released with the exception of officers. The same applies to those giving up arms before 25 March. Prisoners taken in combat are to be shot to death. Measures against family members are to be postponed.

"Commanding General and Commander in Serbia" --and the number of the communication appears below that, and it is signed with a signature that we believe to be "W. Auer."

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And it is to be noted that after the release of this communication it's to go to the Commander of the Security Police for purposes of information.

And then the second page of the English, top of --this on page 1 of the German still -- communication dated 1 March 1943, from the Commanding General and Commander in Serbia to Administrative Sub-Area Headquarters 809 and 610; and the subject matter is the "Installation of Camps for Hostages."

"Re order mentioned in the reference, the Senior SS and Police Leader reports that the care of the hostages in the new camps which are to be installed in Kragujevac, Krusevac and Zajecar, will be taken over by the branch offices of the Commander of the Security Police and of the SD there. However, this does not extend to rations and billets of the hostages.

"The Commander of the Security Police is unable to make personnel available for the hostage camps to be installed in Cacak and Leskovac. Therefore, the care of the hostages in these camps is a matter for the Commander of District Headquarters.

"For the Commanding General and Commander in Serbia", and thereafter is typed, "The Chief of the General Staff"; and then various "For information" copies are distributed.

Then, on page 3 of the English and 2 of the German text, communication of 17 March 1943 to Administrative Sub-Area Headquarters, No. 10 - 610 rather:

"Reprisal order to number of the letter quoted is rescinded since investigations set up in the meantime have shown that the murdered man was a Communist who was killed by DM-men.

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"For the destruction of 14 telegraph poles during the night from 25 to 26 February Southwest of Topola, 10 Communists are to be shot to death."

And then "Commanding General and Commander in Serbia" is typed and the initials "W. A." it is submitted, are the same as the first two initials in the first communication of this series which indicate that it came from W. Auer; and then below that is the large initial "B".

The next communication is dated "19 March 1943" and is to "Administrative Sub-Area Headquarters Nich 809", and I believe "809W" is not in the German. However, it should be. It appears in pen on the

photostat of the original. This refers to a teletype of 18 March and again is from the "Commanding General and Commander in Serbia."

"In reprisal for the Communist attack on the dairies in Vrazegrnac, District of Zajecar, 10 Communists are to be shot to death for the murdered dairy manager and for the destruction in the dairies working for the German Wehrmacht 20 communists are to be shot to death. Completion of execution is to be reported here enclosing a copy of the publication.

"Commanding General and Commander in Serbia, 1a" and the number handwritten and "secret" and the initial "B", and here again is note showing it goes to the "Commander of the Security Police" for information.

Now, at this time I would like to again raise the question of these initials. It comes up a little bit differently here. I first pass up to the Court Document NOKW-858, which is Exhibit 8216 in evidence, having been admitted on the 24th.

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This is the document, photostatic copy of the document, which is the personal history of the defendant von Geitner, made by him here in the Nurnberg prison. It contains a signature signed by Geitner and I would like to direct the Court's attention first to the signature page which is page 3 of the photo stat and then perhaps we may need, the lights on for this but -

THE PRESIDENT: Alright.

MR. DENNEY: Will you turn the lights on over the Court, please?

Line 1 of the affidavit, the Tribunal can see where the word "Ritter", R-i-t-t-e-r has been inserted by the defendant Geitner and to the left he made an initial. Again on the 11th line from the bottom he changed a letter in the second word and again made an initial out to the side. Now, I would like to have the Court look at those and, as we go through here, I would like to direct the Court's attention to the initial that I submit is similar. In connection with the Court's -- perhaps, the defendant Geitner's counsel would like to show it to him. We have had one document already with a signature on it and we have another one coming up very shortly.

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MR. DENNEY: In connection with the Court's ruling about the change from the initial "Y" to the initial "G", these documents, many of them, were not as carefully examined as they are able to be examined now, because a limited number of photostats came from Washington, and we do not have the time to give the scrutiny to them that we do when we are putting the individual books in. The principal problem there is selection of documents, and then a selection of material.

Now it is a standard procedure that everything that is at the end, that comes by way of signature, shall be included. That is automatic, to show the source. Now very often a translator, may not have noticed the initial at the time --- a translator may mark it down as "Y", and if your Honors please, we have throughout the record, been calling to the attention of the court, mistakes. Now these may be mistakes

either in translation, or mistakes in transcription, and we submit that it is somewhat limiting to us to not be allowed to submit that it is our contention that a defendant, as chief of staff for a military commander did place his initials on it -- we are not saying that we know that they are. But it is our contention that it appears to us to be his initial, and we submit that it is only -- we submit, of course, subject to your Honors' ruling, that it is proper that we be allowed to indicate that, and if at a later time defense counsel wishes to state that it is not, or if in the event the defendant Geitner takes the stand, and he chooses to deny them, that would be, we submit, the proper procedure.

Of course here the question is raised somewhat differently because there is nothing on this document that I have here, which I would like to show to your Honors. This is the 4th page of Exhibit No. 264, just after the 1a, and just before the initial which we submit is the initial of Bader, appears that same little peculiar initial. It is our contention that the defendant Geitner, as Chief of Staff, initialed it.

JUDGE CARTER: These documents are certified as having been correctly translated and offered in evidence on that basis.

MR. DENNEY: Yes.

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JUDGE CARTER: Who testifies here that they have not been correctly translated?

MR. DENNEY: With reference to the signature, your Honor, those are pretty much of a guess. Your Honors have looked at a lot of these signatures and initials, and we submit that as to contents, yes, they are properly translated, but we also submit that in view of the initials which we presented that he made, the defendant Geitner, and the initials which appear from time to time on these documents, -- and I might add, parenthetically here, that in cases where it is a very dim copy on the photostat, the prosecution has not made any comment about them, we have only done it when we feel that at least in our mind there is no doubt.

JUDGE CARTER: The point I make is that you offer it in evidence and it is accepted; then when you get at the end of it, you ask us to change the exhibit without any evidence of anyone that what you purport to change it to has any bearing here.

Dr. Laternser is getting nothing through the earphones.

JUDGE CARTER: I will repeat what I said again. Mr. Denney, my point is that this instrument has been offered in evidence as a correct translation, and we have received it in evidence. Then when you read it you ask us, without any proof or anything else, to merely change the exhibit as it has been put in evidence. It seems to me that that is entirely irregular. If you want to argue from signature later, during the course of the argument, that is something altogether different.

MR. DENNEY: We have had errors in them before, your Honor, and as I said, these errors may be some typographical, and some may be in the process of re-transcribing.

JUDGE CARTER: I can understand where grammatical errors can come without much difficulty. When it comes down to the basis of whether one of the defendants signed the document or whether he did no to that is quite a serious matter.

MR. DENNEY: As we go along, would it be satisfactory to your Honors to show the original document, in each case, and just point out what someone has said is a "Y" and What we contend is a "G"? Now in this case, if your Honors will note, there is nothing on this document, (Page 4) to show that a "G" or a "Y" or anything else is there; yet, on the document which has been handed to your Honors, clearly we submit, the initial "G" does appear, and that it is the same initial that appears on other exhibits in evidence before in the case.

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JUDGE CARTER: I see no objection to the Tribunal examining any exhibit, any original. That part is all right, but to start an argument during the middle of the prosecution's case as to what it may mean, other than the translation, seems to me is at the wrong time.

MR. DENNEY: If your Honor please, with your Honors' permission I will hand the various documents up as we go along, and perhaps we will call a translator at a later time, who has translated these earlier marks.

DR. LATERNSE: Your Honor, any alteration, -- an alteration of any kind of documents which are being presented, I object to emphatically for the following reasons:

I say that it has been asserted that in some initials that one can just guess at them. If that has to be done, then the copy should point that out too, -- that the signature is illegible. That it is not proper that in connection with the document, the prosecution assert that the document was signed or initiated by any one of the defendants which they designate at that moment - in other words they are arguing at the moment - and what they assert has to be proved at this point of the proceedings.

For this reason I object to any alterations of the signatures in the text.

THE PRESIDENT: The Tribunal is of the opinion that its ruling as announced this morning covers the comments made at this time by Dr. Laternser. I will keep in mind also the comments made by Judge Carter.

You may proceed.

MR. DENNEY: It is your Honor's ruling that these documents may be passed up to the court to examine them as we go along, but that where a letter is indicated as being one letter in the translation, we cannot change it without bringing the translator, but we still there may show the document to the Tribunal?

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THE PRESIDENT: If you wish to make any different showing as to the translation, that is your privilege, but it has to be done by proof.

MR. DENNEY: Turning to the next page, which is page 4 of the English, and page 5 of the German, this is a communication of 19 March, the year is not given, but I think it can be fairly assumed it is 1934, Administrative Sub-area Headquarters 610:

Subject: Reprisal measures.

1. In reprisal for the attack on the corn requisitioning detachment near Gornji Dubac on 14 March a total of 150 hostages are to be shot to death for the murder of the two auxiliary police men and of the corporal of the Administrative Sub-area Headquarters. That is at the 50 to 1 ration. "Insofar as it has not been established beyond doubt from what circles the culprits emanate, the persons to be executed are to be taken, one half from the DM-men and the other half from the Communists.

In consideration of the existing suspicion that the culprits home was the village of Gornji Dubac or that they were supported by its population during the attack, the village is to be burned down.

2. In reprisal for the murder of the char-woman working for Administrative Sub-area Headquarters 610 and members of her family, 5 Communists and 5 DM-followers are to be shot to death. The publication must express the fact that all circles of the population working for the German Wehrmacht enjoys its protection, regardless of their social position.

Completion of execution is to be reported here, enclosing a copy of the publication."

I would appreciate it if your Honors would look at this page of the exhibit.

....Court examining document....

MR. DENNEY: Then on the next page, the note that after release the communication which has just been read should be sent to the Senior SA and Police Leader, and a copy for the Commander of the Security Police.

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On 21 March 1943: still from the Commanding General and Commander in Serbia to Administrative Sub-area Headquarters 610:

"In reprisal for the burning down of the saw mills of the Organization Todt in Crna Roka, 30 DM-followers are to be shot to death.

According to reports available, the DM-bands intend to destroy additional saw mills shortly.

Approval for the arrest of 50 hostages is given. Completion of shooting to death and/or arrest is to be reported here."

That has the initial "B" and also the initial "G" WA, which is submitted are those that appear on the first page.

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MR. DENNEY: And then on Page 7 of the English, Page 5 of the German, from the Commanding General and Commander in Serbia, to the Administrative Subarea Headquarters 599, dated 23 March 1943:

"In reprisal for the murder of the mayor of the community of Sibnica of the District of Pozarevac, 10 hostages suspected of being Communists are to be shot to death."

MR. DENNEY: And this one is signed by Bader, and information copies go to the SD and Commander of the Security Police.

MR. DENNEY: And then on Page 6 of the German and Page 8 of the English, is Document No. [NOKW-1633](#), which becomes Prosecution's Exhibit No. 265 in evidence. These are excerpts from the War Diary of the Commanding General and Commander in Serbia. The entries here are for the period early in March. Under the 2nd of March:

"Teletype orders to Administrative Sub-area Headquarters 610 to shoot 10 communists in reprisal for the killing of the Commander of the Rural Constabulary Marinkovic in Krcevac, and to shoot another 10 communists for the raid on the station Dedina."

MR. DENNEY: And the next day teletype orders to shoot to death 30 D.M. followers in reprisal for the destruction of the funicular railway Majdanpek D. Milanovac, and 20 communists for the destruction of the power station of the Soko mines.

Enclosure 10 Letter to Prime Minister Nedic regarding individual reprisal measures.

MR. DENNEY: Page 9 of the English and Page 3 of the German, now going to the date, 4 March: Translation of Document No. [NOKW-1633](#)(Excerpts) Continued:

"Written communications to Administrative Sub-area Headquarters 399 saying that the proposal to shoot to death 10 peasants from the district Sopot suspected of being communists in reprisal for the murder of the mayor of the community Beljina is approved.

"6 March 43 Teletype orders to Administrative Sub-Area-Head quarters 610 to shoot to death 10 each of communists and D.M. followers in reprisal for the murder of the mayors of Troponic and Rajkinac.

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MR. DENNEY: And then on Page 8 of the German and Page 10 of the English is Document No. [NOKW-955](#), which becomes Prosecution's Exhibit No. 266 in evidence. This is from the Commander of German Troops in Croatia, and is dated 31 March 1943, and is directed to the Secretary of State for the Armed Power, Enclosed please find as summary of operation "Weiss" with the request to inform his excellency Poglavnik of its contents.

The summary is not suitable for publication.

In the beginning of the year 1943, military interference in the area of Karlovac -BIHAC - LIVNO had become a necessity. The Commander of German Troops was charged with The execution of the mopping up operations.

For many months the enemy had cleared for himself a Sovereign territory, had organized a considerable number of fighters and by strong road destructions and fortifications in every direction he had secured the territory he ruled. The number of active fighters equipped with automatic and heavy weapons including Artillery and Panzers may be estimated at 65,000 men. They were organized in corps, divisions and brigades.

Later the supreme leadership proved itself quite good and very mobile. The intermediate leadership was less efficient. The combat value of the Communists was partly outstanding partly absolutely good. It was only toward the end of the operation that signs of deterioration appeared.

The German divisions had available as their own units two Croatian Mountain Brigades as well as units of two additional German Divisions.

They were to be ready for attack on 20 January 43. Overburdening of the railroad, lack of coal and engines, several particularly heavy cases of sabotage as well as sudden and unusual snow threatened to make the success of the operation completely doubtful.

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Utmost commitment of all forces enabled us nevertheless to finish preparations on 19 January 1943.

The start of the offenses on 20 March 1943 caught the enemy by surprise. He had not counted on an attack in the winter months. By a courageous thrust the advance of the attacking troops brought them from KARLOVAC and GLINA to SLUNJ, BIHAC, from PETRINJA and KOSTAJNICA to BOS. KRUPA and from SANSKI MOST and KLUJC to BOS. KRUPA and PETROVAC. Directly behind them, engineers and the Todt organization began to repair roads and bridges. Very soon the completely surprised enemy had reassembled, and offered a tough resistance supported by a knowledge of the terrain. PETROVAGORA, SAMARICA and all wood land and bridges had to be mopped up at times amid bitter fighting. The battle for GREMEC mountains was the hardest one.

In almost 18 months labor, the enemy had made it into a fortress, he had collected considerable supplies and organized large barrack camps. This fortress too was taken piece by piece. Preceding this SLUNJ was liberated on 25 January. On 29 January BIHAC was liberated. BOS KRUPA was liberated on 30 January, and the Partisans were chased out of BOS PETROVAC on 7 February. The area from KARLOVAC to GRMEC was swept clean of Partisans on 15 February. Unfortunately a part of the Partisans had evaded toward the Southwest and the Italian Battalions which were operating there were unable to stop them.

The troops made ready for a new attack on 21 February 43. Notwithstanding the tremendous efforts of the preceding weeks, they meanwhile had executed the assembly for the second part. A rest would have been desirable. But that would have enabled the enemy to reorganize as units and organize resistance. This would have cost our troops considerable more blood. That is why the German leadership had to insist upon an immediate continuation of the operations which had been started. Indicative of the spirit with which the Germans as well as the Croats were imbued, -- is the fact that the elan of the attack in the very second part of the operation could hardly have been surpassed and that the men fighting at

times amid high barren mountains overcame essentially great exertion with an exemplary attitude and a morale confident of victory.

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Without stopping and in long marches, German and Croatian Battalions raced to the South and to the Southeast. DRVAR, BOS GRAHOVO, GLAMOC were taken. On 3 March the first soldiers, Croatians of the 369th Division were greeted in LIVNO by the jubilant population as liberators. In a final bitter battle around BUGOJNO, VAKUF and FROZOR broke the last noteworthy resistance power of the enemy. He hurried back in a Southeasterly direction with the remainder of his utterly defeated men.

But still the troops did not find their well earned rest. Meanwhile, disquieting reports from the area of Mostar caused the supreme German leadership to order German troops to occupy the Bauxite territory. Within a matter of hours this necessitated a thorough change of all plans of attack, and a renewed commitment of troops for which rest had been intended. In hard fighting the Narenta and Rama Valley were forced. The exhausted regiments rested near Livno and eastwards in spite of utmost supply difficulties marched again toward the Southeast and in a wide front reached the West bank of the Narenta river. The Commander of the German troops in Croatia was able to report the completion of his mission on 17 March.

German and Croatian Battalions in closest cooperation have achieved a wonderful success. Large parts of the country have been liberated from a tyranny which has lasted for months. The Communist State and its organization are beaten, though unfortunately considerable units were able to withdraw in the direction of the Adriatic Coast and other parts could cross the Narenta River.

Croatian Sovereignty has been reestablished within the mopped up territory.

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Success has been bought dearly. Approximately 650 officers, non-commissioned officers and men have sealed their oath with their death.

Their sacrifice must not be in vain. Symbolic of German and Croatian comradeship their death shall constitute a contribution towards a free Croatia and a new Europe.

(Signed)

Lueters.

MR. DENNEY: And then the enclosure to the communication, and it is submitted that this is the enclosure because it was found with it, and it also bears the same order number as does the original "1729/43". This is a "Compilation of losses, of enemy losses and booty." Own losses: dead, a total of 640, wounded, a total of 1472; missing a total of 376. "Croatian losses can be stated only as far as they were classified by German authorities." Enemy losses: 11,915 dead (partly counted, partly estimated) 616 shot to death as a result of summary court martial, 2,506 prisoners (of which 490 men and 285 women

were evacuated to Semlin, the rest either turned over to Croatian authorities or released after investigation."

MR. DENNEY: And Your Honors will recall that we have prior documents indicating that Semlin is a concentration camp.

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3.) Booty:

The greater part of the booty had been made unusable in good time by the enemy, rations were mostly destroyed. All usable pieces were left with the troops for the purpose of filling in shortages which has arisen, captured cattle was sent to troop maintenance in proper amounts. The rest was given back to the returning population.

And then in the original there appears a list of various items of booty which is not in the German text. However, I shall read it. I have the German text here if any defense counsel want to check and follow me on it.

765 horses 83 Beasts of burden with equipment 1414 Heads of cattle 1678 Sheep Ration supplies - no numbers 17 Containers for cooked food.

And then follows the list of material destroyed or found destroyed.

120 Barracks camps 32 Other first camps 2 Hospitals 1 Wholesale bakery with electrical apparatus 1 Mill.

And the balance of the document which is from the Commander of German troops in Croatia dated 22 February 1943 - this details some experiences concerning the operation "Weiss I." The operation took place from 20 January to 15 February 1943.

Participating Units:

1) SS Volunteer Division "Prinz Eugen": well equipped to a large extent motorized Mountain Division.

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2) 369th (Croatian) Infantry Division a well equipped German Infantry Division with German Officers and Non-Commissioned Officers. Croatian men.

3) 717th Infantry Division: insufficiently equipped Occupation Division with a small combat strength (3500 men) partly over-age.

4) 2nd and 3rd Croatian Mountain Brigade: Croatian Units equipped for mountain warfare with variable leadership and men, poor weapons and equipment.

And this is signed in draft. That is all typed and the certification over here is written.

Then on page 17 of the German and 19 of the English is Document NOKW-947 which becomes Prosecution's Exhibit 267 in evidence. This is a report from the SS Volunteer Division "Prinz Eugen",

which is also the 7th SS Division to the Commander of German Troops in Croatia. We have seen earlier the reference to the fact that this unit was in this area at this time. The subject is an experience report with reference to an operation "Weiss II" and Mostar. This is a separate action from the one that was reported before which was "Weiss I" and this refers to a communication from the Commander of German Troops in Croatia dated 4 March 1943.

The Division encloses an experience report of the 2nd SS Mountain Regiment regarding operation "Weiss II" and Mostar for information.

The experiences and the deficiencies referred to are pertinent to all units of the Division and will be weighed and/ or remedied during the present interruption of combat.

And herewith is the report 26 March 1943 concerning the operation "Weiss II" and Mostar.

In the beginning of operation "Weiss II" the enemy showed considerable weaker resistance than before in operation "Weiss I". A contributive decisive factor may have been the entirely insufficient ration situation and judging from the statement of prisoners, the lack of ammunition on the side of the partisans as a result of preceding fights.

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And considering the deplorable clothing of the bandits, the icy Northwind which started in the beginning of operation "Weiss I" has proved the breaking up of the enemy's power of resistance. It has again been demonstrated just as during operation "Weiss I" that artisans are unable to resist a powerful attack effectively supported by heavy Infantry weapons. The following incident mentioned as an example shows that the Partisans have the full support of the Serbian population: During the advance from Javarusa - and then it gives its location on the map - (9 kilometers Southeast of Petrovac) about 60 women and children with three old men were encountered on M. Satornica near the group of houses, 1 kilometer Southwest of Kosa. Then there is a map reference. They were refugees from Kolunic South of Petrovac. When asked they stated that they had not as yet seen any Partisans near the place where they were located at present. They assured us that the terrain was free of Partisans. Thereupon one of the three old men received a pass permitting him to lead the refugees back to Kolunic on the following day.

Notwithstanding the seemingly reliable information, the saddle East of M. Satornica was not approached directly but from the Western Heights. Then they suddenly opened enemy fire of three light machine guns and about 100 enemy rifle men which came from the heights West of M. Satornica saddle (Rodici) was robbed of its effect; the ambush of the Partisans was about 1000 meters removed from the refugee group mentioned above. The enemy was attacked and repelled under losses.

Subsequently, the entire refugee group was shot to death. A boy admitted that the Partisans had been with the refugee group shortly before. A crumpled up identification stamp identifying him as a Communist functionary was found on the man who had received the pass permitting him to lead the refugees back.

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Prisoners and deserters alleged as a matter of principle that they had been deported by the Partisans even though the place of origin was Montenegro or Dalmatia and they had on them weapons, hand grenades or ammunition.

Regarding the person of "Tito" the prisoners were only able to make very indefinite statements. They all agreed that he spoke a poor Serbian so that they believed him to be a Russian. The Priest of Bila (8 kilometers Southwest of Livno) claims that he recognized a certain acquaintance, namely Dr. Ribnik of Laibach, in the picture of Tito. They all agreed in their statements that numerous Jews are to be found among the followers of Tito.

And that concludes that document.

Turning now to page 20 of the German and 23 of the English, Document [NOKW-920](#), it is offered as Prosecution's Exhibit 268. These are some excerpts from the War Diary of the First Mountain Division and contain various excerpts with reference to their activities. The first entry is for the 25th of April; the period covered is from March 27 to 29 June in 1943.

District Headquarters Mitrovica reports the arrest of three civilians without travel identifications at the station of Orljane by a Serbian State Guard Patrol on the 10th of April. Their search resulted in the finding of enemy propaganda writings and 1 pistol. The three arrested were turned over to the SD-Mitrovica. They were probably D.M. Propagandists.

21,20 hours the 54th Mountain Jaeger Battalion reports: on 25 April at noon a Communist band identifiable by the Soviet Star on the cap attacked Trnavci with 150 men armed with machine guns.

About 20.00 hours 3 kilometers North of Banje a certain State Guard Patrol met a group of 9 bandits. Three bandits were shot to death, four prisoners were brought in and turned over to the SD.

Entry for the 21st:

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Reconnaissance plane reports at 08.40 hours:

In upper Tata valley and in the Moraca valley no enemy movement detected.

In the forenoon, conference of the I-c with the Chief of SD Mitrovic regarding problems of evacuation and treatment of political suspects. It is agreed with the SD that the Division will send such elements immediately to the SD in Mitrovica. The Division Ic will always receive copies of the interrogations. The flare Signal of Red Troops for dropping by parachute of which we were informed by the chief of SD will be announced to the regiments.

For the 23rd of May:

Report by Dr. Wunsch via 4th Regiment Division Brandenburg regarding the situation in the Sandzak and in the area of ProzrenPristina- Pec.

17 Civilian Prisoners are brought in by 99 Mountain Jaeger Regiment which had been taken in the area of the H.K.D. Only one of them could be proven to be a Communist while the others are to be

considered politically innocent. Among other things, they state that Tito forces are alleged to be in the Jasopje Mountains about 5 to 6000 men strong.

For the 30th:

The Commander of German Troops in Croatia/Ic receives antiCommunists propaganda pamphlet of the Chetniks which has been found in sizeable quantities in Kolasin. The Division requests information as to whether this pamphlet may continue to be used for anti-Communist propaganda. The answer of the Commander of German Troops in Croatia Ic is negative.

On 1 June:

09.30 hours report of Mountain Signal Communication Detachment 54 concerning the wave of arrests carried out in the area of Kolasin.

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The arrested persons will be sent to the SD via Field Gendarmerie troops 54. For details - see enclosure.

The Italian High Command Montenegro transmits to the Division a list of prices set on the heads of Chetnik and Communist leaders which is distributed as far as the companies.

THE PRESIDENT: We will take our afternoon recess at this time.

(A recess was taken.)

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THE MARSHAL: Persons in the courtroom will please find their seats, The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. DENNEY: If it please, Your Honors, turning to page -

First, Dr. Laternser has called my attention to page 12 of the German, page 15 of the English, which is Document [NOKW-955](#), Exhibit 266 in evidence. At the bottom of the page under the paragraph numbered "2" the German word about which we have had some discussion, "standrechlich" appears and it appears in your Honors' document book as "summary court martial" and it should be "court martial". The word "summary" should be dropped.

Your Honors will recall it is on page 15 of the English, Document Book XI, page 12 of the German.

THE PRESIDENT: I think I should call to the attention of Dr. Laternser and to Mr. Denney a communication which this Tribunal has received from Noah J. Jacobs, Chief of the Translation Branch, and I am referring it to both of you gentlemen for your consideration. If Dr. Laternser and Mr. Denney will confer on this matter, perhaps you can make some statement into the record.

Mr. Denney, do you and Dr. Laternser care to have some conference on this matter?

MR.DENNEY: I am perfectly agreeable to accepting the interpretation of the Chief of the -

THE PRESIDENT: I beg your pardon?

MR. DENNEY: If Your Honor pleases, I am willing to accept the translation of the Chief of the Translation Branch. Perhaps Dr. Laternser would like to say something.

DR. LATERNSEER: Your Honor the under figure "1" of the communication of the 25th of July, suggested translation is agreeable to me: that is, the suggestion of this translator.

Page 1,000

THE PRESIDENT: May the Tribunal therefore suggest that this letter be read into the record?

MR. DENNEY: If Your Honor pleases -

DR. LATERNSEER: I don't have anything to add. I am satisfied with the translation of the interpreter.

THE PRESIDENT: For the purposes of the record, it is stated that Dr. Laternser and Mr. Denney have agreed that the statement as incorporated in the latter which has been received by this Tribunal may be read into the record at this time as being a correct translation of the words in question.

MR. DENNEY: In order that it may be thoroughly clear on the record, I would suggest that both the German and the English be read into the record, if your Honors are agreeable.

THE PRESIDENT: It is so ordered.

MR. DENNEY: I shall read the English and I think someone more proficient than I am in German had better read that so perhaps Dr. Laternser will be good enough to do that after I finish this or, if he would like to precede me, it is perfectly agreeable to me.

THE PRESIDENT: The interpreters now have the letter and it is suggested they read first the English and then read the German.

Mr. DENNEY: This is a communication dated 25 July 1947 from the Chief of the Translation Branch of the Language Division of the Office of Chief of Counsel for War Crimes, APO 696-A.

"Memorandum. Subject: Translation of 'Standrecht.' That's spelled S t a n d r e c h t. The communication is addressed to the "Honorable J. Wennerstrum, Presiding Judge, Military Tribunal Number V", and is from "Mr. N.J. Jacobs, Chief, Translation Branch":

"1. According to expert opinion, "Standrechtlich erschossen" s t a n d r e c h t l i c h e r s c h o s s e n", should be translated "shot after having been sentenced by a summary court martial".

Page 1,001

Paragraph 2: "It ought not be translated" according to martial law" as there is a difference between "standrechtlich" and "kriegsrechtlich" -- and the last word is spelled "k r i e g s r e c h t l i c h".

Paragraph 3: "'Standrecht' may be a peacetime emergency measure. 'Kriegsrecht' is not."

And the communication is signed: "Noah J. Jacobs, Chief, Translation Branch, Language Division."

MR. DENNEY: I thought this was a German copy but it is English. Perhaps we better have the translator read the translation in unless Dr. Laternser would like to try his hand at being a translator.

THE PRESIDENT: With all due respect to Dr. Laternser, possibly it would be better if we had the translator read it in the German, Is that agreeable with you, Doctor?

DR. LATERNSE: Yes, your Honor.

Your Honor, I would like to add something. It would be perfectly correct if, instead of under figure "2", the word "Kriegsrechtlich (marital law)" would be "kreigsgerichtlich." (Court martial)

THE PRESIDENT: Very well, we will give consideration to the Doctor's interpretation.

MR. DENNEY: In view of the letter which has just been read into the record, it would then seem proper to rechange the item on page 15 of the English and page 12 of the German, Document [NOKW-955](#), which is Exhibit 266; and the word in the German "standrechtlich erschossen" so that should be "shot to death after having been sentenced by summary court martial. I believe Dr. Laternser is nodding his head in agreement.

THE PRESIDENT: Dr. Laternser has so indicated his approval and the record may so show.

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MR. DENNEY: Turning then to page 22 of the German and page 26 of the English, [NOKW-978](#), which becomes Prosecution Exhibit 269 in evidence, there is an order from the First Mountain Division to its various subordinate units, which appear on page 23 of the German and 28 of the English, with reference to reprisal measures against insurgents. It is dated 8 April 43, top secret -

THE PRESIDENT: Should that not be the 26th of the English?

MR. DENNEY: Yes, your Honor, I am sorry. The distribution list was on 28, Your Honor, that's what I was referring to.

Top Secret, 14 copies, of which this is the third copy, which went to the Anti Tank Detachment, which was part of the Division:

Subject: Reprisal measures against Insurgents.

1.) Whosoever is found

a) in Combat Actions with weapon in hand.

b) as helper of Insurgents or

c) in acts of sabotage is to be shot to death or hanged on principal on the spot.

Leaders, political commissars and couriers are to be delivered to the Ic Department of the Division and will be shot after interrogation."

I would like again to direct the Court's attention to the Political commissar item.

2.) Whosoever is suspected of belonging to an organization of Insurgents or of aiding and abetting or of having aided and abetted Insurgents is to be arrested and to be delivered to the Commander of the Security Police. This latter clears up the matter and takes the necessary further steps.

3.) If during a military operation ordered by the Division a person is found in unauthorized possession of arms (firearms and explosives of all kinds), he is to be regarded as an aid of the insurgents and is to be shot to death subsequent to an examination of the facts by the competent Company Commander.

Page 1,003

In doubtful cases he is to be transferred to the Ic Department of the Division who, after clearing up the matter, decides on further steps – and depending on circumstances he decides for a court martial."

I should like to direct the court's attention here to the fact that a different staff officer is directed by the division commander as one who can determine whether or not someone will be court martialed.

4.) Burning down

a) The burning down of buildings during combat action may only be done on orders of an officer.

b) The burning down of houses after and outside of combat actions is a measure of reprisal. For the latter the authorization of the competent". Commander of Administrative Sub-area is necessary. In no case may entire villages be burned down senselessly, if the houses of the helpers of bandits or of the guilty are known. In this case only their houses, (i.e., the known malefactors) are to be burned down.

c) Before the houses are burned down all economic goods and supplies are to be secured by Special commandos and are later to be utilized appropriately. The impression of plundering must be avoided under all circumstance. The penal aspect of the measure must be expressly brought to the attention of the population and the local Serbian authorities.

d) The male population of the houses burned down are to be used either as reprisal prisoners or will be deported to work. In no case may they remain in the country as casuals.

5.) Principals respecting the execution of the reprisal law

a) Reprisal measures are being taken for:

aa) Any attempt against the body and life of a German or German national, a member of the Bulgarian Occupational Corps or any person in the service of the Occupying power, as well as the members of the Serbian government, and other leading Serbian officials and the officers of the Serbian State Guard, provided, that the perpetrators are not arrested inside of 40 hours and that the attempt (which must have caused wounds or deaths) was made for political reasons, bb) every attempt against installations vital to the war effort especially means of transportation and arteries of traffic, communications industrial organizations and supply plants presupposing that damage was caused and that the perpetrators could not be arrested inside of 48 hours.

Page 1,004

b) Quotas of reprisal measures:

For 1 German or Bulgarian killed 50 reprisal prisoners are to be killed.

For 1 German or Bulgarian wounded 25 reprisal prisoners are to be killed.

For 1 otherwise protected person killed 10 reprisal prisoners are to be killed.

For 1 otherwise protected person wounded 5 reprisal prisoners are to be killed.

c) For the carrying out of measures of reprisal the Administrative Sub-area Headquarters are competent, and after the decision of the Commanding General and Commander in Serbia, they will take the necessary steps. All officers having to do with the carrying out of measures of reprisal are to address themselves to the competent Administrative Sub-area Headquarters."

This is type signed in draft by von Geitner, and the certified copy is signed with an illegible signature who is a major in the General Staff Corps.

The distribution continues over on to the next page.

Page 1,005

Then on page 24 of the German, and page 30 of the English, [NOKW-866](#) which becomes Prosecution Exhibit 270, these again are more instructions of the First Mountain Division with reference to the turn over of captives and others.

This is dated 20 April 1943, and is entitled, "Special Directives Pertaining to Intelligence Work Ic - Gobiot":

1.) Cooperation with officers:

The following maintain constant contact Group Dauner:

With SD branch Office Counter-Intelligence office in Nowi Pazar, with all frontier guard stations along the line of demarcation, with the local police offices (simultaneously Serbian State Guard) as well as with the 24th Bulgarian Division in Kraljevo.

.

2.) Counter Intelligence:

a) Relation to the civilian population:

In the present operational area of the Division, the enemy has an excellent net of confidential agents at its disposal. The majority of the population sympathizes with our enemies and with the various insurgent groups. The Serbian Administrative apparatus and the legal Serbian security formations (Serbian State Guard, Serbian Volunteer Corps) are only hypothetically reliable. That is why secret protection assumes increased significance!

In relations with the whole indigenous civil population, the greatest reserve and mistrust is suitable. Any contact with civilians is to be avoided. Volksdeutsche also are not absolutely reliable."

.

- b) Authorization by the Division is required for (1) Disarming of Serbian Legal units (Serbian Volunteer Corps Serbian State Guard) (2) The arrest of Serbian officials (mayor, district president, area president).
- c) Prisoners and captured material.

After a telephone communication with the Divisional Ic., all arrested bandits and suspected civilians are to be transferred to the competent SD for further interrogation after having been interrogated regarding tactical measures. In important cases, an officer is to attend the interrogation by the SD. Copies of all interrogations are to be requested, and be sent immediately to Division/Ic. Executions are permissible as a matter of principle only after the interrogation since otherwise valuable resources of interrogations will be lost!

Leaders, political commissars and Russians are always to be transferred to the SD."

And there again we have another reference to the political commissars.

"All prisoners are to be searched thoroughly for captured documents. These are to be handed over the SD with the arrested person.

.....

3.) Propaganda:

All units are to receive thorough instructions regarding the order of the Commanding General and Commander in Serbia dated 30 March 1943, "Basic order regarding active propaganda" and "Basic principles of propaganda, Apr. 1943" Unification of propaganda must be guaranteed so that each Serbian always hears the same from every German soldier. The main attack of the propaganda is to be put on the territory settled by Serbs.

The allotted posters and leaflets are to be distributed as quickly as possible as far as the remotest villages.

Experiences, suggestions, requests pertaining to propaganda, confirmations regarding enemy propaganda, as well as particular observations regarding the morale of the civilian population, are to be reported currently to the Division/Ic. Summarized report on the 15th of each month (Regiments and independent Battalions)" Typed at the bottom is:

"Signed in draft von Stettner" Then the enclosures contain an order regarding the active propaganda in April, and propaganda with reference to an absence without leave and desertion, and the distribution:

"Regiments and Independent Battalions" and the note to the first distribution, -- the enclosure rather, -- it is to go down to the companies, and the illegible signature of a First Lieutenant is signed.

Then on page 34 of the English, and 26 of the German, [NOKW-1395](#), which become Prosecution Exhibit 271, these are a series of orders from the Commanding General and Commander in Serbia, for early April, 1943. Here is one about the middle of April.

The first one is dated 2 April, to the Administrative Sub-Area Headquarters 610.

"Administrative Sub-Area Headquarters 610 As reprisal for the raid on 27 to 28 March on the Station Barosava, for the destruction of the telephone installation and the switches, 10 Communists are to be shot to death.

The execution is to be reported and a copy of the publication is to be enclosed."

The next one 2 April 1943, again from the Commanding General in Serbia to the same Administrative Sub-area Headquarters:

Page 1,008

"On 24 March the frontier guard detachment Mocioci was disarmed by the band of Javorski. From the interrogation of members of the frontier guard who have returned in the meantime it has been learned that the villages of Mocioci and Praseka gave quarters and food supplied to the band of Javorski and also in other matters showed them definite signs of sympathy.

Le Liaison official of the customs border guard suggests,

- 1.) The arrest of the persons who as a result of the statements are known to be helpers of the bands,"
- 2.) Burning down of the houses of the persons in question,
- 3.) Evacuation of the entire male population of both places and their utilization as reprisal prisoners or for labor.

In agreement with the 24th Bulgarian Division, the proposed measures are to be examined and the intention to carry them out is to be reported.

For the Commanding General and Commander in Serbia The Chief of General Staff Signed "Geitner" Here is a signature of the defendant, Geitner, and I would also direct the Court's attention to the first page, and the small mark to the right of the last typed material there.

The signature appears on the second page, if your Honors please.

Page 1,009

MR. DENNEY: Now, here's a signature of the Defendant Geitner, and I will also direct the Court's attention to the first page and the small mark to the right of the last typed material order. The signature appears on the 2nd page, if Your Honors please. (Sending copy forward). I would like to have it back if I may, when you get through with it, Dr. And it's to be noted here that the information goes to the Liaison official of the Customs Border Guard. The body of the letter itself makes these suggestions to the Commanding General and Commander in Serbia, and these are being passed down by his Chief of Staff to an Administrative Sub-area Headquarters. And the next communication is one dated 3 April 1943; and this again is from the Commanding General and Commander in Serbia, and its subject is "Burning down of villages and houses. The burning down of villages and houses in the course of combat actions may only be carried out by order of an officer." Now, I don't think there's any reason to read the rest of this because this is the same order that appears, in substance, on Page 26 in this book for the 1st

Jaeger Division; the 1st Mountain Division passed this down. And, if Your Honors will look on the distribution list, which appears on Page 36, the second item appearing there is the 1st Mountain Division 3 x. I assume that the "3" means three copies; and, therefore, I don't think that there is any need. The material quoted here is identical with that which is quoted on Page 26, starting on the bottom of the page where it talks about burning down. Maybe it's on the top of the page. No, it starts at the bottom. And it goes on down to Paragraph 4, "The male inhabitants...". And then the quotation is the same. This is signed "Bader". Turning then to Page 28 in the German, Page 36 in the English, 5 April 1943, a communication from the Commanding General and Commander in Serbia, with reference to reprisal measures, to the Administrative Sub-area Headquarters 809. "Cancelling the teletype orders - Ia No. 286/43", that, if Your Honors please, is Page 4 of this book, "of 3 March 1943 and Ia No. 342/43", --this is on Page 8 of this book. The first one is dated 3 March and the other is dated 19 March 1943.

Page 1,010

"the shooting to death of 30 Communist reprisal prisoners is authorized for the destruction of the cable car line Majdanpek and the raids on the dairies near Zajecar. The execution is to be reported by 15 April 1943". And the earlier references--the first is a communication which is part of Exhibit No. 264, and the second one which appears on Page 8 is the diary entry for 3 March 1943, which is part of Exhibit No. 265.

"Care must be taken that at all times sufficient reprisal prisoners are available in the reprisal camps. In case the delivery of reprisal prisoners from the current operations is not sufficient, operations for the purpose of bringing in reprisal prisoners in definite bandit areas are to be prepared by the 1st Royal Bulgarian Occupation Corps or by the Police. I reserve to myself approval in the individual case."

MR. DENNEY: And it is signed "Bader".

"Distribution: Commander of the Security Police, German Liaison Officer, 1st Royal Bulgarian Occupation Corps".

MR. DENNEY: Then the 5th of April 1943.

"To Administrative Sub-Area Headquarters 610: For the destruction of the community post office in Rudnik, as well as for the blasting of the railway line near Kriva Reka in the night of 1 April, a total of 30 Communist reprisal prisoners are to be shot to death. The execution is to be reported here and a copy of the publication is to be enclosed."

MR. DENNEY: And then on Page 29 of the German and Page 38 of the English:

"To the Administrative Sub-Area Headquarters 809 Nis of 5 April 1943. As reprisal measure for the murder of the mayor Stojkovic Dobrosav on 25 March and of the village elder Ilica Svetozar on 23 March, the shooting to death of 10 Communists or band helpers for each one is authorized.

Commanding General and Commander in Serbia" MR. DENNEY: And then turning to Page 38 in the English and Page 29 in the German still on Exhibit No. 271, there's a communication of April 6, 1943. To Administrative Sub-Area Headquarters 610 As reprisal for blasting of the main railway line

Belgrade-Nis between Stalac and Cicevac on 28 March 1943, as well as for the murder of the mayor of Plaskovac on 23 March 1943, 10 Communists are to be shot to death for each offense.

Page Unlabeled

The execution is to be reported and a copy of the publication enclosed.

MR. DENNEY: And then on Page 30 in the German and Page 39 in the English, for 13 April, Subject, "Reprisal Measures," from the Commanding General and signed "Bader", to the Administrative Sub-Area Headquarters 599:

"For the raid on railway station Sirukovo and the murder of head of community there, 20 Communist reprisal prisoners are to be shot dead and for the sabotage of the telephone line between Kucevo and Pozarevac near Zvizd, 10 Communist reprisal prisoners are to be shot dead. The execution is to be reported.

Signed: Bader".

MR. DENNEY: And then on the enclosure, under date of 13 April To Administrative Sub-Area.

Headquarters 610 For the murder of the mayor Erceg, and the community cashier, Blagojevic, of Troponje, a total of 5 Communists and 5 D.M. followers are to be shot dead; for the surprise attack on the mayor, Grujic, of Jasenovac and the destruction of the community telephone, 3 Communists and 2 D.M. followers are to be shot dead; and for the murder of the Major of the Serbian Security Guard, Schubrilo, on 8 April, 10 D.M. followers are to be shot dead.

The execution is to be reported and a copy of the publication is to 1010A be enclosed.

Page Unlabeled

Commanding General and Commander in Serbia.

MR. DENNEY: The "B" is signed, and the information copy goes to the Commander of the Security Police and SD.

1010B Then 17 April, this is a report to the Commander in Chief Southeast and for information to the German General Plenipotentiary in Croatia and for the Commander of the German Troops in Croatia.

Page 1,011

"For surprise attacks and cases of sabotage, a total of 80 Communist reprisal prisoners were shot dead." I am advised that the next line does not appear in the original German and therefore it should be omitted.

And then under the heading "Local Administrative Headquarters Belgrade, 10 Communists arrested."

Then at the end appears typewritten "Commanding General and Commander in Serbia," and there is a signature over it which does not appear to be decipherable.

20 April 1943, "Administrative Sub-Area Headquarters 610. As reprisal for the surprise attack on the Morava mines on 13 April, 20 Communists are to be shot dead and their houses burned down. The

execution is to be reported and a copy of the publication is to be enclosed. Commanding General and Commander in Serbia." and the large initial "B" is there.

Then on April 15, 1943, this notice which is all typed.

On April 15 1943 the Chief of District Mihajlovic was shot dead from ambush in Erstenik.

The gravediggers of their own people, the bands of Draza Mihajlovic, under the leadership of the bandit Gordic, have again shown their "heroism" by the insidious murder of a defenseless person.

As reprisal for this shameful murder, the following measures were carried out:

1. On April 27 1943, the following were shot dead:

a) Miskovic, Kosta, born on 14 Jan 1904 in Subotica

b) Cvejic, Radoje, born on 25 Sept. 1906

c) Pesic, born on 5 June 1906

d) Crnoglavac, born on 1 Jan 1891

e) Vukovic, born on 13 Nov 1913

Page 1,012

f) Tdorovic, Student, born 1920

g) Gordic, born on 22 June 1923

h) Kevic, born on 18 April 1907

i) Milivojec, born on 15 March 1907

j) Ravilic, 15 April 1900 2. A levy of 2,000,000 Dinars to be paid immediately was imposed on the District Trstenik.

3. The male population of the village Novo Selo, which had supported the perpetrators, was arrested.

For every further murder by the Draza organization in the district Trstenik, the arrested will have to atone.

Chief of Administrative Sub-Area Headquarters.

And then over at the left it has "place and date." All of that is typed.

And then turning to page 33, page 42, Document [NOKW-1087](#), which is offered as prosecutions Exhibit 272, this is an enemy situation report made by the First Mountain Division as of 13 May 1943. The entire report is typed.

I. Tito Forces:

.....

1. 1st Proletarian Assault Division between Lim and Tara, direction of thrust Bijolo Polje -- Berane; parts of forces, presumably the VIth Assault brigade were detoured or flank protection towards the Jakuba Pass and the Kicevo-Mountains.

.....

For presumable organization see attached enemy tables of organization; estimates of strength vary between 3,000 and 4,000 men. Division Headquarters at the present time supposedly at Sahovici.

The Serbian Proletarian Assault Brigade (according to war-time strength it presumably belongs to the 2nd Division): 60 light machine guns, 14 heavy machine guns, 10 mine throwers, 2 mountain guns taken from the Cetniks (according to Italian reports 6-75mm guns.)

Page 1,013

2. 2nd Proletarian Assault Division: between Tara and Piva, direction of thrust: Kolasin.

.....

For organization see attached enemy Tables of organization. Strength between 3000 and 4000 men. Division Headquarters at Savnik.

3. 3rd Proletarian Assault Division: has also stopped its attacks against Niksic.

.....

The Tito units are organized according to Soviet pattern, units comparable to regular units. The leaders ruthlessly enforce the orders given. In the battle with the Draja Mihajlovic forces Tito's forces have fully proved their value. By being increasedlly subjected to propaganda and be the allocation of Political commissars they have been made fanatical. And here again we have another reference to the Commissars.

As a rule Tito avoids an open battle and prefers the tactics of guerilla warfare. On principle any major operation is only started after a thorough reconnaissance. Surprise attacks on fortified villages are preferred. It must be taken into consideration that already in the preceding days red forces are smuggled into the villages to support the operation. Equipment with weapons can be regarded as being sufficient. Special attention is called to the considerable allocation of automatic weapons with regard to artillery, guns are only available in a few cases. The supplementing of the supply of weapons by constant surprise attacks on small groups is being attempted.

Clothing is bad. The uniform of the Croatian Reserve is most generally worn, then there is the Jugoslavian Army uniform, and also the Italian and sometimes German uniforms. The leaders prefer the Soviet field cap.

Page 1,014

II. Since the defeat in East Bosnia the forces of Draja Mihajlovic are constantly retreating. Several attempts to establish a cohesive defense line along the Drina and Piva are to be regarded as frustrated. The units which are led without uniformity have fought badly. Desertion of entire Mihajlovic groups to

Tito has occurred constantly. Reports about disagreements and political undermining on Muhajlovic's side persist stubbornly.

The Draja Mihajlovic forces can only be regarded as fighters worthy of consideration in their home areas. They are legalized by the Italians and have so far carried out combat missions according to their bidding. Equipment with heavy weapons is completely insufficient, the number of rifles is supposedly not sufficient for the fighters available. Civilian clothing is preferred, as a special sign of recognition a beard is worn.

III. The mode of fighting of both groups will again be guerilla warfare. Split up into small bands or camouflaged as refugees, they will attempt to squeeze through the difficult mountain terrain whereby above all a knowledge of the villages and country will be a valuable aid to the Communist brigades from Montenegro. Surprise attacks against weak parts of units, attacks from an ambush, and above all operations against supply lines are to be expected constantly.

Then turning to page 38 of the German, 45 of the English Document NOKW-870, it is offered as prosecution's Exhibit 273. This again reports from the First Mountain Division to the Commander of German Troops in Croatia. "Division Command Post 14 May 1943." Information copies go to the Commanding General and Commander in Serbia. This is a new report and does not appear in the German.

Liaison Unit reaches Kolasin at 0845 hours. Major Djuriscic and Chief of Staff captured. Up to now about 500 Cetnik prisoners. So far no resistance Further intention of the Division depends on expected mission according to telephone conversation with Ia Brod on 14 May 0930 hours.

Page 1,015

It is signed by the 1st Mountain Division/Ia" Next page new report, "98 Grenadier Infantry Regiment: 11.55 hours. 63 officers, 1400 Cetnik prisoners, 60 Communists." And there is an illegible initial which follows.

Then for the 14th of May, again to the Commander of German Troops in Croatia, copy to the Commanding General and Commander Serbia, evening report for that day: "Prisoners; 1980 Cetniks disarmed including more than 50 officers. 60 to 80 dead Communists." Then again from the First Mountain Division and over to the left is the signature of a Corporal.

Page 41 of the German and 47 of the English, this is an order from the Commanding General and Commander in Serbia and the report to the Commander-in-Chief Southeast by him,-- that is, by the Commanding General and Commander Serbia. This is Document [NOKW-343](#), which in the prosecution offers as Exhibit 274 in evidence. Apparently the pages are reversed in the German book. The shorter note appears second in the German and first in the English. We will take first the 21 May note to the Administrative Sub-Area Headquarters 816, Sabac.

"250 DM followers, if possible from within the area of the Administrative Sub-area Headquarters, Sabac, are to be shot to death in further retaliation of the murder of 5 and the wounding of 6 members of the

R.S.K. (Russian Protective Corps) west of Baljevo, Valjevo it should be in your Honor's book, on 19.5.43. The carrying out (of the measure) is to be reported, enclosing copy of the publication.

Commanding General and Commander in Serbia (initialed) b" Then on May 16, 1943, the Commander-in-Chief Southeast, information copy to the Commander of German Troops, Croatia, and the German General Plenipotentiary in Croatia, report for the same day, 16 May.

Page 1,016

"104th Jaeger Division:

"3) Serbian corn requisitioning detachment attacked 6 km south of Belgrade, 2 dead, 6 wounded.

"4) 150 Communists shot to death in retaliation for German soldiers and SS men murdered near Smederevo on 22.4.

"1st Royal Bulgarian Occupation Corps:

"1) 3 German customs officials murdered by Communists south of Leskovac.

"3) 6 Communists shot to death by auxiliary police respectively SS in Arandjelovac and Kraljevo.

"Ic Report:

"In the area 13 to 15 northwest of Bajina-Basta band unit said to be 500 DM men at the moment.

"DM band of Jankovic, 300 men strong, temporarily occupying Cuca (near Cacak). 6/S Nova Varos Chetnik group moving northeast. Leader said to be Masan Djurovic.

"to 3) Communists: 156 dead (of which 150 reprisal shootings to death), 1 wounded, 14 arrested; DM men: 6 arrested.

"Commanding General and Commander in Serbia, Ia."

And then there is an illegible signature.

Now, Document [NOKW-341](#), which is page 42 in the German and page 51 in the English, is offered as Prosecution Exhibit 275. Now, in this document, although the typed part at the bottom says "illegible", I believe if Your Honors will compare it with some prior Bader signatures it will be apparent that both this and--- I should like to hand the Court Exhibit 271 in evidence, which has the signature of Bader on it, and also on this exhibit. Exhibit 275, and ask the Court to compare these. It is the prosecution's contention that on both of these, Exhibit 271 and Exhibit 275, is Bader's signature. Perhaps counsel for the defense would like to take a look at this.

This is to the Administrative Sub-Area Headquarters 610, and has to do again with reprisal measures.

Page 1,017

Before we proceed here, I would like to pass this up to the Court again, and direct their attention to the small figure which appears on the first page, and the second just above the last letter of Bader's signature.

THE PRESIDENT: When referring to this, counsel, what is the exhibit?

MR. DENNEY: Exhibit 275, Your Honor, the current exhibit.

THE PRESIDENT: What is your claim for this?

MR. DENNEY: I am just calling the Court's attention to the initial above which we submit is the defendant Geitner's. It appears just above the letter "r" in Bader, and just to the right of the figure 596/43.

"Subject: Reprisal Measures.

"1) A total of 100 DM hostages is to be shot to death in retaliation for the murder of 3 members of the R.S.K. (Russian Protective Corps) near Konarevo (7 km west southwest Kraljevo) by the band of Keserovic 23 May, for wounding a member of the R.S.K. (Russian Protective Corps) near Ivanjica on 11.5. and for the murder of 2 members of the S.F.K. (Serbian Volunteer Corps) near Vezania (18 km southwest of Bajina Basta).

"Since DM hostages are not available at the present time in the camps of Administrative Sub-Area Headquarters 610, they are to be made available from other camps by the commander of the Security Police. Carrying out of the reprisal measures is to be regulated immediately by F. Kdt. 610" --that is administrative sub-area headquarters-- "with the commander of the Security Police (Sturmabfuhrer Sattler).

"The carrying out (of the measure) is to be reported by Administrative Sub-Area Headquarters 610 to here, enclosing a copy of the publication.

"2) Reprisal measures for the losses of the 9. Russian Protective Corps in the skirmish near Samograd are not to be considered referring to I./1, paragraph 3 of order Ia No. 652/43 secret dated 28.2.43."

And then if Your Honor please, it refers to page 101 of Document Book 10, and that is part of Prosecution Exhibit 263 in evidence, which has to do with reprisal by taking human life, and is a communication of 28 February 1943 from Bader setting up the same policy throughout the area, and the distribution list was read by Mr. Fenstermacher.

Page 1,018

That was the last document in the prior document book.

And then the last page of this exhibit, the communication to Administrative Sub-Area Headquarters 809:

"150 Communist hostages are to be shot to death in retaliation for the murder of 3 members of the German customs border guards near Vucje on 15.5.43.

"Since there are no Communist hostages available at present in the camps of Administrative Sub-Area Headquarters Nisch, they are to be made available from other camps by the commander of the Security Police."

And I would just like to direct the Court's attention here to the fact that there is no hostages in one place, so the security police take them from another place.

"Details regarding the carrying out of the execution are to be arranged by Administrative Sub-Area Headquarters 809 directly with the commander of the Security Police (Sturmbannfuehrer Sattler). Carrying out of the reprisal measure is to be reported here by the Administrative Sub-Area Headquarters 809.

"2) The hostage shootings ordered by teletype as follows are not to be carried out:

"F.S. Ia No. 475/43 dated 22.4.43 490/43 dated 27.

4.43 510/43 dated 3.5.43 525/43 dated 5.5.43 "Commanding General and Commander in Serbia.

"After release:" To the "Commander of the Security Police."

THE PRESIDENT: Are you taking up a new exhibit?

MR. DENNEY: This is a new exhibit, yes, Your Honor.

THE PRESIDENT: It is just within a minute or two of our adjournment period. We will adjourn at this time until 9:30 tomorrow.

(The Tribunal adjourned until 0930 hours, 29 July 1947.)

Page 1,019

Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List et al. defendants, sitting at Nurnberg, Germany, on 29 July 1947 0930-1630, Justice Edward F. Carter presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Marshal, will you ascertain that all defendants are present in the Courtroom?

THE MARSHAL: May it please Your Honors, all defendants are present in the Courtroom with the exception of defendant Maximilian von Weichs. His expected length of absence is two days.

THE PRESIDENT: Is the defendant von Weichs represented by counsel?

DR. LATERNSE: Yes.

THE PRESIDENT: You are representing him, Dr. Laternser? We shall proceed without deference to the defendant.

Judge Edward Carter will preside during this day's session.

PRESIDING JUDGE CARTER: You may proceed.

MR. DENNEY: If it please Your Honors, the index -- rather the supplement to Document Book IX, which will be marked Exhibit 242-A for identification, contains two pages -- 181-A and -B. Three copies for the Court, 24 copies for defense counsel, one for the reporters, the interpreters, and two copies for Major Hatfield.

At the conclusion of yesterday's session -

PRESIDING JUDGE CARTER: Mr. Denney, would you give us the Exhibit number and paging of this again, please?

MR. DENNEY: It is 242-A for identification and is to be inserted at the end of Book IX and it is pages 181-A and -B of Book IX and in the German text -- Dr. Laternser, perhaps you can tell me the last page.

DR. LATERNSE: 172.

Page 1,020

MR. DENNEY: It will be 173-A and -B in the German.

We are still in the period from August 1942 to August 1943 concerning the time when the defendant Foertsch was Chief of Staff to the Armed Forces Commander Southeast and which post was also 12th Army until 1 January 1943 when it became Army Group E and the defendant Geitner was Chief of Staff of the Commanding General in Serbia.

At page 44 of the German and page 54 of the English, Document NOKW-340, it is offered as Prosecution Exhibit 276 in evidence. This is an order dated 30 May 1943 from the Commanding General and Commander in Serbia to Administrative Sub-Area. Headquarters, having to do with reprisal measures. The subject is reprisal measures.

The communication states:

In reprisal for

1.) Shooting at the SF train Sofia-Nisch on 18.5.43 -- the copies which Your Honors have say 1942, but in the original it is 1943 --which caused the death of 3 and the wounding of 2 Bulgarian soldiers, a total of 200 Communist hostages.

2.) The murder of a member of the RSK during the attack on the district jail in Negotin on 22.5.43 50 D.M. (Draja Mikailovic) hostages are to be shot to death.

Since a sufficient number of hostages are not available within the area of Administrative Sub-Area HQs Nisch the reprisal measures were carried out by the Commander of the Security Police in Belgrade. Details are to be regulated directly with the commander of the Security Police again (Sturmbannfuhrer Sattler).

The carrying out (of the measure) is to be reported here enclosing a copy of the publication.

And then typed "Signed Commanding General and Commander in Serbia" and the larger initial "B" at the bottom. And information copies went to the Commander of the Security Police, attention Sturmbann fuehrer Sattler, who is the one who is mentioned in the communication who is going to regulate the details for the furnishing of the hostages and also to the German Liaison Officer with the 1st Royal Bulgarian Occupation Corps.

Page 1,021

Then turning to page 45 in the German and 55 in the English, still on the same document, this is again from the Commanding General and Commander in Serbia and is dated 29 May 1943, reprisal measures, and there is a reference to 652/43 which is page 101 in Book X and the specific page to which it refers there - there are two of them in here; one is page 103 of Book X and the other one is page 105, and that, if Your Honors recall, is the exhibit which Mr. Fenstermacher put in yesterday with reference to the Bader order for the procedure to be followed in reprisal retaliation measures in his command. The exhibit in Book X to which reference has been made is Exhibit 263 in evidence. Subject: reprisal measures.

"In the future, persons to be arrested as hostages are to be taken, to a larger extent, in accordance with paragraph III/6 of the pertinent order", and that, if Your Honors please, is the paragraph which appears on page 105 and just to recall Your Honors' attention to that, paragraph 6 of the basic communication under III, reading now from Exhibit 263 in evidence, states: "In the event that special actions for the procuring of hostages should be necessary, suspected persons shown in the reviewed lists of the Serbian District Supervisor are to be taken first. The Commander of the District Headquarters with the concurrence of the Commanding General and Commander of Ia Section will order such operations."

Collective punishment will be used more frequently..." We are now returning to the exhibit at hand, No. 276, "Collective punishment will be used more frequently according to paragraph II/3..." That again refers to the original communication from Bader on this subject. Exhibit 263 in evidence. ".... in cases requiring reprisals according to the pertinent order but which are of lesser importance.

Page 1,022

3.) It does not fulfill the requirements of speedy reprisal if the carrying out of reprisal measures is delayed for weeks owing to lack of hostages. In case a sufficient number of hostages are not available in the area of the Administrative Sub-Area HQs., application is to be made for the central execution of reprisal measures by the commander of the Security Police, at the same time as the application for reprisal measures. This application again referring to the commander of the Security Police, is to be made at the latest when the execution cannot be carried out within one week after issuance of the reprisal order.

But under no circumstances should the central execution by the commander of the Security Police become a habit, since only reprisal measures carried out within the area of the scene of the incident have shown themselves to be effective.

4.) In order to counteract the view which has appeared suddenly amongst the population that reprisal measures are only published on posters and are not carried out, the entire number ordered (to be shot) is to be publicly shot to death from time to time. If executions take place in different villages, the places of execution are also to be published."

And the distribution goes to all Administrative Sub-Area Headquarters, the Commander of the Security Police, and a copy to the War Diary.

Turning then to page 46 in the German and 57 in the English, Document [NOKW-1084](#) is offered as Exhibit 277 in evidence. This entire exhibit is typed. There is no writing that appears on it. There is a date May 1943 which appears on the original. It has been omitted from the German text.

Page 1,023

This is an Instructional Pamphlet for German Soldiers who were committed in Montenegro.

German soldier, you who are fighting on the soil of Bosnia, Herzegovina, and now also in Montenegro, you must know:

Nowhere in Europe is there as marked a contrast in peoples and religions as in this area. Nowhere do the differing interests clash so abruptly as they do here. This demands from you an open mind and the ability to adjust yourself to the actual mentality of the population. We want to handle with determination those who at heart are our enemies though they may camouflage themselves outwardly to be otherwise. But we don't want to hurt unnecessarily those who perhaps will yet find their way to us and make them our enemies.

With whom then are we concerned in Montenegro?

1.) First, there are the "Whites" ("Bjelasi") or "Cetniks". These are Montenegro nationals with pro-Serbian nationalistic feelings, who consider themselves a Serbian race and who favor a union of Montenegro with Serbia. They are opponents of the Communists, and therefore have allowed themselves to be set up and armed by the Italians for the most part as "National Militia" in order to fight the Communists.

They have also taken over the administration of the country to a great extent. But their real aim is to fight the Axis powers under their leader Draža Mihajlovic, the Minister of War of the Yugoslav Exile Government in London. They hope for a landing of the British and are preparing to have all their strength mobilized against us for that moment. Therefore they are our enemies. They wear partly civilian clothing, and partly Serbian or Italian uniforms. They wear the Serbian eagle either on the Serbian army cap or other black cap. Their leader in Montenegro is a follower of Mihajlovic, General Djukanovic.

2.) The "Greens" ("Zelenasi") or "Autonomists" have Montenegrin nationalistic feelings. They regard the Montenegro people as an independent people and strive for an independent Montenegro with the old Montenegro Royal Dynasty.

Page 1,024

They are the strongest political group in Montenegro but are suppressed by the Whites. Therefore, their political leader Dr. Drljevic lives in Croatia. Although they fight conjointly with the Whites against the Communists, by their political convictions they are opponents of the Whites. However, they are well-disposed towards us because they hope for support from us in the carrying out of their aims. Their clothing corresponds essentially to that of the Whites, but instead of the Serbian eagle they wear a cockade with a white center and a red border on their cap.

3.) As everywhere, the Communists are our Number One Enemy. They deny being Communists and call themselves "The People's National Army of Liberation", but the Soviet Star with hammer and sickle distinguishes them sufficiently and proves what in the long run the aims of their leaders are. As far as they originate from the country, they are chiefly composed of exceedingly poor mountain prolectariat. The Communists are fought by the "Whites" and the "Greens".

4.) The Moslems pursue no political aims of their own. However, the Serbian Nationalists regard them as an obstacle for the union of Montenegro with Serbia and they are therefore exposed to a very fierce and bloody persecution by the Cetniks. Since so far only the Communists have offered them protection against the transgressions of the Cetniks, they have joined the Communists in many cases. But this happens primarily because of the urge for self-preservation and is no proof of the Communist Sympathies of these Moslems. Others again entered the Cetnik ranks because of pressure applied by the Cetniks in order to protect themselves in this manner. The main area of Moslem settlements is the Sandzak; and while the Serbianspeaking Moslems are found in the Western part, the Eastern part is inhabited by the Arnauts who speak Albanian (Racial Albanians). The religious customs and usages of the Moslems are to be respected unconditionally (more details about this in the following extracts from the principles of conduct for the behavior of Europeans in Mohammedan countries.

Page 1,025

5.) The Croats are so few in number, that they do not play any special role. Transgressions by undisciplined Ustascha units have caused ill-feelings in wide circles of the population. The German Army has nothing to do with this and will take care that such transgressions are not repeated.

Distribution:

To company level, according to special distribution list.

Then at page 60 in the English and page 48 in the German, [NOKW 863](#), which becomes Exhibit 278 in evidence. This is an Order from the Commander of the German Troops in Croatia to a Combat Group, which is part of the First Mountain Division. It is dated 20 May 1943, and the stamp of receipt for the First Mountain Division is dated the 23rd, and appears in the upper right hand corner.

To Combat Group v. Ludwiger 1. Mountain Division for information:

369 (Croatian) Infantry Div.

(simultaneously for information Div. Taurinense) and also to the Commanding General and Commander in Serbia.

1.)

1 to 1-1/2 Divisions (about 3,000 communists) in front of Combat Group Ludwiger. Obviously they have been given at this time a defensive mission, presumably they are to secure the flank for the south movement.

2.)

Regiment Brandenburg will again be subordinate to the 1. Mountain Division beginning 25.5. 1200 hours.

.....

10.)

Unless annihilated in combat, Communists are to be treated as prisoners (not prisoners of war). Chetniks who clearly have not fought against us are to be disarmed and to be treated as prisoners of war.

Page 1,026

All other Chetniks are to be treated like communists. As a matter of principle, all Chetniks found are to be disarmed and to be arrested."

And it is signed, "Luters." Then they submit two enclosures for the Combat Group v. Ludwiger:

Enclosure 1 to 1 Mountain Div./Ia Special Directives for the Operational Order The entire population capable of bearing arms in the area of the Division is to be considered and to be treated as communists.

Whoever is in possession of arms is to be shot; people capable of bearing arms without weapons are to be arrested and to be deported. All houses occupied by communists are to be destroyed.

For the Division Hqs.

The First General Staff Officer (illegible signature) Lieut.

Col. G.S.C.

And then follows a copy of a teletype message of 10 June again to the First Mountain Division, and again from the Commander of the German Troops, Croatia.

To 1 Mountain Div.

Strong enemy forces pressed together in narrowest area in Sutjeska-Piva. It is determined beyond doubt that Tito is among them. The last phase of the combat, the hour of the final annihilation of the Tito Army has thus arrived.

The attention of the unit is to be called sharply again to the order: "No man capable of bearing arms leaves the pocket alive. Women are to be checked as to whether they are not men in women's clothing."

Page 1,027

Tito and accompanying personal said to be wearing German uniforms. Check pay books.

Commander of the German troops in Croatia.

Certified true copy: (signature illegible) Master Sergeant And the order number, certified a true copy, and an illegible signature of a Master Sergeant.

Then on page 50 of the German, page 63 of the English [NOK W 975](#), which is offered as Prosecution Exhibit 279 in evidence. This again is all typed. These are reports from the First Mountain Division to the Commander of the German Troops in Croatia. Informational copies to the Commander General and Commander in Serbia. Daily report for 11 June:

"The Communists Lost:

498 Prisoners 640 counted dead.

In many cases people who died of typhoid fever were found in villages. Villages put on fire; counting not possible because of danger of infection...

1 Mountain Division - 1A" Report for the 15th:

Communists:

831 counted dead In villages many people dead of typhoid fever who could not be counted because of danger of infection.

According to statements of prisoners considerable enemy losses. There was success in evacuating the mass of those wounded.

Approximately 20 enemy graves were established. It is assumed that a larger number is in remote gorges; can not be found.

No reports can be made concerning enemy losses during withdrawal to hills West of the Piva River; However they may be assumed to be considerable.

Prisoners: 498 of which 411 were shot to death.

Page 1,028

Own Losses:

Killed in Action: Total 43: 1 Officer 3 Non-Commissioned Officers 39 Men Wounded:

Total 195: 6 Officers 18 Non-Commissioned Officers 171 Men Missing:

2 Men And then there is a handwritten note over to the left about loss of horses, which I don't think we need to read.

It appears there.

And then:

Chetniks:

1.) During disarmament of Chetniks we made: 3,200 Prisoners No dead.

2.) Material secured: 5 Heavy trench mortars 25 Machine guns about 3000 rifles numerous rounds of Artillery, French Mortar, Infantry Ammunition.

3.) No losses of our own.

III.) Deported:

1.) Communist: 76 of which 27 were sent to lead mines in Zvecan 49 on 3 June to District Headquarters Mitrovica Still under the heading of "Deported" -- this is Entry No. III under that:

2.) Chetniks: 34 Officers 1,538 Men The difference as compared with II.

is explained as follows: 800 Chetniks in the Trager Battalion, evacuation of sick, exhausted, men above 60 and below 16, deaths due to exhaustion, etc.

Page 1,029

3.) 213 civilian suspects capable of bearing arms from the area of operations."

And again Arabic III is an entry under which has to do with deportations: "Liberated were:

5 Italian Officers 366 Italian Officers and men 3 Croatian -- one of which was an Officer and one an officer candidate.

1 Mountain Division / Ic" I would just like in passing to direct the Court's attention to the fact of the substantial number of men who were liberated there -- over 350.

Then passing to page 67 of the English and page 52 of the German, NOKW 1636 becomes Exhibit 280 in evidence. This is a communication from OKH General Staff from the Foreign Armies East section, and has to do with designation of band formations. It is dated 13 June 1943, and the copy which we have was received is by the Army General Staff Operation Section.

Page 1,030

"Subject: Designation of Band Formations."

DR. LATERNER: Mr. President, may I first see this document before you read it?

Mr. President, I object to the introduction of this document. You can see very clearly from its contents that it only refers to the Eastern theater of operations. If the Prosecution claims that this order or this directive also was distributed in the Southeast, it must prove this and its distribution is not listed on this document.

MR. DENNEY: Then, if Your Honor please, we can't specify that we will get a distribution list on a document when it comes out. This document is signed by Zeitzler, at that time the Chief of the General Staff of OKH, and it's submitted that it will be later tied up.

DR. LATERNER: Mr. President, may I answer to this? If this document would be accepted, then the Prosecution could introduce any other document, too, which was distributed any time for any other theater of operation.

MR. DENNEY: If Your Honors please, all we have is Dr. Laternser's word. These are -- I certainly don't doubt that he is making a statement in good faith but every time we get a document that has a signature on it that doesn't have a distribution list and comes from OKH, such as the Commando Order and this one and the Commissar Order, he just comes up and says that didn't go down there.

We submit we can tie these things in at a later time and Dr. Laternser is, with all due respect to him, not the German General Staff. This is a matter that is being inquired into and we submit that this is relevant.

PRESIDING JUDGE CARTER: The objection will be overruled.

MR. DENNEY: This is "Designation of Band Formations", and I should like to pass this up to Your Honors so that you can see the original.

Page 1,031

The signature of Zeitzler appears there and the second page, in particular, is important. I don't presume to lecture Your Honors on military signs and symbols but, as you will see there, they are now working out military signs and symbols to be used on operation maps which would be kept at the various headquarters in order to show the enemy's troop dispositions, the size of the units opposed to the Germans, and these are what might be called conventional signs and symbols as used by all armies on situation and operation and intelligence maps.

Page 1 states: "In the future in designating band units the German military concepts (Brigade, Regiment, etc.) and German Tactical Symbols are no longer to be used.

"Bands in general, will be designated by differentiating between small bands (10 - 100 men), medium-sized bands (100- 400) and large bands (above 400 men) with indication of strength), inasmuch as the organization of the bands in question is unknown. Bands, the organization and composition of which has been established will be designated by the Registered Number assigned to them (for instance, band [E 304](#)).

In files kept on them on organization charts, and on situation maps, the Russian names - only inasmuch as it is necessary - without their German equivalent, and the military symbols indicated in the enclosure, are to be used."

And then there is a handwritten initial -- "By order" signed "Zeitzler."

And then on the next page they have the various examples of new designations, the map symbols and the explanations; and it is to be noted that they go from a single bandit all the way up to a brigade and, as you -- and then they have several brigades and a large number of uniformly led brigades, and it is submitted that the brigade is the unit in troop structure which is between the regiment and the division.

Page 1,032

Turning then to page 54 of the English and 69 of the German -

DR. LATERNSE: Mr. President, as defense counsel I consider it important that the designations listed here are read and from them one can see clearly that this order was valid only for the Russian theater of

operation. All designations refer regimental names, divisional names, which doubtless refer to the Russian theater of operation.

Only if this second page is also read, then the Court has the correct impression of this document.

MR. DENNEY: If Your Honors please, on the original we read in files kept on them, on organizational charts and situation charts the Russian names; and, if Dr. Latenser wants me to read it, too, the rest of them, I will be glad to do it. Judge: I (don't think there is any necessity for reading it; unless it is tied in, it will have to be ignored anyhow.

Page 54 of the German and 69 of the English, Document [NOKW-1342](#), which is a teletype order from the OKH to the Commander in Chief Southeast with reference to the designation and size of bands, signed by Warlimont. This, it is submitted, ties in with this prior exhibit. This is dated 20 June 1943 and stamped for the "Commander in Chief Southeast (Army Group E)." The receipt stamp is there and its receipt is for "20 June 1943"; and the directive, although it's somewhat long, I think should be read for the purpose of connecting the document. It is to the Commander-in-Chief Southeast and we have here the teletype copy:

"Same text to: Army General Staff -- Commander-in-Chief of Luftwaffe Operational Staff -- Commander-in-Chief Southeast -- the Wehrmacht Commander Ukraine -- Wehrmacht Commander Ostland", which is Austria, "20th Mountain Army. For information to the Commander in-Chief South. For information to the Commander-in-Chief West.

Page 1,033

For information to the Wehrmacht Commander Norway. For information: Commander of German Troops in Denmark. For information: Reich Fuehrer SS Command Staff" -- that's Himmler's staff.

"In the fight against the bands, German military terms and tactical signs are no longer to be employed in the designation of the band units."

Now that paragraph is respectfully called to Your Honors' attention in connection with the first paragraph of Exhibit 280. They're in substance the same.

"In order to avoid any false concepts arising amongst the leaders and troops, in future, the following directives are valid concerning the designation of bands: Small band (10-100) -- identical words in the order -- Medium size band (100-400*, Large bands (over 400))."

Now all those are the same, as in the original communication; we just don't happen to have found a sheet that they would send down and it is submitted that they wouldn't send a sheet that contained Russian units down in the Southeast; but this is the only one we could find.

This order of Warlimont, on the other hand, is directed to the Commander-in-Chief Southeast, which at that time was Army Group "E" subsequent to January 1, 1943.

"As far as one is certain of the designations used by the bands themselves (for instance Roman II/Proletarian Brigade) these may be mentioned in addition to the ordered designation."

Signed: "By order Warlimont, OKW," General Staff; and, of course, it is to be called to the Court's attention that Warlimont is with the OKW whereas this communication here is from OKH; and, of course, OKH is subordinate to -- that is, it is not on the same level as OKW. Its comparable level is OKL and OKM -- that is High Command of the Luftwaffe and High Command of the Navy -- and OKW is superior to OKH.

Then turning to page 55 of the German and 71 of the English, we have [NOKW-374](#) which becomes Prosecution Exhibit 282 in evidence. This is an order of the Commanding General in Serbia and a report to the High Commander Southeast, the Commanding General Army Group "E". The first is dated 27 June and the second is of 29 June.

Page 1,034

Page 1,035

The first is the Administrative Sub-Area Headquarters 809, from the Commanding General, Commander in Serbia, initialed by Bader, the large "B" at the bottom. At the end we would like to call the Court's attention to the initial over to the right of Bader on the photostat, which we submit is the initial of defendant Geitner:

"Fifteen Communists and 15 DM hostages are to be shot to death in reprisal for the attack and destruction of mines near Aleksinac on 8 June 1943.

"No hostages are available at this time to the Administrative SubArea Headquarters. Therefore, execution is to be performed through the commander of the Security Police in Belgrade.

"The carrying out (of the measure) is to be reported, enclosing a copy of the publication."

The signature, Bader, of course is typed, with the initial "B" below it.

Then after release of the communication a copy goes to the commander of the Security Police.

Then on 29 June, Communication to the High Commander Southeast, and information copy to the German General Plenipotentiary in Croatia, and the commander of the German troops in Croatia. A Daily Report of that date, and this is typed, "Commanding General and Commander in Serbia Ia" and an illegible signature, 1st Lieutenant:

"1st Royal Bulgarian Occupation Corps "1) Skrusevac SSW station attacked by medium size heavily armed band.

Among them were 15 attackers in German uniform who spoke German. Fourteen SSW men dead, quarters with corpses burned down.

"3) An order of the DM commander Pozega which was found states that 100 men of each brigade are to be under arms, being relieved every two weeks. Mission: fight against disloyal Apostates, Communists, and fighting the black market.

"4) In Krusevac: In reprisal for the attack on the auxiliary police detachment (see Daily Report 18 June 43) 310 Communists and DM suspects shot to death in public by German police.

Two hundred fifty-five more hostages shot in other Serbian villages by the SD."

At page 57 of the German, 74 of the English, Document [NOKW-380](#), which becomes Exhibit 283 in evidence. This is a report of 23 June 1943 with reference to the execution of hostages, and is directed to the SubArea Headquarters No. 610, and is from the Commanding General and Commander in Serbia, and again I would like to direct the Court's attention to the original.

Bader's initial appears under his name. We respectfully submit that the initial out to the left of the typed word "Bader" is the initial of the defendant Geitner.

Dated 27 June 1943:

"As a reprisal for the shooting of the German hospital train at Trubarevo (13 ENE of Krusevac) in the night of 15 June and the blowing up of the line which happened at the same time, 50 Communists are to be shot. Also 10 Communists are to be shot for the attack on the railway station Bukovic (5 km NW of Arandjelovac) and the consequent damage to two sidings.

"No hostages are available now at the Field Commandant's office. Therefore the executions will be done by the Chief of Security Police in Belgrade.

"When completed an account is to be sent for publication with a copy."

Again after the message is released, the copy is to go to the chief of the Security Police, and then the second page of the document, dated 18 June 1943, goes to the Commander-in-Chief Southeast, and informational copies to the Commander-in-Chief of the German Troops in Croatia, German Commanding General in Croatia with plenipotentiary powers.

This is a Daily Report of the 18th and is from the Commanding General and Commander in Serbia, Ia, and it bears the signature of a colonel.

The 104th Rifle Division, Jaeger division:

"1) Kalabic bands are moving from the area southwest of Valjevo towards the Lajkovac-Cacak railway line.

Page 1,037

"2) The SFK railway guard has been unsuccessfully attacked by a fairly strong band. The band withdrew after attack by armored train 109.

"3) Lajkovac mayor murdered.

"4) Addition to Daily Report of 16 June, No. 4, and of 17 June, No. 1: From the prisoners two men returned with arms, two Draja Mihailovic bandits were wounded during pursuit.

"1st Royal Bulgarian Occupation Corps:

"1) South of Krusevac the locating squad of the auxiliary police attacked by strong Communist forces. So far 8 dead, 3 seriously wounded, 6 men missing.

"2) In the region of Prokuplje increased Communist activity and collision with SSW.

"3) In the region of Pozega one SM (?) man killed by a Bulgarian commando and firing between SFK and DM groups.

"4) Three hundred fifty Communists shot for the murder of 3 German customs officials and firing attack on a Bulgarian leave train (cf. Daily Report of 16 and 18 May); 50 DM hostages shot for the murder of an RSK man."

It is signed "Commanding General and Commander-in-Chief Serbia, Ia," and under it appears a signature.

On the last exhibit in the book, Prosecution Exhibit 284 at page 59 of the German, 76 of the English, Document No. [NOKW-832](#), these are activity reports from the 1a Commander-in-Chief Southeast, High Command of Army Group E.

31 January 1943--- There is no date on the original, but it is submitted that is what it is, in view of the context. Activity Report from 1 to 31 January 1943:

"Commander-in-Chief: Major General Studnitz, the newly appointed commander of the Salonika-Aegean area, replacing Major General Krenzky, reported HQ the Commander-in-Chief.

"Enclosure 2 The New Regulation of Command in the Southeast Area.

"The night before 1 January Fuehrer Instruction No. 47 for Command Leadership and Defense of the Southeast Area arrived in extract form."

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Then it gives the OKW operation number and that, if Your Honors please, corresponds to the number of the communication which is Exhibit 242 in evidence, which is at page 171 of Document Book 9.

Your Honors will recall that was the last document in that book, and the very end canceled the prior instructions which Hitler had issued in June of 1941 with reference to the Southeast:

"The development in North Africa and the situation in the Mediterranean area makes an attack on Crete, the German and Italian footholds in the Aegean, and on the Balkan peninsula possible in the near future has caused the Fuehrer to transfer the defense of the southeast area, including the adjacent islands, to the Wehrmacht Commander Southeast, who will now be called 'Commander-in-Chief, Southeast' (High Command of Army Group E)--"

Here he gets the double title. You will recall the title before, up until 1 January 1943, was "Armed Forces Commander Southeast and 12th Army" and here it becomes "Commander-in-Chief Southeast and High Commander of Army Group E".

"--and who will be subordinated directly to the Fuehrer. The designation '12th Army High Command' ceases herewith. A great tradition in war history is thereby ended.

"Reprisal measures against the population of Teslic.

"Teletype to Commander of the German Troops in Croatia: OKW/WFSt/ Opns. Army has ordered application of the most severe reprisal measures against the population of Peslic, southwest of Doboj, for their participation in combat against the Croatian occupational forces.

"13 January:

"The new frontier between the commander of Salonika-Aegens and the commander of South Greece is established as the line Molos-GraviaAmphissa-Ithea (localities to the commander of Salonika-Aegen).

"24 January:

"Commander-in-Chief: Report of Major General Haarde, the new commander of Saloniki-Aegen, and of Major General von Waldan, Commanding General of the X Air Corps."

Page 1,039

There is an illegible signature, "Colonel in the General Staff".

Then for 1 July 43, the stamp and the entry is for 1 June, Commander-in-Chief:

"Commander-in-Chief: Flew with Ia to Sarajevo, conference there with Fliegerfuehrer of Croatia, Brigadier General Chamies and Commander of the German Troops in Croatia, Lieutenant General, Infantry, Lueters, and Colonel, General Staff Corps, Pfafferot. Journey to Foca, conference with the Commander of 118th Jaeger Division, Brigadier General Kuebler, continuation of journey to the artillery positions of Gaertler unit, journey back to Sarajevo, conference of the situation with the Commander of the German Troops in Croatia.

"20 June:

"Service Instructions: The Staff of the Commander South Greece is transformed into the Staff 'Commanding General and Commander South Greece' to take effect at once."

Page 1,040

MR. DENNEY: And then the last entry, except for the conclusion "Reprisal measures against acts of sabotage OKW/WFST.

has ordered, with order Opns. Top Secret, quick and decisive reprisal measures against sabotage acts. Detailed supplementary instructions to this are being sent by order Ia No. 1585/43 Secret to the Commanders and the troop staffs subordinated to the Army Group.

For the Commander-in-Chief, Southeast (High Command, Army Group E) For the Chief of the General Staff.

MR. DENNEY: That is all typed. There is an initial out to the right. And here again it might be appropriate to pass the Court this document, some twenty-five pages, of which we have used about three; but we are furnishing the entire one to the defense counsel. That, If Your Honors please, concludes Document Book 11, and now the presentation of Document Book 12 will be undertaken by Mr. Rapp, who would have been with us earlier in this case had he not been unavoidably absent and has just been able to return from America.

MR. RAPP: Your Honors, we are turning now....

THE PRESIDENT (Judge Carter Preceding): What is the name of the Counsel who is now addressing the Court?

MR. RAPP: Mr. Rapp - R - A - P - P.

THE PRESIDENT: Apparently I do not have Volume 12. (Supplied the Court) You may proceed.

MR. RAPP: Your Honors, we are turning now to Document Book No. 12, page 1 of the English and page 1 of the German. The first document is Document No. [NOKW-941](#), which is offered as B prosecution's Exhibit No. 285. This document is a divisional order from the 373rd Croatian Infantry Division - page 1 of the original; it is stamped "secret", "For Operation in the Area of Cardaci." It is dated 2 July 1943. "1) Enemy reports of the last few days confirmed the presence of a strong Partisan Group (figure mentioned is 1500) in the area of Cardaci.

Page 1,041

In Skakavic, Cardaci, Petacici, staffs were reported present on the Zjemet Mountain 1 depot was reported. On page 2 of the original: "7.) Suspected persons are to be arrested. People encountered carrying arms are to be shot to death after interrogation. Prisoners with valuable statements are to be turned over to the Ic Branch of the Division." That, Your Honors, is the Intelligence Branch. "Cattle obviously belonging to bands is to be driven out. Communities having aided and abetted bands (finding of material. entrenchment of the enemy) are to be leveled." Page 3 of the original -- Ruthless measures are to be taken against Red bands... Operations under the directions of the Division." And this is certified to be a true copy by a Lieutenant Colonel, of the General Staff Corps, and it is signed in draft by Zellner, Major General and Divisional Commander. And you will find below the distribution lists two elements lower than the division headquarters. The next document, Your Honors, is Document No. [NOKW-1013](#), on page 2 of the German Document Book and on page 3 of the English Document Book. These are excerpts from a War Diary of the 104th Jaeger Division. It becomes Prosecution's Exhibit No. 286. It was started on the 1st of April 1943 and completed on the 9th of July 1943. We are turning now to page 2 of the original document, which is page 3 of the German and page 4 of the English Document Book. "The IIIrd Serbian Volunteer Corps shoots to death 23 captives who were convicted of belonging to Communists." If Your Honors permit us at this time, I believe there has been a slight mistake in the translation of the original document, and I would ask Your Honors' permission to hand this document to the Court Interpreter to straighten out this particular paragraph I am having reference to.

THE PRESIDENT: We'll handle it that way.

(Court Page takes document to Court Interpreter, Mr. Lea)

MR. LEA (German-to -English Interpreter): The IIIrd Serbian Volunteer Corps shoots 25 arrestees who were proved to be members of the Communists.

Page 1,042

The shooting shall be made public by proclamations of the District of Pozarevac.

MR. RAPP: I believe this is all we have reference to, and if Your Honors permit, we would like to change the word "convicted." I'm repeating this for the record only, as the translator has corrected it to the word "proved." Is that agreeable with Your Honors?

THE PRESIDENT: Is it agreeable to the Defense?

DR. LATERNER: Yes, it is.

THE PRESIDENT: It is so ordered.

MR. RAPP: Thank you. On the same page, that is page 4 of the English and page 3 of the German, I continue, "349 Prisoners taken by Serbian Volunteer Corps and Serbian State Guard of which three were shot to death and 227 turned over to the SD. Prisoners made by troops: 162, of which 83 were turned over to the SD, 25 released, 11 transferred to the compulsory labor camp, the rest are still with the unit." Page 3 and 4 of the German, page 5 of the English, April 4, 1943, we find the following entry:

By order of the Commanding General and Commander in Serbia. In reprisal for the member of the organization Todt shot to death by Communists, 8 kilometers South of Pozarevac, 75 hostages were shot to death in Pozarevac by the SD. The executions are secured by units of the garrison.

MR. RAPP: This, in other words, is the 1 to 75 ratio. On the 16th of April 1943, still on the same page we find the following entry:

In Pozarevac 30 hostages shot to death by the SD as a reprisal measure for the murder of the Mayor of Sirakovo (13 kilometers Northeast Pozarevac).

(signed) von Ludwiger.

MR. RAPP: On the next page. Your Honors, page 6 of the English and page 4 of the German Document Book, is the entry of 22nd of April 1943:

Page 1,043

The 1st Battalion of the 734th Jaeger Regiment together with SD Pozarevac and 1 armored Reconnaissance car carrying out operations to Rudna Clava, during Night of 22 to 23 April. At 2230 hours to 0030 hours guards and billets in Rudna Clava are being fired on.

Five arrested DM suspects were shot to death by the SD, one farm which offered billets to the insurgents was burned down.

MR. RAPP: Now, we Turn to page 7 of the English and page 4 of the German Document Book, and we find under the entry of April 25, 1943 the following:

The Division applies to the Commanding General and Commander in Serbia in retaliation for the shooting to death of three captured German soldiers by the Communists near Binovac on 23 April:

- 1.) To evacuate the village Binovac and to burn it down as well as deport all men from 16 to 60 years of age for compulsory labor in Germany.
- 2.) To shoot to death 150 Communists imprisoned in Belgrade from the Districts of Mladenovac and Smederevo, at the place of the attack.

MR. RAPP: This is the 1 to 50 ratio. On the same page, under the entry of 6 May 1943:

In Pozarevac, 27 Communists shot to death by the SD in reprisal for the murder of the Mayor and Community clerk of Vosanac.

Page 1,044

Your Honors, turn now to page 8 of your document book which is page 5 of the defense counsel document book, we will find under May 14, 1943:

Pozarevac ---

The Division applied to the Commanding General and Commander in Serbia for the shooting to death of 125 Communists hostages and the evacuation of the villages of Kamendo and Dubona in reprisal for the attack on the railroad patrol near the Station of Drazanj Sepsin ----20 May 1943 in the same diary.

Night of 19 to 20 May, the Depot of the Serbian State Guard in the District office Kamenica (14 Kilometers North west/Valjevo) looted by about 30 bandits while the Serbian State Guard was committed. Arms, ammunition and tobacco was taken. --

Bandits are wearing unfamiliar insignia. - -

The Division received approval of the Commanding General and Commander in Serbia for the burning down of houses near the locality of the incident and for the shooting to death of the male population above 18 years Civicy in the vicinity in reprisal for the attack West Valjevo on 19 May ---

We turn now to page 9 of the English Document Book; page 6 of the German:

Page 1,045

20 May 1943 ---

Division applies to the Commanding General and Commander in Serbia for the to purpose of having 20 MD men shoot to death in reprisal for the confidential agent of the 734th Jaeger regiment, simultaneously is a member of the 11 Serbian Volunteer Corps, who was shot to death at the Northern exit on 19 May.

Report reprisal measures Ia/o1/ No. 420/43 secret of 20 May 4321 May 1943In reprisal for the attack on the organization Todt camp Thueringen near Monastery Gornjak (16 kilometers Southeast Petrovac) the entire cattle (2570 heads) is confiscated from the inhabitants of the neighboring villages Zdrelo, Krepoljin, Setonje and Bresnica, with the stipulation that 50% of the cattle will be lost, if useful reports regarding the culprits are not made before 23 May.

We now turn to page 10 of your Document Book, your Honors, and pages 6 and 7 of the German Document Books:

26 May 1943 -----

In MI Pozarevac, 125 Communists who were brought there from Belgrade, were shot to death by the Field Gendarmerie of the Division in reprisal for the attack on the railroad patrol of the home guard riflemen battalion 977 near Drajanj Sepsin on 13 May -----28 May 1943In reprisal for the attack North Binovac by order of the Commanding General and Commander in Serbia 150 Communists from the districts of Smederevo, Mladenovac, Arandjelovac, Palanka and Sopot will be shot to death in Belgrade on 14 May1 June 1943.

Page 1,046

.....

In the central sector the reprisal operation ordered against 7 villages was carried out: 50% of the cattle and all grain was secured, 80 men arrested.

(signed) V. Ludwiger - - - - -

We now turn to page 11 of the English and page 7 of the German Document.

PRESIDING JUDGE CARTER: On page 10, under date of May 28, 1943, it says:

"150 Communists will be shot to death on the 14th of May."

How does that happen to appear on the date of May 28?

MR. RAPP: If your Honor will permit, I will check with the document for one minute.

PRESIDING JUDGE CARTER: We will take our morning recess at this time.

(A recess was taken.)

Page 1,047

THE MARSHAL: The Tribunal is again in session.

JUDGE CARTER: You may proceed.

MR. RAPP: The inquiry in question is whether or not 150 communists from the districts of Smederevo, Mladenovac, Arandjelovac, Palanka and Sopot will be shot to death in Belgrade on the 14th of May. Notice that the entry in the diary is dated 28 May.

THE INTERPRETER: Well, the German text says. "were shot." I think that's quite obvious.

MR. RAPP: Thank you very much.

If the Tribunal, please, we are turning now to page 11 of the English and page 7 of the German, the entry of June 1, 1943:

Division receives the report that Lt. Koenig who was seriously wounded during the Communist attack on Officers of the Staff and the second Battalion of the 724th regiment on 14 December 42 in Mladenovac had died of his wounds in the Military Hospital Vienna XVI D. The Division applies to the Commander for the purpose of having additional 25 Communists shot to death.

Page 1,048

Your Honors, then follows page 12 and 13 of the same document, Exhibit 286 which is page 7, 8 of the German document book, and I don't believe we have to read this now.

We are turning now to page 14 in the English document book which is page 9 in the German document book. This is [NOKW-911](#), dated 12 July 1943, which will become prosecution's exhibit 287. This document enables from the 373rd Croatian Infantry Division. It is stamped "Secret" and is so-called "Combat Report." The first paragraph concerns itself with purely tactical matters.

Paragraph 4: "Result of the Operation:

"Losses:

"Resultant losses of our own: 23 dead were counted. Higher enemy losses may surely be assumed. An important prisoner is partisan Zolja Milan who is known to all inhabitants of the neighborhood as the brutal intendant of the Hotic Group. He comes from Medini and he has requisitioned cattle and other rations and recruited for both the Hotic Group and passing Partisan Groups."

Page 15, which is page 9 in the German Document Book:

"His interrogation confirmed the known partisan movement from North to Southeast toward the end of the Month of June. There he knew of the 5th Division and the Krajin Brigade which moved via Komar to Fojnica 10 to 15 thousand men strong. Hotic is alleged to be the Chief of Staff of the 5th Division. In the area between Travnik G. Makuf there are said to have been 380 armed and 120 unarmed partisans lately. Zolja has been shot to death by order of the Divisional Commander after everything has been gotten from him by interrogation. Some arms and unimportant documents were captured. Partisan hideouts were burned down. During this process an estimated several thousand rounds of ammunition were destroyed.

"The Divisional Commander, Signed in draft, Zellner, Major General," and under it it is certified to be a true copy with an illegible signature.

Page 1,049

Your Honors, we are turning now to page 16 of your document book and page 10 of defense counsel's document book. This is [NOKW-1494](#) which will become prosecution Exhibit 288. This is a report

stamped "Secret," dated 5th of July 1943. That has also been handwritten initialed, to be sent to the Intelligence Section, to be entered into the War Diary. It's from the 1st Panzer Division, subject:

"Band Activity."

"1) Recent events show a revival of band activity in the entire Southeastern area. In the Peloponnesus there are also indications that here also an increase in band and sabotage activity is to be expected.

"2) The OKW has ordered that, also in the areas occupied by the Italians, after any attacks and acts of sabotage, speedy and sweeping reprisal measures are to be taken, to deter the population and to make amends for the damage inflicted upon the authority of the German Wehrmacht. The Fuehrer expects these measures to be carried out with the utmost energy and in a manner which will not fail to show its effects on the widest sections of the population.

"3) For the combating of bands in the Peloponnesus the following is ordered:

a) Units in their billeting areas police the main roads by employing motorized patrols at irregular hours. For this the normal trips by messengers or for supplies are to be utilized. Drivers and assistant drivers are to be instructed and armed accordingly. All observations are to be reported to the Division. The observations are to be exchanged with Italian headquarters. It is important to recognize early that bands are being formed and to suppress their formation at the start.

"b) In an extension of the order by 1st Panzer Division, Ia Section 1875/43 secret, dated 8 June 1943, number 7.), in every locality where units of the Division are stationed a fighter detachment of platoon strength is to be kept constantly at the alert for the combatting of bands and parachutists. Closest cooperation is to be maintained with Italian fights detachments existing in Italian garrison.

Page 1,050

Requests for support by German fighter detachments are to be granted in cases of limited local engagements, this being previously reported to the Division. Major operations against bands, etc. with employment of stronger forces.

"4) Any acts of sabotage that may have occurred, as well as attacks on German soldiers, German Wehrmacht installations and all other installations, which are of service in the provisioning of the troops or in military tasks, are to be reported to the Division without delay. The division will then decide on the reprisal measures to be taken. Units are forbidden to carry out reprisal measures on their own accord.

"5.) I expect this order to be carried out with greatest exactness with regard to observation matters and reports. The opinion widely spread amongst troops that band activity is exclusively directed against the Italians is to be opposed with all severity. Rather the bands led by British officers aim merely at dividing the allied (Axis) nations by showing an apparently different attitude towards Germans than to Italian Occupation Forces. The German soldier, without doubt, is just as much Occupation Force, and thereby an enemy of the country, as the Italian. It is the duty of every superior, through his own behavior and during instructions, to constantly see to it that every German soldier adjusts himself to these particularities of the Balkans and draws his conclusions from it."

"Signature: Krueger."

The next document, your Honors, you will find on page 19 of the English and page 12 of the German document book. It is [NOKW-1495](#) which will be offered as prosecution Exhibit 289. This is a rather voluminous document, being a collection of teletype messages sent from the Commander-in-Chief Southeast, High Command Army Group "E", the now deceased Colonel Loehr; and the first document which was sent on June 3, 1943 and was received at OKH on June 4, 1943, was addressed to the Operations Department of the General Staff of the Army OKH.

Page 1,051

It gives a report of the situation in Greece.

"In the Italian region Vijese bridge west of Kenitsa (i.e. 40 kilometers north of Jbannina) blown up. Supplementary report concerning attempt on railroad Nezeres: 92 Italian and 60 Greek prisoners dead. Large number of wounded and missing. In Larissa 100 Communists from the concentration camp shot dead in reprisal. In the area of Soupre (40 kilometers northeast of Lamia) a band was reported in Greek uniform. Commande in Chief Southeast (High Command Army Group E)," dated June 3, 1943.

The next page is again a teletype or TWX Message from the High Command Army Group E, Commander in Chief Southeast, 4 June 1943, addressed to the OKH General Staff of the Army Operation Department:

"Secret --Daily Report of the Commander in Chief Southeast of 4 June 43 -- Operation 'Schwarz' -- Greece -- South of Florina a band 200 men strong. In the area Metsovo (38 kilometers northeast of Joannina) 1000 Communists reported. During Italian mopping up of area Joannina and Amfissa Atlanta 5 bandits shot dead quite a large number of rifles and ammunition secured, several houses of bandits burned down"; and that is signed "High Command June 4."

The next document, still the same [NOKW-1495](#), which you find on page 14 -- or page 14 of the German, 21 of the English, is again a report about the situation in Greece and it states that:

"In the area Melisseurghi strong group of bands under leadership of former Greek General apparently in connection with Zervas hands in the area Arta. The strike situation in Athens has quieted down."

That is "Secret" and is dated June 7, 1943.

If you will turn your next page, your Honors, you will find the same addressee and the same source under the 18th of June 1943 pertaining to the situation in Serbia, however, and it says:

Page 1,052

"Local band activity. In reprisal for raids and acts of sabotage committed during the last period 350 communists and 50 cetniks were shot dead."

And it is signed again by the "High Command Army Group E" -- on the next page, Your Honors.

Page 1,053

On the next page, your Honor, you find the same source reporting to the OKH, the situation in Croatia pertaining to the 114th Jaeger Division, in which there it is reported that, "6 bandit villages destroyed."

That report was dated the 19 June 1943.

There is another report you will find on page 24, page 17 of the German Document Book, pertaining to the situation in Croatia again, and it states; "20 Cetniks and 10 Communists shot dead."

Also again signed, "High Command army Group E", June 23 1943.

We then go back to Greece again, which you will find on page 25 of your document book, and page 18 of the German, and it states that two commanders of bands have been arrested, and several bandit houses have been burned down.

Then it changes from Greece to Serbia, and you will find that 30 Communist prisoners were shot dead.

That was the 26 June 1943.

We turn to page 26, and there we find the High Command of Army Group E reporting under the 27 of June, 1943, pertaining to the situation in Serbia: "In reprisal for shooting of Italian officer in the area of Berane Podgerica Niksic, 150 communist prisoners in all were shot dead".

Page 27, your Honors, page 20 of the German, a tactical report about Greece and then about Serbia: In the area Krusevac and Mladenovac, in all 125 communists and their assistants and band suspects were arrested by the German police and the Serbian State Guards, 7 communists were shot dead".

Page 28, the report about Greece again, -- that is page 21 and 22 respectively of the German Document Book--, and down toward the end of the report we find:

"Complete destruction of the surrounding villages in connection with reprisal measures ordered, and in progress. Up to now 4 villages burned down, In reprisal for blowing up of line near Litochoron". ** "50 communists were shot dead". 2 July 1943.

Page 1,054

In the report dated 3 July 1943, on page No. 29, your Honors, you will find a report on Greece, addressed by the High Command of Army Group E, and stating:

"Slight contact with bands. 5 bandits dead. 2 further villages destroyed. Mopping up and reprisals continued."

On Page 30, Greece again, to OKH, from Army Group E:

"In Athens strike of the telephone company; mopping up operation southeast of Serbia continued by Combat Group Salminger; further villages burned down; 87 suspects were shot dead while escaping".

Then we turn to page 31, page 25 of the German Document Book, and here is a report of the Commander-in-Chief Southeast, dated 5 July 1943, "Greece: In Malaxe acts of sabotage on important communication lines. Searching operations so far without any result. Increasing security measures

ordered since 3 July prevented more serious damage. Reprisal measures 50 Greeks shot dead. Further shooting threatened, if perpetrators not discovered by cooperation of population within 7 days."

Page 32, which is page 26 of the German Document Book:

"Greek railway personnel arrested. Examination and reprisals measures in progress."

"Serbia: Weather fine. Local band activity. 25 DM reprisal prisoners shot dead."

This concludes document 1495, which is Prosecution Exhibit 289.

Your Honors we would like to offer now [NOKW 949](#), which will become our Exhibit 290. This, your Honors, is a top secret report, dated 22 July 1943, 4th Brandenburg Regiment Commander. There are various handwritten names on there which are illegible. There is also an illegible initial on the original. It is addressed:

"To the Commander in Chief Southeast/Ia, through Commander of the German troops in Croatia.

Subject: Proposals for the future employment for special purposes of the 4th Brandenburg Regiment."

If your Honors would now turn, please, to page 34 of this same document, in the middle of the page, -- that is page 28-29 of the German Document Book-- and we find here:

Page 1,055

"The method followed up to now of shooting to death all partisans without distinction, could never be successful, Many became partisans but by the combined influence of several circumstances such as: Ustaschi-Moslems-or Cetnik-atrocities- want and starvation, terror and duress by other partisans.

They stay partisans because the way back is blocked by the German orders. They have lost their country and their family and so they fight to their death.

Since the political conditions in Croatia are not improving new partisans replace those who are killed.

According to congruent observations of the troop, it would have been possible to win over a certain percentage of the captured partisans for fighting on the German side, if their lives were spared and food, as well as their return to their homesteads later on, were guaranteed."

There are some marginal notes on this letter from the 4th Brandenburg Regiment to the Commander-in-Chief Southeast. The initials are illegible, but it says:

"Since the political conditions in Croatia are not improving, new partisans replace those who are killed."

"Correct" on the marginal side.

In the next paragraph, the marginal, information says, "But not the Croatians?

No!"

Now on the next page, your Honors, page 35, right on the top there is a proposal made by the 4th Brandenburg Regiment, it states:

"Immediate order to troops, not to shoot to death any more captured partisans. Delivery to collecting camps and humane treatment.

In the collection camps short observation of the partisans by confidential agents."

Somebody wrote on the margin, "No".

Page 1,056

"Recruitment of the partisans considered suitable, by Brandenburg.

Transfer of those unsuitable to work camps.

After instruction and very careful observation in troop for special commitment - employment against Tito.

Means of pressure: All partisans still remaining in the troop and in camp guarantee with their lives against treason of the bandits employed.

In case of efficiency and prowess also recognition, pecuniary compensations, allotments of land and cattle. No pettefogery. What is precious today is only German blood."

Then Paragraph B which says:

"Raiding of the so-called "Mainstaff" and the English airfields in the area Bihac:

In the area west and northwest of Bihac there is a strong wellorganized group of partisans amounting to about 8,000 individuals extending far out into the Italian occupied area. Air-reconnaissance and reports of confidential agents confirm that a continuous supply of leaders and materials is being assured by the Royal Air Force. Active airfields, permanent billets, some of them barrack-camps, were identified whether this group is under Tito's command or whether it has its own leader is not yet certain. The latter is probable."

"This group is of special importance, because in the event of an English landing at the place most suitable for the purpose - (for the reasons see under letter c) - it will be able to form a bridgehead and to hold it open.

Inside this group, which beyond a doubt contains English officers, the designation "English-American Volunteers Army" has already been coined."

This document is signed: "Heinz, Colonel and Commander of Regiment".

Page 1,057

Your Honors, we have now [NOKW 1079](#), Prosecution Exhibit 291. This, Your Honors, is an order dated the 14 July 1943, and the order was issued by the Commander-in-Chief Southeast, simultaneously charged with Command of Army Group E, and the order concerns itself with the security and reprisal measures against the enemy population.

July 26, 1943-- this is about the period, your Honors, that the defendant Foertsch was Chief of Staff to the then Commander-in-Chief of the Army Group E.

I cite: "In the event of enemy landing attacks we must reckon with the most far reaching participation of hostile parts of the population on the side of the enemy. The activities of the bands against objects of vital importance especially the railroads will begin suddenly.

In order to overcome this great danger measures of adequate security are to be taken now.

1. I give permission to and oblige all commanders to take most severe measures in case of obvious hostile attitude of the population on their own responsibility and without having requested authorization from their superior offices. Measures taken are to be reported and will be covered by me. Commanders however who out of negligence or softness omit to take measures of reprisal will be held responsible.
2. Among other things, all strikes even if they do not directly affect military affairs are to be considered as hostile attitude."

Page 1,058

of the population. Curfew regulations for the entire population closing of shops and the cutting of electric light and water supplies are to be immediately introduced as efficient counter measures.

- 3.) It is the duty of every German soldier to break any active resistance of the population, by force of arms, immediately and relentlessly. Soldiers who violate this duty are to be brought before courts martial and the sentences are to be made known to the troops.
- 4.) As soon as sufficient forces have arrived, the setting up of an evacuation zone 5 to 10 kilometers wide is to be carried out in Greece on both sides of the main railway lines with the exception of large localities. The zone is forbidden to the civilian population except for those working under guard, every civilian is to be shot unchallenged. In the larger villages, curfew at dusk and the taking of hostages etc. are to be considered. Preparations are to be made now. Plans for such prohibited zones, with corresponding maps are to be reported by 1 August 1943.
- 5.) In all measures of reprisal the following is to be observed.

Ruthless combat and reprisals should as far as possible be directed only against the hostile civilian population. By a correct treatment of the friendly population a rush of the population towards the bands must be avoided.

As a result of these considerations however it must not happen that for example, if German soldiers were shot at in a village nothing is done because the perpetrator was not clearly determined. In such cases measures of reprisal must be effected by the immediate arrest and shooting to death or still better by hanging publicly influential personalities of the villages. The same applies when justifies suspicion exists that the perpetrators of successfully carried out or even only attempted acts of sabotage were supported by the population. In most cases the population is on the side of the bandits.

Page 1,059

The reasons for all measures of reprisal are immediately to be made know publicly.

The extent of a reprisal measure is to be ordered clearly, its execution must be supervised in order to prevent excesses of our own troops.

In all reprisal measures sufficient troops are to be employed in order to guarantee complete success. A withdrawal of our forces in cases of failures will be interpreted as weakness and will only have a stimulating effect on the population.

The careful seizure of rations for the troops, in case the supply roads should be blocked belongs to the preparations for the fight which is to be expected against an enemy which has landed and against a hostile population. The necessary reconnaissance must be made well in advance. Becomes to such civilian stocks is however permissible only in case of open combat actions or in dire needs. ***ry superior must see to it that such measures do not lead to plundering. A lack of supervision herein can quickly spoil the troops.

(Signature) Loehr (Initials illeg.)

MR. RAPP: And there is also this document initialed, we submit, by the Defendant Foertsch.

DR. HINDEMITH: Your Honors, Hindemith for the Defendant Foertsch. Regarding what the Prosecutor has just said about the last document. I would like to state the following: I object to the prosecution's statement that this document the initial "F" on it and that indicates the Defendant Foertsch. The German document does not show this. It only shows the initial is illegible. What the Prosecutor has just said is not factual, but he was arguing just now. Since in the German document the initial is not shown I move that the remarks of the Prosecutor concerning this should be stricken from the record.

Page 1,060

THE PRESIDENT: I think it is true that the argumentation is made; it will take further evidence to show that they are, in fact, the initials of the Defendant Foertsch. I think, however, the Prosecution may call the attention of the Tribunal to any marks made on any exhibit.

MR. RAPP; Very well, Your Honor.

DR. HINDEMITH: From what your Honor has just said, I take that the Defense has the right to make objections to the argumentation of the Prosecution at a later date.

THE PRESIDENT: Yes, I think that is correct.

DR. HINDEMITH: Thank you.

MR. RAPP: If Your Honors turn now to page 40 of the English Document Book, page 36 of the German, I continue with the same document--that is, Document No. [NOKW-1079](#). It will not be necessary to read these two pages into the record; and this will close up the Document No. [NOKW-1079](#) which is Prosecution's Exhibit No. 291. If the Tribunal please, we submit now [NOKW-718](#) which becomes Prosecution's Exhibit No. 292. We turn to page 43 of the English Document Book of the same

document, page 37 of the German Book, and under paragraph 3, which is page 38 of the German Document Book, now we find.

3.) Counter Intelligence Office Grn. Milanovac reports: 1200 D.M. men under the command of Lt. Colonel Simic marching in two groups from Tresjnvica (about 12 South Southwest Arandjulovac) in a Southerly direction. A group is marching in direction of Strajari under the command of Captain Kalabic (400 men); the second group is marching in direction of Rudnik under the Command of Lt. Col. Simic. The band has 80 to 100 light machine guns and is wearing mostly uniforms of the former Yugoslav Army.

4.) In Kamenica the SD burns down 7 houses at 1700 hours because the village held a festive reception for D. M. and its buildings have served for some time as refuges for English men and D.M. bands.

Page 1,061

MR. RAPP: Your Honors, on the next page, Page 44 we find under Roman Numeral II:

"Daily Report: Today: Total:

1. Captured: 8 180 2. Shot to death 3 8 (women) 3. Houses burned down 1 19

MR. RAPP: And then below for the 18th of July 1943, we find "Daily Report:

Today: Total:

Shot to death: 3 11 (women) Houses burned down:

2 21

MR. RAPP: This is all for [NOKW-718](#), Prosecution's Exhibit No. 292. Your Honor we have now [NOKW-893](#) to offer, which will be Prosecution's Exhibit No. 293. These are again some of these teletype reports. This one is dated the 22nd of July, and it is to the Commander of German Troops in Croatia.

"Brigadier General von Chamier Fliegerfuehrer in Croatia:

It is my duty to call the attention to the fact that especially lately the use of bombers in the Coratian Civil War has become a very problematic means of combat. Either villages are bombed in which bandits never stayed, or such villages in which the bandits stayed temporarily without the agreement of the population and have long since departed. A week ago several villages were bombed in Zagoria (north of Zagreb). They were completely free of insurgents and the pure Catholic inhabitants had, as was proven, up to now nothing to do with the disorders. There were dead and wounded and much damage was caused. All this was suffered by citizens and peasants whose brothers and sons served with us as Legionnaires or as Coratian soldiers and who are supposed to fight courageously on our side. All this in an area whose economic well being is in the interests of our conduct of war. The extraordinary national and political complexity of the country in which we are fighting demands that a means of combat such as air raids, which elsewhere may be used to combat Partisans without hesitation, be used rarely and carefully.

Page 1,062

The targets are only to be bombed when it is established without a doubt that they are occupied by the enemy and the bombing of villages of villages is to be avoided as far as possible." "Since additional forces adversaries "(into the woods)" it does not help to pacify the country but is detrimental and shakes the confidence in the German soldier of those parts of the population which are of good will. I beg you to take these ideas into consideration in view of the extreme subtlety of our adversary and of the combats which certainly demand ruthlessness and severity."

Page 1,063

[NOKW-965](#) will be offered next. That is page 48 of the English and 42 of the German document book, and it becomes Prosecution Exhibit No. 294. This is a teletype message sent by the Commander of German Troops in Croatia to all of the divisions enumerated here: SS Division 369, 373, 187th and so forth, and it goes on to say:

Recently the air force was repeatedly used against completely peaceful villages. Such attacks do not help us, but rather harm us, as they only strike against the harmless civilian population. Attacks upon villages have to be reserved for special cases, when, furthermore, it is certain that these villages are completely communist.

Genuine successes of the air force can only be expected where a known enemy is being engaged.

Commander of German Troops in Croatia The initials are illegible.

Your Honors, now [NOKW-1439](#), page 49 of your document book, page 43 of the defense counsel's document book, becomes 295 Prosecution Exhibit. This is a rather lengthy document and we have only made certain excerpts of this document, the rest pertaining to tactical matters. "Commander of German Troops in Croatia, Branch Ic" -that is the intelligence branch.

Enclosure - 1 Headquarters 5 July 1943 E n e m y S i t u a t i o n i n S l a v o n i a In Slavonia, East of the line Virovitica-Ban Jaruga units of the II Croatian (Slavonic) Corps were stationed up until the end of June.

The total strength of the Corps amounted to approximately 5,500 men without the units assigned to the territory after the dissolution of the III Operation Zone. This figure includes 650 women.

Organization: Staff (40) Batterie (32), 1st Division (1900 including 300 women), 4th Division (3,300, including 350 women).

Then it gives the weapons starting out with 3500 rifles, etc.

Each Division has three Brigades consisting in the main of four Battalions.

Page 1,064

On the next page, Your Honor, page 50, you will find the breakdown of the order of battle or battle strength of these various units. It starts out with the first Division which also is called the Tenth. It talks

of XVII Slav Brigade; it talks of the XXI Brigade; and it talks of a Slavonian Division, which is subdivided into the XII and XVI Brigades.

And on page 51, Your Honors, you will find "lately a 12th Division has been mentioned which includes three Brigades one of which is designated as the XIV. This is probably a new setup from compulsory recruitments or segregated elements of the units assigned to the area."

That is, by the way, page 44 and 45 of the German document.

Then:

The XIV Brigade of the 12th Division is cabled "Zagreb Youth Brigade JOZA SLAVONIC" because it is composed 50% of Croates.

Three units assigned to the area operate in the same territory. One of them operates in the Papuk (400 men) one around VOCIN (600 men) and the third changes constantly between the BSUNJ and the DILJ Mountains (300 men).

These units (the so-called Slavonic Order) assigned to the area are not to be mistaken for the so-called military forces of the rear area. They are guards which are subordinate to area headquarters and to town-headquarters. Like the gendarmerie, they are organized by districts. They do not wear the usual rank insignia of red cloth directly on their sleeve, but they wear the Soviet Star and insignia superimposed on green cloth background.

Your Honors, if you turn now please to page 54 of your document book, which is page 47 of the German, we find a little note about combat methods of the communists, and it says:

Page 1,065

Combat methods of the Communists Prisoners are never to be shot to death without being interrogated concerning unit, commanding officer, strength and the intentions of their unit.

Intelligent people who wish to make statements, all commanding officers and commissars are to be sent to the division, all radio technicians and telephone men to be sent to the Commander for thorough interrogation.

And then this document is signed for the Commander of the German Troops in Croatia, the Chief of General Staff and in draft signed Major Berger of the General Staff Guard.

Then we have another teletype here, page 55, Your Honors, page 47 and 48 of the German document book, and it is dated July 5, 1943.

I. All Communists are to be shot to death. Suspects are to be arrested.

The following are considered bandits:

- a.) Any person having participated in combat or encountered bearing arms.
- b.) Any person convicted of Communist activities.

II. The following are considered suspects:

- a.) Any persons roving about away from settlements without compulsory reason.
- b.) Any non-resident unable to prove that his presence is necessary.

Women and young people are also to be taken. The entire population of all villages within the areas to be mopped up are to be screened. A few persons who seem trustworthy, belonging to different religious and national groups, are to be selected and to be interrogated individually concerning non-residents and Communists. The interrogation is to be carried out in such a manner that the people concerned do not have to fear any acts of vengeance.

Page 1,066

The troops carrying out the arrest are to send along a short report giving reasons and place of the arrest and personal data when the arrestees are sent to the collection camp.

III. Deserters.

Deserters who voluntarily report to the unit are to be sent to a collection camp for labor employment. They are to be given brief identification papers designating them as deserters. Before they are transported to collecting camps, they are to be offered to the SD.

IV. All villages which are entirely Communists are to be destroyed. The population, in as far as it is not being treated as Communists is to be evacuated to collection camps.

In addition, villages serving entire bands as a permanent refuge with the consent of the population are to be considered Communist villages.

V. Houses in which weapons and ammunition are found and which are not reported promptly and voluntarily, are to be destroyed.

The shooting to death of Communists (bandits) the arrest of suspects, destruction of villages and the number of deserters is to be included in the daily report.

And the Distribution:

Troop units North of thee Save (down to companies) The next page, Your Honor, page 57, or page 49 and 50, respectively of the German document book, I still continue, paragraph I: All Communists (bandits) are to be shot to death.

Suspects are to be arrested.

The following are considered bandits:

- a.) Any person having participated in combat or encountered bearing arms.
- b.) Any person convicted of Communist activities.

Page 1,067

c.) Any persons roving about away from settlements without compulsory reason.

Women and young people are also to be taken. In doubtful cases, persons concerned are to be arrested.

II. Persons arrested who are suspected of having actively or passively supported acts of sabotage, are to be used as hostages, for the execution of reprisal measures.

They are to be reported to the Commander of the German Troops in Croatia Ic giving reason and place of arrest as well as personal data and to be transferred with the identical report to the Prisoner-of-War Camp Zenica.

Subject: Order concerning counter-intelligence and reprisal measures against the enemy population.

In addition to the reprisal measures ordered, hostages are to be arrested from the area concerned in the event of sabotage.

When hostages are seized it must be considered that innocent people are mostly arrested while the guilty persons have fled to the woods.

Hostages may carry on correspondence under censorship.

The seizure of hostages is effective only when the hostages are taken as a reprisal measure from the immediate locality of the incident. The population is to be informed by means of posters and leaflets, giving the names and threatening that the hostages will be hanged or shot on the occasion of the next attack. The carrying out of the reprisal measures by hanging or shooting of hostages as ordered by the Commanding Officer also is to be published.

This is dated the 31st of July, 1943.

1. The sabotage activity which is increased of late, compels strict adherence to the order mentioned in the reference.
2. The Divisions are ordered to seize immediately as hostages from those areas and villages from which traffic and supply roads have been threatened and above all where attacks have already taken place and without regard to nationality.

Page 1,068

- a) the family of band members
- b) Persons guilty of aiding and abetting bands
- c) Suspected persons.

by special detachments in closest cooperation with the SD and the Ordnungs Polizei.

A detachment with the 114th Jaeger Division has achieved great success by surprise operations.

These special detachments are to be of a sufficient strength and well equipped, suitable for their task. Forces of the Secret Field Police of the SD Field Gendarmerie and if at all possible of the Croatian Police or Gendarmerie are also to be employed. The Special Detachment is responsible for the Military

area of the operation. House searches and interrogations are to be executed under the direction of executive organs of the Secret Field Police, of the SD or of the Ordnungs Polizei.

3. The arrested hostages are to be delivered to the Corps Prisoner Camp Zenica or Prijedor. Those divisions who are too far removed by rail from Prijedor or Zenica will install temporary hostage camps in agreement with the SD. It is intended to install hostage camps in Sisak and Mitrovica. The minutes of the interrogation together with personal data and the domiciles of the hostages are to be turned over to the camp Headquarters together with the hostages delivered.

4. Arrests and shootings of hostages is to be included in the daily report to the Commander.

5. Pursuant to the reference above, the seizure of hostages as well as reprisal measures carried out are to be made known to the population by means of posters and leaflets in cooperation with the Croatian propaganda staff, in Zagreb or its branch offices in Banja Luka, and Sarajevo.

Page 1,069

The propaganda staff or its branch office will have the leaflets dropped over the territory where the attack has taken place and from where the hostages originate, as well as over the adjoining bandit territories.

PRESIDING JUDGE CARTER: We will recess until one-thirty.

MR. RAPP: Very well, Your Honor.

(A recess was taken until 113- hours.)

Page 1,070

AFTERNOON SESSION (The hearing reconvened at 1330 hours, 29 July 1947.)

THE MARSHAL: The Tribunal is again in session.

MR. RAPP: Your Honors will recall that prior to the noon recess we were concerning ourselves with NOKW--

PRESIDING JUDGE CARTER: Just a moment, please. We will have to wait a few minutes. There are some repairs in the other room.

MR. RAPP: Very well, Your Honor.

PRESIDING JUDGE CARTER: We were wondering about Document Book 13; 12 seems to be the last we have. Has 13 been served?

MR. RAPP: 13 has been served at about 1800 hours last night and it has been served as far as I know. If Your Honor desires, we can get you right now a copy of Document Book 13, if you haven't received it in your chambers as yet.

PRESIDING JUDGE CARTER: If they haven't been served, we are not particular as we want to keep things moving along.

MR. RAPP: I will have some brought up right now.

PRESIDING JUDGE CARTER: You may proceed.

MR. RAPP: Your Honors will recall that prior to the noon recess we concerned ourselves with [NOKW-1439](#), which became Prosecution Exhibit 295. We talked about this document on page 61 of the English Document Book and pages 52 and 53 respectively of the German document book. We now commence with paragraph 6 of this particular document:

"The leaflets concerning the seizure of hostages are to include: first and last name, age, and domicile of the hostages. Furthermore they are to include the threat that the hostages will be shot to death in the event of another attack.

"7. The reprisal measures ordered herewith are to be regulated by the competent division commanders. Excesses by subordinate authorities or by individual soldiers must be avoided.

"8. The division commanders decide whether the reprisal measure will be carried out at the locality of the incident or in the hostage camp.

Page 1,071

"9. By order of the Ministry of the Interior the execution of the shooting to death is to be left as far as possible to the Croatian police, in the presence of Executive Organs of the Secret Field Police, the Field Gendarmerie, or of the SD.

"10. In the future every plot, attack, or act of sabotage must be met with a suitable reprisal.

"(signed) Lueters" Your Honors, turning to the next page we find an entry under the 25th of July 1943 which was received on the 28th of July 1943.

Commander of German Troops in Croatia. It states:

"During the month covered by this report cooperation with German military and police authorities was good. Cooperation with the SD was further extended and incidents concerning the SD were transferred to it."

At the end of the page:

"It also seems that the Croatian police do not apply severe enough measures. It is remarkable that the Croatian courts do not pronounce severe sentences."

Page 64, under the heading of Combatting of Bands:

"In the course of an operation carried out in the area southwest of Okucani, 50 kilometers north of Fanja Luka, on 9 June 1943 the following Croatian nationals who were suspected of belonging to bands were arrested by the Branch Office Banja Luka and sent to the jail 'Black House'."

At the bottom of the page:

"All 8 persons were charged with band membership; in addition they were charged with having acted as messengers for the bands and having driven cattle to them and having procured young men and women for them."

On page 65, paragraph 2, the middle of the page:

"When S. was supposed to join the bands on 9 July 1943, Bahtic and another band courier named Milan Prerad, born on 15 February 1911 in Pocitelj, resident in Brod, were arrested. The investigation which was continued immediately resulted in the arrest of additional persons who were accused of having recruited members for the bands.

Page 1,072

Three of the persons arrested have been convicted and have confessed. The affair is not concluded as yet since investigations indicate the guilt of other persons whose arrest is impending. A subsequent report will follow after conclusion of the affair.

"3) The Branch Office in Semlin became familiar with the personal data of 42 band members in Boljevcı, 20 kilometers southeast of Semlin, from interrogation of band members. This office found out that the Bolshevik band intended to set fire to the Ferek estate situated near Boljevcı on 4 July 1943. That is why an operation with the purpose of arresting the band members was carried out in cooperation with the Commanding Officer of the Luftwaffe station of Semlin. Two combat planes participated in the operation. Bandits had set fire to the estate. Thirty-four of the 42 band members known by name were arrested. An unknown inhabitant of the village was shot to death while trying to escape.

"In the course of the interrogations which have taken place up until now, 10 accused persons have been convicted and have confessed to having supported the bands with money and foodstuffs and to have taken an active part as bandits. In addition, names of other bandits have become known to us. Investigations continue. A subsequent report will follow after conclusion of the affair.

"4) The Secret Field Police detachment with the 369th Infantry Division received from Branch Ic of the Division the Croatian national Dusan Grbic, born 17 June 1914 in Brck, Miladin Vrzljan, born 1926 in Buija, and Savo Pecanac, born 1925. Petrovac on 5 July 1943 for interrogation because of suspected band membership. The interrogation resulted in valuable material for giving information about the bands.

"After the interrogations were concluded, the three bandits were transferred, together with the files of the affair, to the Ic of the 369th Infantry Division with a request for his decision. Ic ordered the shooting to death of the three bandits, which was carried out by a detachment made available by the unit."

(There is also a question mark on the margin of this paper.)

Page 1,073

"5) The German 187 brought 122 inhabitants, all Croatian nationals, of the village of Lucinci, about 20 kilometers northeast Brod, on 11 July 1943 into the transit camp of the Field Gendarmerie in Brod after a combat action with the bands. The office in Brod screened these persons on the basis of the available

material. After conclusion of the screenings, 9 persons were arrested on suspicion of band membership and 20 additional persons on suspicion of aiding and abetting bands. Ninetythree persons who could not be proved of having committed any punishable deed were released after a conference with the Ic of the Commander of German Troops in Croatia. Investigations are continued against the 29 accused persons.

"6) The Secret Field Police detachment with the 373 Infantry Division in Prijedor cracked down an organization in Brezincani, 6 kilometers northwest of Brijedor, which was accused of supporting the band members hiding in the nearby woods. In cooperation with the division, an operation was carried out on 21 July 1943 to surround the village and to arrest the accused. During the course of it, a total, of 10 residents of Brezicani were arrested who were already know to the detachment as persons aiding and abetting bands. Additional arrests are impending on the basis of investigations previously carried out. A detailed report will follow after completion of the affair."

Your Honors, on page 68, which is 58 and 59 respectively of the German document book, we will find a statistical breakdown of punishable offenses by the population and we find out that:

"General felonies and crimes: 1 person "Offenses against the security of the troops:

"Unauthorized possession of arms: 1 "Band membership:

158 "Theft of arms:

2 "Misguidance of the German Wehrmacht:

1" etc., etc.

Page 1,074

Your Honors, on page 68, which is 59 and 60 respectively of the German document book, we will find a statistical breakdown of "punishable offenses by the population" and we find out that is:

"General felonies and crimes: One person "Offenses against the security of the troops:

"Unauthorized possession of arms.....1 "Band membership.

.....158 "Theft of arms.

.....2 "Misguidance of the German Wehrmacht.

.....1" and so forth.

If Your Honors will now turn to page 70, please, which is page 62 of the German document book, we find a report of the Group Secret Field Police No. 9 which is labeled as "Enclosure 3" in the German document. It has a "secret" stamp and is "Local Headquarters 25 July 1943".

"To Activity Report for the Month of July 1943.

"Court martial sentences in counter intelligence cases.

"1) In accordance with the judgment of the court martial of the 114th---"

PRESIDING JUDGE CARTER: Let's have the exhibit number.

MR. RAPP: The exhibit number, Your Honor, is still Exhibit No. 295. It is still [NOKW-1439](#).

PRESIDING JUDGE CARTER: I am sorry.

JUDGE BURKE: I don't have the page from which you are reading.

MR. RAPP: You do not have the page, Your Honor?

JUDGE BURKE: I do not have it immediately available. What is the number?

MR. RAPP: The number, Your Honor, is page 70. Is that page missing from your document book, Your Honor?

JUDGE BURKE: No, it is here.

MR. RAPP: Paragraph 1:

"In accordance with the judgment of the court martial of the 114th Jaeger Division, the following persons were sentence to compulsory labor in Germany on account of recruitment of persons for bands on 25 June 1943:

Page 1,075

Steve Bojanic, born 1908 in Maglajani, District of Banja Luka.

"2) The court martial of the 114th Jaeger Division pronounced the following sentences on the persons below for band membership, courier services and recruitment of persons for bands on 30 June 1943:

"Sentenced to death:

"Duro Smiljanic, born 1917 in Grodjuani, District of Nova Gradiska.

"Milan, Jaglicii, born 1913 in Gredjani, District of Nova Gradiska.

"The sentence was carried out on 6 July 1943.

"2. Sentenced to compulsory labor in Germany:

"Svo, Gerovic, born 1924 in Gradjani, District of Nova Gradiska.

"Milan, Resanovic, born on 7 April 1920 in Vrbovljani, District Nova Gradiska."

We turn to the next page, Your Honors, page 71, and we find an additional individual, two additional individuals, on the top of the page who were also sentenced to forced labor in Germany. One individual is Peter Vukomanovic and the other one is Ljoposava Bosjodic.

Then in paragraph 3 on the same page we find:

"In accordance with the judgment of the court martial of the 114th Jaeger Division of 30 June 1943, the following persons were sentenced for proved aiding and abetting of bands:

"For compulsory labor to Germany:" and we find there again two names on the bottom of page 71.

If Your Honors please will turn to page 72, which is 63 and 64 of the German document book, we will find in paragraph 4 that one individual by the name of "Stana Siljak, nee Jasica, born in 1896 in Bjelajci, District of Bosn Dubica" was sentenced to a concentration camp for "aiding and abetting of and cooperation with bands".

Paragraph 5: "In accordance with the judgment of the court martial of the 114th Jaeger Division of 7 July 1943, the following sentence was pronounced:

Page 1,076

"For compulsory labor in Germany:" -- there again we have an individual and finally, in paragraph 6, we have another person, and that concludes page 72 and Document 1439, which was prosecution Exhibit 295.

Your Honors, the next document the prosecution offers is Document NOKW-1109, which will become Prosecution's Exhibit 296. With Your Honors' permission I would like to hand this document to the bench as it shows from a German captured report a uniform description in photographic form of the uniforms worn at that time by the partisans.

DR. LATERNSEER: Mr. President, the photograph shows a man in uniform but the further claim of the prosecution - namely, that this uniform was worn by all partisans - this claim will have to be proven.

PRESIDING JUDGE CARTER: It will be received in evidence for what it's worth.

MR. RAPP: If the Tribunal pleases, we are submitting now NOKW1523, which becomes Prosecution Exhibit 297. This, Your Honors, is a so-called Fuehrer Order, a directive from Hitler's headquarters, and pertains to the "Command and Defense of the Southeast Area" and it is called "Directive 48", dated 26 July 1943. There were eight copies made of this document. It is "top secret". Each copy was registered and this copy happened to be the fourth copy that was put out. It was carried by officer courier only. It states:

"Directive 48 for the Command and Defense of the Southeast Area.

"I. The measures taken by the enemy in the eastern Mediterranean in connection with the attack on Sicily lead to the expectation of impending landing operations against the defensive front of the Aegean along the line Peloponnesus - Crete - Rhodes and against the Greek west coast including the Ionic Islands before it.

"In the event of enemy operations reaching over from Sicily to the south Italian mainland, one must also count on an advance against the eastern coast of the Adriatic, north of the Straits of Otranto.

"In addition, the enemy command bases its plans on the band movements in the interior of the Southeast Area which it has increasingly directed according to plan.

Page 1,077

"At this time the neutral attitude of Turkey is beyond question. However, it continues to require the necessary attention."

Paragraph II:

"On the basis of this situation, the Command in the Southeast Area will be reorganized in agreement with allied Italy according to the policies below:

"A. Army:

"1) Effective 27 July 1943, 0000 hours, Commander-in-Chief Southeast takes over the command of the 11th Italian Army.

"2) German units who are at this time in the territory of this army and those intended for it will be tactically subordinated to the Italian Army and to the command authorities designated by it. This measure provides that the unified command of all German and Italian troops on the Peloponnese will be exercised by Headquarters of the German LXVII Corps and that the Headquarters of the Italian VIII Corps will be transferred to the area north of the Straits of Corinth.

"The German units employed directly for coastal security are under the command of the commanding Italian divisions in these sectors.

"3) German troops committed temporarily in Albania, Montenegro, and the Croatian areas near the coast, occupied by Italian troops, are to be subordinated tactically to the Italian Army Group East and/or the Second Italian Army."

On page 77 we find:

"B. Navy and Luftwaffe:

"Directives issued up to now concerning the influence on our allies exercised by Navy and Luftwaffe remain in effect. Commanding Admiral Aegean will ensure the putting in effect of German principles in the coastal sectors of the 11th Army where problems of coastal defense within the authority of the Navy are concerned.

"III. The primary task of the Commander-in-Chief Southeast is the preparation of the defense of the Greek coasts on the islands and on the mainland.

Page 1,078

It is a prerequisite for this task to free the supply roads by fighting, particularly the main railroad line, by annihilating the bands in Greece, Serbia, and Croatia, and to secure the required freedom of the rear area.

"For coastal defense, only the German principles for occupation and development of the coast are applicable. This applies also as far as Italian units are concerned.

"On primarily endangered coastal sectors German fortress battalions and - if these are insufficient - elements of the German divisions intended for reserves are to be employed on or near the coast for the support of the Italians. It is also required that important coastal batteries or other key positions are to be reinforced by German cadres."

It continues on the next page.

Page 1,079

It continues on the next page:

"If German units are inefficient as reserves, Italian units made ready for this purpose are to be placed under German Command and combined with German units.

Airports near the coast are to be defended by German forces.

Selection and development of all defense installations and reconnaissance for approach and assembly must take into consideration the expected enemy air superiority.

The primary task of Commander-in-Chief Southeast in the rear area is to annihilate the bands in Serbia and Croatia with the focal point along the traffic lanes to Greece.

Close liaison with Army Group East and the 2nd Italian Army and a possibly necessary commitment of German forces must bring about the carrying on of the fight against the bands with the greatest energy in their territory too. The hand centers near the coast, in particular, which might be especially dangerous during an enemy landing, must be cleared up. Beyond this, if the development warrants it, the Army Group must always be prepared to take over the costal defense in the Italian area with German forces which are to be as strong as possible.

IV. The distribution of forces suggested by Commander-in-Chief Southeast on 26 July 1943 is approved in general. Details will be ordered separately (handwritten note in left hand margin: "is enclosed") An order will be issued concerning the bringing up of army Troops."

Next page:

"Beyond this, it is intended during the next few months to form an Operational Army along the railroad Belgrade-Larissa. It will be organized from elements brought up from the Last to be composed of the Following:

2 Panzer or Panzer Grenadier Divisions 2 Mountain Divisions 2 Jaeger Divisions.

Further orders concerning this will be issued separately.

Page 1,080

The Greek territory occupied by German Troops and by the 7th Bulgarian Division, including the Islands and the neutral zone in Thrace is an area of operations Commander-in Chief Southeast exercises the executive power in this territory and he is authorized to transfer his authority to the Military Commander Greece.

The Chief of OKW will regulate his authority in a special standard order of procedure in accordance with the principle that all German authorities except the Wehrmacht stationed or to be stationed in Greece are to be subordinate to Commander-in-Chief Southeast and that they are made a part of the Staff of Military Commander Greece. The authority of the supreme Reich authorities to issue directives

concerning their professional spheres remains intact. However, channels of procedure go via the Military Commander."

Next page, your Honors:

"2.) The Plenipotentiary of the Reich with the Greek Government and Ambassador Neubacher, whose special mission and authority so far remain unchanged, are excepted from ruling until final agreement with the Foreign Office. The standard order of procedure for the Military Commander will provide for closest cooperation between the Military Commander and the above authorities.

"3.) The Commander-in-Chief Southeast will make felt an authoritative German influence on the military administration of territory occupied by Italian Troops only as far as is required by military leadership. If no agreement with the local Italian authorities can be reached, pertinent applications are to be made to the OKW.

B. 1) In the zone of operations in Serbia and Croatia Commander-in-Chief Southeast delegates the authority vested in him to exercise executive power to "Military Commander Southeast", the latter employing for this purpose in Croatia the Commander of German Troops in Croatia.

2.) The extreme importance of the Serbian area for the entire direction of the war in the Southeast necessitates concentration of all German Offices. For this purpose all non-military offices employed in Serbia are subordinated to Military Commander Southeast and they are made a part of his staff.

Page 1,081

Next page:

"The authority of the supreme Reich authorities to issue directives concerning their professional spheres is not affected by this subordination. However, channels of procedure go via the Military Commander.

Standard order of procedure will be issued by Chief OKW.

"3.) The Commander of German troops in Croatia and the German Plenipotentiary General in Croatia retain their present duties and authority.

VI. The necessary orders concerning the reorganization of staffs and command authorities as well as concerning supply will be issued by Chief OKW on my orders.

Any orders contradicting this directive are rescinded.

(signed) Adolf Hitler" Your Honors, if you will kindly turn to page 82 you will find, the distribution of this Hitler order as it went down from Hitler's headquarters to the various echelons at that time.

DR. HINDEMITH for Dr. Rauschenbach, for defendant Foertsch:

Mr. President, after the original of the document [NOKW 1439](#) was submitted, I would like to point out the following mistake. It is in Exhibit No. 295, page 47 of the German Document book, under the heading, "Communist way of fighting". As a supplement to this it states here that, "I never treated them without interrogation". After looking at the German document one must---

PRESIDING JUDGE CARTER: Let's have the English page.

MR. RAPP: 55, I believe.

DR. HINDEMITH: This is the beginning of the statement which is summarized under this title. My attention was drawn to the fact that here there must be a mistake because this statement does not refer at all to the Communists. After the document was submitted, I have noticed that the reference to the 7th paragraph of the statement which is under this heading in this paragraph, - there are also 6 other sections, but this is not immediately evident from the way in which the German original is made up.

Page 1,082

In my view this would also have to be expressed in the translation, that important parts of the document are not translated here. I therefore ask that it be noted in the minutes, that in the statements, under the heading "Communist way of fighting," the 6 preceding sections do not appear in the translation.

PRESIDENT JUDGE CARTER: It is agreeable to have it noted in the minutes of the proceeding.

MR. RAPP: Your Honors, we are offering now [NOKW 1032](#), which you will find on page 83 of the English, and page 74 of the German Document Book. It becomes Prosecution Exhibit 298.

This is an evening report of the unit, dated 11 June, 1943.

"61st Bulgarian Infantry Regiment reports at 1940 hours.

"Mopping up operation in the area north of the Bulgarian positions as far as Tara. In addition to the booty taken yesterday, 12 charges for extra-heavy mortars were found. The school in Tepca was burned down today. Infantry ammunition exploded in it. Around the school were established 10 graves about 8-10 days old of dead Communists. The school was evidently a temporary dressing station."

Then the "Mountain Jaeger Regiment 98 reports at 2020 hours."

"Own reconnaissance troop activity. North of 1947, three Communists shot dead, otherwise no contact with, nor observation of, the enemy."

"Evening Report of the Unit, 13 June, 1943. Mountain Jaeger Regiment 98 20 hours."

"Mopping up in the area 830, 843, gridline 75 running south to 874, from there east to 911 and the Susika sector."

On page 84,74 of the German document book, we will find an entry which was again made by the Mountain Jaeger Regiment 98:

Page 1,083

"About 200 houses burned down. Two civilians arrested, two Communists shot dead."

Then comes the "Morning Report of the Unit 14 June 1943. Mountain Engineer Company 54."

"13 civilians shot dead in the evening of 13 June. Otherwise nothing new."

Then we have the "Evening Report of March Group Salminger; 11 July 1943, 2130 hours."

"1.) Group Salminger will secure the area ordered from point 1120 which is 8 km. northeast of Leskovik) on both sides of the advance road towards the south as far as the bridge 1 km. east of Mawrowuni. Mopping up operation by 1 (Panzer Company of Infantry Regiment) 44 in the remainder of the Aoos--F1. to the Northwest pushing forward to Tsarsova. Countryside and village free of the enemy. Village was burned down. 11. (Company of Infantry Regiment) 79 pushing forward to the left of the Aoos--F1, to the northwest beyond Seja as far as Drasowa. 60 male civilians were shot dead during this, both villages were burned down whereby quantities of ammunition which was hidden in the houses exploded."

Page 1,084

MR. RAPP: The next we find an "Evening Report of the Group Salminger," dated 12 July 1943, at 2000 hours, with an illegible initial on it. It says:

Evening Report of Group Salminger 12 July 1943 2000 hours Five civilians shot dead by security guards of the 16 (Company of Mountain Jaeger Regiment) 98 in the district of Vreptska.

Reconnaissance by the 11th Battery in the strength of one platoon towards Moliwdoskepastos and Wlachos confirmed that further villages were free of the enemy.

During the afternoon, reconnaissance of the 9th (Company) of the 98th (Mountain Jaeger Regiment) shot at in Aidonochori. Moppingup operation initiated thereupon resulted in no further contact with the enemy. Aj Dimitrios and Aj Theodori (West and Northwest of Aidonochori) were burned down.

MR. RAPP: Then we have a teletype message, "Priority: 15 July 1943, 1730 hours," and it's to the "1b 1st Mountain Division Commander Saloniki--Aegeon Daily Report of 15 July 43

1.) Band Situation Italian Reports

c) on 11 July a leaflet written in Greek was found in the vicinity of Agrinion. In it the British claimed that the Greek bands should be regarded as part of the British Army.

2.) In the mopping up of the band areas East of the road NegradesKaries by two companies of the II Battalion of Mountain Jaeger Regiment 98 (to approach from Negrades at 0430 hours) and one troop of Artillery Battalion 56 (to approach from Karies at 0600 hours) so far no results. Bands are retreating to the neighboring valleys. Asproangeli and Elati were destroyed; Mondendri, Witsa and Kato were fired on with one heavy field howitzer.

Page 1,085

Final report still outstanding."

MR. RAPP: So much, Your Honors, for Document No. [NOKW-1032](#). Now, we turn to [NOKW-976](#), which Your Honors will find on Page 87, and Defense Counsel will find on Page 77. It will be offered as Prosecution's Exhibit No. 299. This is an excerpt from the War Diary of the 1st Mountain Division. It is kept in the Division Commander's Post on the 12th of November 1943. And it covers the

period 24 March 1943 to 31 August 1943. It then states by which offices this journal was being kept. The entry on the 16th of June 1943 goes on to say, "The day passes without special events occurring. The mopping-up operations can be regarded as having been essentially concluded. By burning farms and driving away all the cattle within the area of the 1st Mountain Division any means for existence is taken away from any bandits who perhaps may want to return to this area." On the 17th of June we find various tactical information, and, if Your Honors turn then to Page 88, we find under the 21st of July, somewhat at the bottom of the page, the following entry--Page 78 of the German Document Book: "Concerning the treatment of the civilian population it is agreed that men carrying arms will be shot as well as such as are near nests of bands. All villages which have afforded shelter to bands will be burned. Details of the execution and cooperation in this operation are to be decided on in a conference on 24 July in Durazzo." And on Page 89, under the same entry, the last sentence states, "The Commander of Saloniki and the Aegean will be informed about the planned participation of the Division in the so-called "Zara Operation." This concludes [NOKW-976](#). We have now NOKW-921, which is being offered as Prosecution's Exhibit No. 300. It is again notes from a War Diary, dated the 24th of July 1943, and is a telephone order to the 98th Mountain Infantry Regiment; and it says:

"The operation Salminger up until now has shown that the bands either retreat or disappear in the country as harmless working civilians. The division has not received permission to arrest the entire able bodied population. Therefore the following order are given:

Page 1,086

The arrest of hostages in all villages who by confrontation with the indigenous population

- 1.) determine commanders of bands and report them,
- 2.) determine extraneous population.

Extraneous population is to be treated as members of bands and deport ed. Male members of the population encountered carrying weapons or in the vicinity of bands are to be shot to death."

MR. RAPP: Then, there are some illegible initials, and it is handwritten signed "Ia."

At the bottom of Page 3 of the original, and at the bottom of Page 90 of this Document Book we find a "report concerning the mopping-up of 22nd to 26 July 1943," and it says "Booty brought in: 150 dead bandits; 90 hostages." And turning to the next page of the same document we find, under Paragraph 5 the names of villages burned down. And in addition to the names--there are approximately ten in all--there are "several small villages and huts on the mountain pasture land not shown on the map." And then we find under Paragraph 2, on the same page, or sub-paragraph 2, "Enemy: Furthermore it has been found that every mopping-up operation remains a complete failure if one does not round up at least all able bodied men or if one does not evacuate the entire civilian population." And then, under Paragraph 4 it says, "Numerous villages and small isolated settlements were burned down." Your Honors will turn to the next page. In the second paragraph, we find: "On the 30 July the Battalion returned to its bivouac area. Presumably the enemy will again occupy the area Anojion. The following villages were burned down." And there are eight of these villages--small places which were burned

down--and then finally we get a commendation from the individual whose initials were not legible under the original, and he says:

I expressed to the III Battalion of the 98th Mountain Infantry Regiment my thanks and recognition for their services in the moppingup operation carries out in the period from 27 July to 30 July. On account of the terrain and the great heat this operation made extraordinary demands of the men and beasts.

Page 1,087

MR. RAPP: This, Your Honors, concludes [NOKW-921](#). At this time, if the Tribunal pleases, we will present [NOKW-730](#), which, Your Honors, becomes Prosecution's Exhibit No. 301. This, Your Honors, is a report stamped secret, from the 373rd Croatian Infantry Division, Field Headquarters, dated 2 August 1943. Subject is "Taking over the Corps PW (that's Prisoner of War) Collection Point." Reference: "Commander of the German Troops in Croatia," and it gives then various reference numbers, "secret." To Commander of the German Troops in Croatia Branch Qu/Ic. If Your Honors will look at the bottom of the page, under Paragraph 6, of Page 94, which is Page 82 of the German Document Book:

"The Division requests that they be allowed to transfer reprisal prisoners (B) to the SD unit at Banja Luka. On the occasion of a conference with the Commander of the SS and SD in Banja Luka, Sturmoannfuehrer Hersmann, the latter requested that all reprisal prisoners (hostages) be transferred to him. The hostages should be turned over to the SD at Banja Luka by the Division with a statement giving the reasons for their being taken as hostages and their origin. SD Banja Luka is to inform the localities concerned, from which the hostages came, with the aid of propaganda staff and in cooperation with the Luftwaffe, that the hostages will be shot if an attack on German troops takes place in the area of the locality concerned or if bridges and the like are blown up. If such a case occurs, the Division informs the SD at Panja Luka and requests for shooting of hostages named. The hostages will then be shot by the SD at Banja Luka, and the communities concerned will be informed about the shooting, with details of the reasons.

The Division considers this regulation very useful and one which will bring results and requests that it be allowed to send the hostages there.

For the Division Headquarters: The 2nd General Staff Officer deputy (initialed) V. v. Captain."

Page 1,088

MR. RAPP: And it has a stamp on it, and it says "Transmitted 3 August 1943."

Page 1,089

Your Honors, the following pages--that is page 96 to page 98--we will not read into the record. I believe that these pages are a personal history statement and commendations and comments made by the superior officers of Major General Zellner who commanded one of the divisions we just mentioned, but we believe that in order to put this previous part of this document into evidence, we had to leave these pages attached to the document.

If your Honors please, we would like to offer at this time an insert to the document book and, as such, it has not been registered in the index. The document book in question is called "PS-744." It will become Prosecution Exhibit 302. We were unable to provide defense counsel with mimeographed copies of this order, so instead we are furnishing defense counsels now photostatic copies of the original. Your Honors, the pages of this document will become 98-A, -B, and -C, in the English document book, I do not know the numbers of the document in the German document book, number of the page in the German document book.

DR. LATERNSEER: The last page is on 83.

MR. RAPP: Your Honors, this document is a letter signed or is two letters: one letter signed by Himmler and one letter signed by the Chief OKW Keitel. It merely sets forth that "All male prisoners, from 16 to 55 years age, captured in guerilla fighting in the operational area, the army area, the Eastern commissariats, the Government General and the Balkans, will in the future be considered prisoners of war. The same applies to those males in the newly conquered territories of the East. They are to be sent to prisoner of war camps, and are to be brought from there for labor allocation into the Reich.

"The chief of the Army General Staff and the Reichsfuehrer SS after consultation will issue within their jurisdiction the necessary directives on the conscription and further treatment of family members."

Your Honors, we turn now to page 99 of your document book and this will become--pertaining to document No. [NOKW-714](#)--and this will become a Prosecution Exhibit 303. Here we have a document stamped "Secret, 373rd Infantry Division, Received 6 August 1943." It has again a number of initials on there which cannot be identified.

Page 1,090

"Commander of the German Armed Forces in Croatia Section Quartermaster /Ic No. 2016/43 'secret' Local Headquarters, 4 August 1943 Subject:

Treatment of Members of Bands, Prisoners of War, Hostages Reprisal Prisoners, Deserters, etc.

1. 1.) All male members of bands over 55 years old and all female members of bands are to be treated as bandits as before.

2.) All male members of bands between the age of 16-55 years are to be designated, in compliance with OKW directive for the Preservation of Labor, as Prisoners of War and to be treated as such.

3.) Those arrested in compliance with the order dated 10 July 1943, paragraph II, are to be treated, starting immediately, as hostages. The concepts of reprisal prisoners and exchange prisoners accordingly are no longer valid."

Your Honors will undoubtedly note that this order was published by the 373rd Infantry Division as a result of the order we have just put into evidence as Exhibit 302.

We now go to page 100 and it says:

"4.) The order Ic No. 3621/43, secret, dated 31 July 1943 remains valid to the full extent.

5.) Members of bands who voluntarily report to the troops will be treated as deserters, as before, and will be sent away for labor employment in assembly Camps. They are to be given brief identification papers denoting them as deserters.

Then to Paragraph # 2:

The Prisoners of War in the Corps Prisoners Camps Zenica and Prijedor are to be kept apart from the hostages and are to be identified as such with the letter "K" on their clothing. After undergoing sanitary measures they will be sent as laborers to Prisoner of War Camps in the Reich.

Page 1,091

To paragraph # 3:

Hostages are to be treated in compliance with Ic order No. 3621/43 secret, dated 31 July 1943. To distinguish them from Prisoners of War they are to be designated by the letter "G" on their clothing in durable paint and to be separated if possible from the Prisoners of War in the camps until hostage camps have been established.

To paragraph # 5:

All deserters are to be transferred to the Deserters Camp to Banja Luka. The Commander of the German Armed Forces in Croatia dispose over them."

Page 101, Your Honors:

"II. The divisions will report to the Commander in the Daily Reports villages destroyed, the daily arrivals of Prisoners of War hostages arrested, and deserters in addition to the number of bandits shot.

T. On the 1st, 11th, and 21st of each month, the divisions, the units directly subordinated to the Corps, and the Corps assembly camps at Zenica and Prijedor, Banja Luka, report to the Commander of the German Armed Forces in Croatia / Quartermaster Section, the number of Prisoners of War, hostages (male or female), and deserters insofar as they were in their custody on the preceding day. Prisoners of War, hostages, etc, who are being sent to another camp on the set days are to be reported separately by the departure camp, and are not to be counted by the receiving camp.

For the Commander of the German Armed Forces in Croatia The Chief of Staff Pfafferott Colonel, GSC" We now turn to [NOKW-169](#), which Your Honors will find on page 103 of your document book and the defense counsel will find on page 87 of the German document book.

Page 1,092

This is a communication signed by General Bader, the Commanding General and Commander in Serbia on the 5th of August 1943, at a time when the defendant Geitner was Chief of Staff to the aforementioned Bader. He states:

"The growing terror of the insurgents and Communist bandits against the peace-loving element of the population which does not follow --"

JUDGE CARTER: I don't believe you gave that an exhibit number.

MR. RAPP: Sorry, Your Honor. Exhibit 304.

"The growing terror of the insurgents and Communist bandits against the peace-loving element of the population which does not follow the enemy orders, works together with the occupying powers loyally and supports the orders of the Serbian government, the massacre of innocent members of the Serbian Volunteer Corps and others, make necessary the execution of further severe counter-measures.

"2) It is accordingly ordered that in extension of the order of 28 February 1943 Ia No. 652/43 Secret, also the male relatives, the brothers, as well as the fathers, of those persons who are with the insurgents or Communist bands can be used for execution of counter-measures.

"The counter-measures can, according to the severity of the deed to be avenged and which has rendered the insurgent or Communist bands guilty, consist in:

"a) Imposition of a fine up to 500,000 dinars, "b) Shipment to Germany for forced labor, "c) Utilization for reprisal executions.

"Persons are to be excepted from these counter-measures who "a) Are active as public officials, "b) Have declared themselves or are declaring themselves actively for the occupying powers or the Serbian government, "c) According to the knowledge of the competent military offices or own national authorities seriously refuse and condemn the actions of their relatives with the insurgents or Communist bands.

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"Further to be excepted from the counter-measures under b) and c) are persons under 16 and over 65 years, and finally from the countermeasure under b) persons who, according to the judgment of the competent German military surgeon, are not capable of forced labor.

"Insofar as in special cases measures against still further relatives (par. 1) or exceptions from the paragraphs 3 and 4 appear necessary, the local district commander competent in the place of residence of the person concerned is to make the decision.

"3) The imposition of a fine is to take place through the competent District Headquarters. The arrest for purposes of deportation or for use in reprisal executions is to take place through the District Headquarters in whose area the arrested persons live, in cooperation with the unit, the SD, the Serbian Volunteer Corps, or the national authorities.

"4) Arrested persons who are sent to Germany for forced labor are to be brought to the Semlin collecting camp; those who are to be used for reprisal measures are to be brought to the locally competent reprisal camps (cf. Decree of 28 February 1943, Ia No. 650/43, secret).

"5) The names of the relatives concerned in the counter-measures and the basis for these counter-measures are to be made public to the furthest extent at the residence of those concerned.

"6) The movable property of those persons who are with the insurgents or the Communist bandits (but not that of the relatives), as far as living stock is concerned, is to be taken away, by order of the District Headquarters, by the military police, according to the considerations of the specialist for agricultural questions. In cases of doubt, that living stock which was found on their property is to be treated as belonging to these persons.

"Confiscation of other property of the aforementioned persons has been worked out with the Serbian government.

Page 1,094

"7) If it appears necessary in special cases to burn down houses of those persons who are with the insurgents or with the Communist bandits (but not of the relatives), the locally competent District Commander makes the decision. The execution of this measure is to take place through the District Headquarters.

"In any case, the execution of such a measure is to be reported to me.

"8) If a person returns who was with the insurgents or Communist bandits, his relatives who were arrested are to be freed. The decision rests with the District Commander locally competent for the residence of the one returned."

And this instrument, Your Honor, is signed "Bader", and it also bears the initials "H.G." and two strokes, "G", and we believe this to be the initials of the defendant Geitner.

On page 106 of your document book, Your Honor, you will find NOKW148, which will be our next prosecution exhibit, 305. Defense counsel will find this on page 90 of the document book. This document is dated August 7, 1943, is marked "secret" and is addressed to the 809th Feldkommandantur, which is 809th Administrative Sub-Area Headquarters. It says:

"For the information of: German Liaison Staff with the 1st Royal Bulgarian Occupational Corps.

"Reference: Your request Va 0207 of 4 Aug 43.

"As retaliation for the surprise attacks at Runjkovac, Leskovac District, on 16 and 28 July 43, in which 2 members of the German customs border guard were killed and two were wounded, 150 Communist reprisal prisoners are to be shot.

"The shooting of reprisal prisoners from the operations against the villages of Brza and Todorovce, as well as the levying of the needed reprisal prisoners through an operation against the village Runjkovac, is authorized. The operation against Runkjovac is to be carried out with the concurrence of the 1st Royal Bulg. Occ. Corps and the SD.

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"Completion is to be reported by furnishing one copy of the proclamation."

There are some pencilled initials on this document, "L.R.". It is signed by the Commanding General and Commander in Serbia. "Ia No. 3302/43 Secret (Initial B)" If Your Honors will turn to the next page,

you will find a letter from the Commanding General and Commander in Serbia, Branch Ia, which is the Operations Branch, No, 826/43.

"Subject: Reprisal Measures.

"Reference: Your No. 2912/43 of 13 August 43/B.

"To : 599th Feldkommandantur (Adm. Sub-Area Hq) Belgrade "As retaliation for the murder of 2 and the wounding of 2 German soldiers by insurgents on the highway at Tozarevac on 9 August 43, 150 reprisal prisoners are to be shot.

"Since the political origin of the perpetrators could not be definitely established, 75 DM and 75 Communist reprisal prisoners are to be executed.

"Completion is to be reported by submitting a copy of the publication."

And that is a ration of fifty to one and twenty-five to one, respectively.

This document is signed by the Commanding General and Commander in Serbia again. The pencilled initials on it again are that of the defendant Geitner. The signature as such is illegible and it has merely the title of Major General under the illegible signature.

And on page 108 of the English and page 91 of the German, Your Honor, you will find a secret document dated August 15, 1943.

"To: C-in-C, SE "For the information of:

Germ. Plenip. Gen. in Croatia.

Cmdr. of the German Troops in Croatia "Daily Report of 15 August 1943 "(Line 9) 1st Royal Bulgarian Occupation Corps "(Lines 11-17) 2. In operations at Arilje, further 19 enemy dead, 84 "bandit accomplices arrested.

Page 1,096

62 houses "burned down. Bulgarian losses up to 7 dead (through own mortar fire)."

THE PRESIDENT: We will take our afternoon recess.

(Thereupon a recess was taken.)

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The Tribunal is again in session.

MR. RAPP: Your Honors will remember that we were dealing with NOKW-148, Prosecution Exhibit 305, the English Document Book 108, and -- page 108, and German Document Book page 91, this case, a report for the information off the German Plenipotentiary General in Croatia, and the Commander of the German Troops in Croatia, and it states that in operations at Arilje, further 19 enemy dead, 84 bandit accomplices arrested; 62 houses burned down. Bulgarian losses up to 7 dead through own mortar fire.

18 Bulgarians and 1 German custom official fell into the hands of the bandits, who promised in writing to free the prisoners if an officer of the Serbian Volunteer Corps Company Arilje was shot by the Germans. Measures for liberation of the prisoners underway. (Lines 23-24) on the original which is hereunder:

(Lines 23-24) on the original which is hereunder:

"15 Communist reprisal prisoners shot in retaliation for the murder of a mayor and the burning of threshing machines."

"Commanding General and Commander in Serbia Ia.

No. 3485/43, Secret."

Signature illegible.

On page 109, Your Honors, we find a report to the 809th SubArea Headquarters in Nis, paragraph 1:

In retaliation for the surprise attack on the quarz washing plant in Rgotina on 1 Aug. 43, 10 Communist reprisal prisoners are to be shot;

The murder of the village eldest of Bukarevac, Sreten and Cifkovic on 30 July 43, 10 Communist reprisal prisoners are to be shot;

The killing of the leader of a mixed harvesting crew, Unterwachtmeister of the Aux. Col. Tremmel on 7 Aug. 43, 50 Communist reprisal prisoners are to be shot.

Completion is to be reported by submitted a copy of the publication of this.

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On page 110, Your Honor, we find to "Commander-in-Chief Southeast" dated 24 August 1943.

For the information of: German Plenip. Gen. in Croatia Cmdr.

of the German Troops in Croatia HQ XXIst Mtn.

Corps Secret Daily Report of 24 Aug.

43 (line 11) 1st Royal Bulgarian Occupation Corps:

(lines 14-16)

2.) Enemy losses in operation Sanrilje (cf. Daily Report of 21 Aug. 43) 372 DM followers dead, 351 suspects arrested, 460 houses burned down (final report).

(lines 19-25)

4.) To yesterday's report, No. 7: Surprise attack came from 500 men strong DM band on force in the strength of 4 German police, 24 A ux. men (Moslems) , 10 Serbian State Guard Men. Losses after fourhour battle 3 police dead, 15 aux. men, that is, SS-men missing. Band retreated into the mountains,

village residents taken along due to fear of reprisal measures, pursuit of the bandits by police under way, Stragari was burned down.

(lines 38-39)

Target: 25 Aug. Surprise Attack on DM officer conference with English in the Homodje Mountains.

Your Honors, on page 11 you will find that this is signed, "Commanding General and Commander in Serbia," and, "Ia. No. 3673/43 Secret" and the signature is illegible.

Your Honors, this completes Document [NOKW 148](#), our Exhibit 305.

The next document, [NOKW 155](#), which the Tribunal will find on page 112 of the English Document Book, defense Counsel will find on page 94 of their document book, will be introduced and submitted by the Prosecution as Document Exhibit No. 306.

This is a copy -- the original is a copy. It is, "Secret":

Page 1,099

"The Commander-in-Chief Southeast Headquarters, 10 Aug. 1943 simultaneously Acting Commanding General, Army Group E O r d e r for Treatment of Prisoners and Deserters in Bandit Fighting.

Reprisal and Evacuation Measures.

Treatment of Prisoners and Deserters, execution of revenge measures and evacuations are not matters of administration but rather measures of combat and/ or of combat preparation and of security.

II. The Fuehrer order concerning the importation of human material into the Reich to ensure the necessary supply of coal is authoritative for the treatment of prisoners; accordingly all captured bandits are to be deported to the Reich by way of the prisoner of war collecting points.

III. Orders respecting this matter are in detail as follows:

1.) Captured bandit members are to be deported to the prisoner collecting points; the commanders are to examine whether the previously erected prisoner collecting points are sufficient. Further transport from the collecting points into the Reich is to take place according to separate order of the Oberquartiermeister.

An exception to this regulation is possible only if the combat situation does not permit a deportation.

The seizure of individual bandits for intelligence missions (intelligence units, intelligence branches, SD, Secret Military Police) is still necessary.

2.) Deserters are also regarded as "prisoners". Considering the good experiences encountered in Russia, which resulted from a better treatment of the deserters, from propaganda, etc. shooting of deserters must be discontinued.

Orders concerning deserter propaganda proceed through the Commander-in-Chief, Southeast, Branch Ic/Intelligence Officer.

3.) As already ordered in the directive of the Commander-in-Chief.

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Southeast Ia/Id No. 566/43 Secret of 14 July 43, reprisal measures are to be executed as heretofore with most severe means, if an chemical attitude is discernible in the population.

In territories occupied by the bandits, in which surprise attacks have been carried out, the arrest of hostages from all strata of the population remains a successful means of intimidation.

Furthermore, it may also be necessary, to seize the entire male population, insofar as it does not have to be shot or hung on account of participation in or support of the bandits, and insofar as it is incapable of work, and bring it to the prisoner collecting points for further transport into the Reich.

Surprise attacks on German soldiers, damage to German property must be retaliated in every case with shooting or handing of hostages, destruction of the surrounding localities, etc. Only then will the population announce to the German offices the col collections of the bandits, in order to remain protected from reprisal measures.

Reprisal measures are to be ordered by the divisional commanders and/or independent regimental commanders, in order to avoid encroachments on subordinate offices and individual soldiers, and to prevent a false, unjust treatment of the population.

4.) In the territories especially valuable for the conduct of battle, the male inhabitants between 15-60 years are to be evaluated. They are to be collected together in guarded labor camps and /or insofar as they are capable of working, be transported into the Reich.

Page 1,101

Evacuations must be carried out decisively, in order to prevent a premature escapt of the population.

The territories to be evacuated are the strips of coast especially suitable for landings, area of important pass heights and pass lanes, strips of terrain along especially dangerous railway line stretches, etc. The evacuations completed are to be reported through the commanders to the Commander-in-Chief Southeast.

The order for the treatment of bandits hitherto authoritative; Addition to Wehrmacht Commander, Southeast, Ia, No. 2868/42 Top Secret of 28 Oct 42 for the Fuehrer order re combatting of so-called commando operations - is herewith rescinded.

Sgd. Loehr"

DR. LATERNSE: Your Honors, I ask that the following be corrected. There have been two mistakes in translation. Under Roman I of this order the words "revenge measures" -- this has been translated as "revenge measures." I believe that it would be better, or rather correctly translated as "retaliation measures, " for the word "revenge" has its root, I assume, in the French word "revanche." That means

"revenge" in English. The second translation mistake appears under Roman III, No. 3. That's on the English Page 113, at the top. The words "in territories occupied by the bandits" -- they are translated "as occupied by partisans," but the German should be translated by another word. To put it like this, that is to say "occupied by bandits" would be putting it too strongly.

JUDGE CARTER (Presiding): Is there any objection to changing the first translation?

MR. RAPP: We will change, Your Honor; it's agreeable to us, Your Honor.

JUDGE CARTER (Presiding): All right; it will be so changed.

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What do you say as to the second?

MR. RAPP: We suggest, Your Honor, that this be put up to the Interpreter, in the second case, and accept his interpretation.

JUDGE CARTER (Presiding): That's our practice. Hand it up to the Translator.

MR. JACOBSON (Court German-English Interpreter): The passage in question occurs in the English Document Book on Page 113, under 3. And you might translate it, and it probably would be the right translation to say that "territories penetrated by the bandits," rather than say "occupied by the bandits." (Dr. Laternser speaking) Dr. Laternser suggests "infested by bandits, "infested by bandits," which I think is just as good.

MR. RAPP: It's quite agreeable to us, Your Honor.

JUDGE CARTER (Presiding): All right, you may proceed.

DR. HINDEMITH: Hindemith, as representative for Dr. Rauschenback, for the Defendant General Foertsch. In my view, as a further mistaken translation in the same document, under Roman III, No. 2. (Giving the German version)

MR. JACOBSON (Court German-English Interpreter): He's now giving the German version.

DR. HINDEMITH: The word "unterbleiben" is translated, "must be discontinued." Discontinue in my view means to cease; to cease in German means that something had taken place before, which is now ceasing. Unterbleiben in the German does not comprise this meaning. For that reason, I think the English word "discontinue" does not mean "unterbleiben." For this reason I ask that the document be submitted to the Interpreter in order that he may translate it.

MR. RAPP: Your Honor, we agree to the suggestion made by Defense Counsel, and it won't be necessary to submit this document to the Interpreter.

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JUDGE CARTER (Presiding): Being agreed to, it will stand as suggested.

DR. HINDEMITH: Thank you.

MR. RAPP: Your Honors, we are turning now to Page 115 of your Document Book, and we have Document No. NOKW-735, which will be Prosecution's Exhibit No. 307. This is a document from the 369th Croatian Infantry Division, dated the 29th of July 1943, and it is secret. And the reference is "Commander of the German Troops in Croatia, Ia/Ic No. 3556/43 secret of 28.7.43, Subject: Treatment of Bandits."

"By virtue of basic orders for mopping-up operations in the operational area, Croatia - finally dated 10.7.43 - all Communists (bandits) were to be shot to death and all suspected persons to be arrested.

As bandits were considered:

- a) Whoever participated in combat and was found with arms.
- b) Whoever is convicted of communist activities.
- c) Who obviously, without compelling reason, wanders about outside of settlements.

Women and youths also are to be apprehended. By virtue of the decision of the Fuehrer, these bandits are no longer to be shot to death but to be treated as prisoners of war. The reason for that is:

- 1. To acquire people capable of work.
- 2. To stimulate the bandits to desert.
- 3. To counteract enemy propaganda that the Germans shoot everybody.

Members of bands from 16 to 55 are to be sent to prisoner collecting points.

The old directives are applicable for reprisal measures. Captures persons, who are suspected of having aided actively or passively in acts of sabotage, are to be used as hostages for the carrying out of measures.

Page 1,104

They are to be reported to the commander of German troops in Croatia, Section Ic. This report is to contain cause and place of arrests as well as the personal history and the same report is to be sent to the prison camp Zenica.

Safety measures are to be taken for billets and railroad transports as before.

It is a matter of course that now, as before, strict procedure against Communist bands will be applied in combat.

For the Divisional Command 1st General Staff Officer (Signed) Bussman Lieutenant Colonel G.S.C."

MR. RAPP: And on Page 97 of the German Document Book, still Page 116 of the English Document Book, the 369th Croatian Infantry Division publishes a letter. Subject: Ic-Duties. (MR. RAPP: Duties of the Intelligence Officer)

A. Prisoners, deserters, captured documents.

I. Leaders of all ranks, as well as those prisoners or deserters who may be regarded as intellectuals because of their origin, their position with the Communists and because of the impressions they make, are to be transferred to the Division, Section Ic. The escort detachment is to be given at least a slip of paper showing place and time of capture, or desertion respectively and the transferring authorities. The same thing applies accordingly to captured records. Furthermore, it must be guaranteed that this accompanying slip also reaches the Division.

II. There is reason to point out that the designation "partisans" is prohibited. All verbal and written communications are to use the designation "Communists" or "Bandits."

III. Cap and rank insignia (Officers and men) of killed or captured members of bands are to be collected and to be sent to the Division Section Ic.

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IV. In case of combat actions with invasion troops, the number of prisoners made is to be reported immediately to the Section Ic. Speedy transfers of utmost importance.

In case of delay, the division will have the prisoners collected or carry out an interrogation on the spot.

Except Military passes and pay books - which will be taken from these prisoners after they reach the prisoner collecting camp - all civilian and military identification papers, such as:

Military driver's license, enlistment papers for the unit, military identification papers, seamen's papers, leave passes, railroad passes, ration cards, identification cards (unless they are replacing the Wehrpass) foreigner identification cards, passes through the lines, professional papers, etc. are to be sent to the Division, Section Ic.

If at all possible, men killed in action are to be searched. Anything found is also to be sent to the Division.

.....

(signed) Neidholdt" The next document to be offered, your Honors, will be [NOKW-216](#), prosecution Exhibit 306.

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This document is dated the 21st of August, 1943, and it is from the Commander of Fortress Crete, the Isle of Crete. Reference: Commander-in-Chief Southeast. Subject: Order pertaining to the treatment of prisoners and deserters in band combat reprisals, evacuation measures, and there is a stamp on this document which says: "Summary Court of the Commander of Luftgau Staff Crete, 24 Aug. 1943, Enclosure 1, Files, (illeg.)."

"1) The order of the Commandant of the Fortress Crete Ia No. 7309/43 secret dated 26.7.43 (individual order for the defense No.17) remains in force to the full extent. It is especially pointed out that until further notice the commander of Fortress Crete reserves to himself the right of reprisal measures.

2) Captured members of the band are, after interrogation by Secret Field Police, etc., to be sent to compulsory labor camps with the special notation that they are dangerous band members. Further transport will be effected by the commander of the Fortress.

The order that persons attempting to escape, resist or are found in the possession of arms, are to be shot to death immediately, remains unchanged.

3) For Crete only shooting to death is to be considered. Hanging falls under the concept of reprisal measures. Orders for these measures will be issued in due course by commander of Fortress Crete.

4)(The following paragraph is crossed out in its entirety with the handwritten notation: "substituted by Commandant Fortress Crete, dated 26.8.43, see page 1122") For the evacuations ordered by the Commandant Fortress Crete Ia 7283/43 secret dated 24.

7.43 paragraph (4?) of the order referred to above is valid. The evacuated male inhabitants are also to be sent to compulsory labor camps. Evacuations which have taken place are to be reported from case to case by the Oberabschnitte which is the (SS Administrative Districts), stating the number of male persons sent to labor camps.

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5) Directive Commander in Chief Southeast Ia/F No. 120/43 secret dated 27.7.43 distribution stopped; directive Commander in Chief Southeast Ia/Id No. 1566/43 secret, dated 7.43 contained in individual order for the defense No. 17 (signed) illegible" The next document will be [NOKW-1488](#), your Honors.

You will find this on page 121 of you document book. Defense counsel will find it on page 101 of their document book and it will be prosecution Exhibit 309. This is a rather voluminous document consisting of a number of telegrams and TWX sent again to the OKH, Army General Staff Operations Section. That is the Oberkommando des Heeres, High Commander of the German Army; and we start on page 121 at the bottom, Daily Report from Commander-in-Chief; Southeast, from 1 August 1943. "Greece: 1st Mountain Division: During reconnaissance East of Parga contact and engagement with small band; 11 enemy dead, 2 machine guns and other weapons captured, 1 band village destroyed." And at the bottom of this page 122, or rather page 4 of the original, it is signed by the Commander-in-Chief Southeast, High Command Army Group E.

We then turn to page 123 and we will find at the bottom again a priority cable to OKH Army General Staff Operations Section, "Daily report from the Commander-in-Chief. Greece: On Rhodes lately repeated cable sabotage. Italian mopping up operations proceeding in the Northern sector of Euboea. And then it continues on the next page saying: "Band group near Volos repelled by Italian pursuit detachments." And then it says "10 bandits shot. In the evening of 1 August 4 enemy planes over the sea." Again signed "Commander-in-Chief Southeast High Command Army Group E."

The next one, your Honor, page 125, at the bottom, Greece again: "On Crete movements to mix formations have commenced. Local band activity.

Page 1,108

Southwest of Naepolis contact and engagement between 2nd Company Brandenburg Regiment and medium-size band. 15 enemy dead. Numerous wounded, 1 village destroyed, several inhabitants were shot for favoring bands." And that again is on page 126 authenticated by being signed "Commander-in-Chief Southeast (High Command Army Group E).

We then turn to page 127; it is 105 in the defense counsel's books, and in the middle of the page we have a stamp again "Army General Staff Operations Section, received on the 6th of August 1943," and a report from the Commander-in-Chief Southeast for 5 August, 1943. Greece-and that concerns itself with purely tactical matters but if your Honors turn over to page 128 of the same telegram, the reference pertaining to Serbia, it states: "Continuing local attacks and clashes between insurgents and Serbian Police, 10 Communist reprisal prisoners were shot."

And then at the end it is signed again by C-in-C Southeast, Amy Group E.

If Your Honors turn to page 129, will you see again to whom this report is being sent and on page 130 you will find on top "1st Mountain Division: Engagement during reconnaissance Northwest of Paramythia, one village of the bands was burned down."

And the second paragraph, the second last line: "3 band villages destroyed, 3 depots with arms, ammunition, clothing, and rations taken. Hopping up operations continue.

"Area 373rd Division --" and there it says: "Total of 6 dead, 6 missing, Reprisal measures initiated." Signed "Commander-in-Chief."

Page 131, "Local band activity," Greece: "At Orestikon another band village and one enemy ammunition depot destroyed by 2nd Company Brandenburg Regiment."

It continues on page 132: "During mopping up operations along the costal road Northwest of Himare 1 band village was destroyed, Attack on Italian motorized column was repelled." Signed "Commander in-Chief Southeast."

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Page 133, received by the Army General Staff on the 12th of August sent out by the Commader-in-Chief on the 11th August. In the middle of the bottom of the page, "Strong band forces reported in the area 15 km. North Northwest of Parga. Combing out of the area South of the river Asoos without contacting enemy. 3 villages of the bands were destroyed." And it is signed on page 134 of the document book again by the Commander-in-Chief Southeast.

135, 14th of August, Greece, bottom of the page. "Retaliation measures for attack on German column on the road Athens." And the next page continues: "These .." that is (yesterday's Daily Report) are proceeding. Vyllia (15 km. South of Thebes) has been evacuated." Then it says: "80 band suspects arrested.

"Area of the SS Division: IInd Battalion of the 1st Regiment encountered enemy superior in numbers in the area 40 km. West of Tara who had heavy weapons.

"Operation against band villages East of Stolac concluded, 2 villages destroyed."

Signed by the Commander-in-Chief Southeast.

Page 137, this is a report dated the 15th of August. 1st Mountain Division in the coastal area of Amuzia "arrested 1 British agent and 70 band suspects, and destroyed two villages. In reprisal for the attack on a German gun near Leskovic, reported yesterday, 3 villages were burned down.

.....

Serbia: Weather clear. Local band activity. Northeast of Sjenica German Frontier Guard shot by Cetniks. During operation at Arilie 19 additional enemy dead. 84 supporters of band arrested, one village of the bands destroyed. During reconnaissance in the mine area of Ivanjica 6 Communists taken. Near Boljevac and Usica harvest and sabotage and attacks on communities; 20 members of the Serbian State Guard kidnapped or deserted.

Page 1,110

"As reprisal 15 Communist prisoners shot."

"Commander-in-Chief Southeast."

That, by the way, is crossed out.

Then page 139, Daily Report, Commander-in-Chief, dated 18 August 1943, Serbia, "Weather: clear. Slight local band activity. As reprisal for the murder of two mayors, 30 Communists and 20 Cetniks were shot." Commander-in-Chief Southeast.

Page 131 at the bottom of the page, Daily Report from the Commander-in-Chief, dated 19 August 1943, and page 142, it says: "Greece: Local band activity. In Crete, in a village Southwest Rethymnon, 1 German Sergeant who was shot by unknown perpetrators. As reprisal 10 Greeks were shot, male population of the village transferred to Forced Labor Camp." This is a ten-to-one ratio in this case.

Then "Serbia, paragraph 4." At the end of this paragraph, "German Customs Officials and 18 Bulgars who had become prisoners during the fighting at Arilje were released by the Cetniks upon threat of severe reprisals."

Page 143 or 119 of the German Document Book, dated 20th of August 1943, at the bottom: "Greece: Mopping up operation started in the Peloponnes against renewed band activity in the area Southwest of Xylokastron. During search in the area of Almiros 2 British parachutists and arms secured, 26 suspects arrested, 3 villages burned down. And again signed "Commander-in-Chief."

Page 1,111

Finally on page 145, which is dated 21 August 1943, and we turn to page 146 on top where it says:

"Greece:

Weather: Sunny, stormy. In the Peloponnes mopping up operations in the area 30 km Southwest of Xylokastron concluded without any enemy contact of consequence. 2 villages destroyed, ammunition

captured. Mopping up operation by the 1st Company Brandenbrug Regiment in the Kidairon Mountains so far without contact with the enemy.

"Serbia" it states at the bottom:

"Through sabotage numerous machines were severely damaged and 33 Communists were shot in reprisal."

Page 147 at the bottom of the page, dated the 22 August, the very last sentence says: "The enemy suffered 14 dead:" and the next page states: "large quantities of cattle and ammunition was seized, 4 band villages destroyed."

Signed Commander in Chief Southeast.

Page 149, Your Honors, a telegram dated 23 August addressed to OKH, and on page 150 we find on top.

"During mopping up operations our combat group destroyed several villages."...."Two suspected villages burned down."

And then the last paragraph says, "In the area South and Southwest of Mount Parnessee two bands of medium strength reported."

.....

"In villages explosives and ammunition secured, villages destroyed. A monastery near Amphilekia suspected of harboring bands set on fire from the air. Reconnaissance activity by the 1st Mountain Division in the coastal area and in the area of Joannina continued. 2nd Company Brandenbrug Regiment clashed with small band Southwest of Neopolis, 1 bank village burned down."

Finally on page 151, fourth paragraph:

"Serbia" it say in the bottom line of first paragraph: "North of Kragujevac 18 Serbian Auxiliary Policemen supposedly shot by Communists."

Page 1,112

"Reprisal measures initiated."

"Commander in Chief Southeast."

And page 152 another telegram to the OKH, this time dated 25 August. The last line says:

"Several enemy deat 1 band village and 1 ammunition depot destroyed."

Page 153, we will identify this document as being sent on the 26 August 1943, and on page 154 we find its contents. It says: under "Greece." "23 hostages arrested and transferred to Forced Labor Camp.?"

Page 155, dated the 27 August 1943, we find the contents on page 156. It says:

Commander Saloniki Aegina: 2nd Company Brandenburg Regiment had local contact with bands in the area South Southeast and Southwest of Arges Orestiken, 2 villages of the bands were burned.

6. Employment of the Luftwaffe:

25 August Croatia. 9 "Ju 52" transport planes in Albanian and Serbian territory.

26 August Crete: Reprisal attack on the village of Wiorissa (100 km Northwest of Tympakion) with 5.25 tons of demolition bombs.

Croatia: Report has not been received yet.

Signed Commander-in-Chief Southeast.

Your Honor, we turn to page 157, which is page 130 of the German Document Book, and this is a report which was sent on the 28 August 1943. We find the contents on page 158 at the top. It says:

"Greece.

"Weather: Sunny, hot Slight local band activity (crossed out) In Crete the band village of Worica was destroyed by bombing after evacuation of the population and removal of men to Forced Labor Camp."

And that again is signed by Commander in Chief Southeast.

This, Your Honor, finishes Document 309, which was [NOKW 1488](#).

As the last Document of Document Book 12 we are offering Document NOKW 1437, which will be known as Prosecution Exhibit 310.

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This, Your Honor, is a document which comes from the Commander in Chief Southeast, simultaneously charged with Commander of Army Group E, and it pertains to the new regulation of command authority in the Southeast.

1.) Commander-in-Chief of Army Group F (Belgrade), Field Marshal Freiherr Naiwatian von Weichs will be charged with the Command of the entire German area of operation of the Southeast area.

Chief of General Staff of Army Group E.

Major General Foertsch.

2.) To the High Command Army Group [F will](#) be subordinated Army Group E (Commander-in-Chief: General Loehr, Chief of General Staff:

Brigadier General Winter).

2nd Panzer Army (Commander-in-Chief, Lt. General of Infantry Rendulic, Chief of General Staff:

Colonel G.S.C. v. Grolmann).

German General-Plenipotentiary in Croatia (Major General von Gleise-Horstenau) within the limits of his duties beyond his authority and as an attache and territorial Commander.

The military attache in Sofia (Colonel G.S.C.

Grade within the limits of his duty beyond his authority as an attache.

3.) The High Command of Army Group E retains command over Greece including the Island eliminating the previous Designation, "Commander-in Chief Southeast" Channels of Command - Enclosure 1.

4.) The 2nd Panzer Army receives Command of Croatia and Serbia as well as of territories which may be subsequently occupied in the Southeast area outside of Greece. Channels of Command - Enclosure 2.

5. OKH/Army General Staff will issue orders concerning the reorganization of the existing offices within the area of the Commander-in-Chief Southeast.

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6.) Special orders will be issued concerning the reorganization of counter Intelligence and transportation.

7. Command authority of supply and of administration is established pursuant to OKW/WFST/Qu (Administration./V) No. 004124/43 top secret of 7 August 1943 on the basis of the new regulation of command authority.

Special orders concerning this will be issued.

Channels of Command - Enclosure 3 Army Group F and within Greece, High Command Army Group E will order the time of transfer of command.

The Commanding General and Commander in Serbia will transfer to Mitrovica by 22 August at least the command echelon of the New Mountain Corps Headquarters XXI.

(signed) Loehr General And then it goes on giving the distribution of all the units that have previously been mentioned.

Then your Honor, on page 163, and 164, which is page 138 and page 139, German Document Book, you will find same schematic presentation on the Document of the command generals, that were set up under this new directive, including designation of various headquarters. If your Honors permit I would like to pass this document up to you so that you yourself could have a look at this original document.

This, Your Honor, will complete Document Book 12, and if the Tribunal pleases, Mr. Fenstermacher will at this time start with the presentation of Document Book 13.

DR. JON JAGDWIRZ, for the defendant Rendulic, Your Honors, unfortunately I have to object to the presentation of Document Book 13, which I received only this morning. As far as my defendant Rendulic is concerned I could not talk over these documents with him previous to this session. For this reason I will object to the submission of this document book before 24 hours have elapsed, and I believe this is a usually acknowledged regulation.

MR. FENSTERMACHER: If Your Honors, please, the only documents in document book 13 which I believe we will have time to introduce today will only concern biographical affidavits of the defendants

von Weichs, and General Rendulic, and perhaps we may reach the biographical affidavit of General Dehner.

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Should Your Honors wish us to omit the presentation of the biographical affidavit of Dr. Tagdwik's defendant General Rendulic at this time, we can do that, and simply between now and 4:30 simply read the biographical affidavits of the defendants von Weichs and Dehner.

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DR. FROESE (For the Defendant Dehner): I raise the same objection which Dr. Jagdwitz has just made, applying to the defendant Dehner; only during the course of this morning we had opportunity to look at Document Book XIII.

MR. FENSTERMACHER: The original copies of all the documents which will be introduced in connection with Document Book XIII have for several weeks been in the defense information center.

PRESIDING JUDGE CARTER: Defense counsel has been objecting to hearing this before a twenty-four hour period; I think it will have to be sustained. We wish, however, that Prosecution make every effort to serve these document books in time so we can keep the processes of the court operating. We realize you run into difficulties but we urge you to keep these matters in shape so the court will not have to adjourn. I take it since this objection is sustained that there is nothing the court can take up at this time.

MR. FENSTERMACHER: I would like to make one statement for the record if I may before we adjourn today. Your Honors will recall that last week, representatives of the defense counsel and two members of the Prosecution staff met with your Honors in chambers with respect to turning over to the defense various documentary evidence which is here in Nurnberg in the possession of the Prosecution. The Prosecution at that time offered to turn over to the defense, and Dr. Laternser on behalf of the defense representatives, accepted the Prosecution's offer to turn over all the documentary material in the possession of the Prosecution here in Nurnberg which we do not intend to use in our direct case, that is, with the exception of material which we are holding back for cross-examination purposes. I should like, therefore, at this time to hand to Dr. Laternser a copy of a memoranda which I have today written to our document room asking them to turn over one photostatic copy of each of the below listed documents which number thirty-nine to the Defense Information Center for the use of the defense counsel in this case, Case No. VII. There will be other lists which I shall prepare within the next few days and I believe that within the next week we will be able to turn over to the defense all the material which we are not intending to use in our direct case or withholding for cross-examination purposes.

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Should Dr. Laternser not find these documents in the Defense Information Center within the next two or three days, if he will call it to our attention, we will see that it is expedited. I think, your Honors, that is all we have for today.

PRESIDING JUDGE CARTER: To the extent that you have served them I assume that it is acceptable to Dr. Laternser. There is nothing more we can do about it now?

MR. FENSTERMACHER: No, I think not.

MR. DENNEY: Excuse me, I have been advised by Dr. Laternser that the question of the removal of the uniforms has been raised and I wonder if we might have just a statement from the court on the record about it so we can transmit it to the prison authorities so there will be no--

PRESIDING JUDGE CARTER: I might say it is agreeable to the Tribunal that they may remove their coats and wear suitable shirts in the presence of weather conditions like this; that the Tribunal will have no objection to that whatsoever.

MR. DENNEY: And certainly as has been expressed to the Tribunal the Prosecution has no objection to this at all. Prosecution has nothing further at this time if your Honor please.

PRESIDING JUDGE CARTER: Due to the fact that we are unable to proceed further, the Tribunal will adjourn until 0930 hours in the morning.

The Tribunal will recess until 0930 o'clock tomorrow morning.

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, 30 July 1947 0930, Justice Wennerstrum, presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal 5, Military Tribunal 5 is now in session. God save the United States of America and this Honorable Tribunal. There will be order in the Court.

THE PRESIDENT: Mr. Marshal, you will ascertain if all the defendants are present in the Courtroom.

THE MARSHAL: May it please Your Honor, all the defendants are present in the Courtroom.

THE PRESIDENT: Prosecution may proceed.

MR. WENSTERMACHER: May it please the Tribunal, before passing on to the introduction of documents in Document Book XIII, the Prosecution has made up the list of counts and the defendants against whom the documents in Document Book X are offered. I hand three copies to the Tribunal. I hand 22 copies to the defense counsel, two copies to the Secretary General, and two each to the Court Reporters and Interpreters.

These should be marked Exhibit 263-A for identification, and should be given the pages 81 A and B in the German, and 110 A and B in the English Document Book. With the introduction of the Documents in Document Book XIII, we pass to the fourth and final period in this case, the period which, from the standpoint of numbers of defendants involved, is the most important period. We will be concerned from now on with the period of time dating from the end of August 1943 until October 1944, when German

troops were withdrawn from Greece, Albania and Yugoslavia. We shall be concerned largely with the "Order of Battle Chart" which appears on the wall of the Courtroom.

Your Honors will recall that in the end of August 1943 a reorganization in the Southeast Command took place. Field Marshal Weichs was made Supreme Commander Southeast, and simultaneously Commander in Chief of Army Group F. His Chief of Staff was General Foertsch, who carried over from General Lohr, as he had previously carried over from General List to General Kuntze, to General Lohv.

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In Serbia General Felber was made military Commander Southeast, and simultaneously Military Commander of Serbia. The defendant Geitner, was Chief of Staff to General Felber, as he had earlier been Chief of Staff to the Commander in Serbia, General Bader. In Croatia a General Rendulic became Commander of the 2nd Panzer Army. He was assisted by General Luders as Commander of the 15th Corps and late in November 1943 General Luders was succeeded by the defendant Leyser, as commander of the 15th Corps. Also subordinate to General Rendulic as Commander of the 69th Special Reserve Group, was the defendant Denner.

In Greece General Loehr, who had earlier been Commander in Chief Southeast, and simultaneously Commander of Army Group E, retained the Command of Army Group E, largely concerned with the defense of the Greek mainland and Greek Islands. Subordinate to General Lohr in Greece was the defendant Felmy, as commander of the 68th Corps, and also in the Epirus section of Western Greece was the defendant Lanz, as Commander of the 22nd Group. Also in Greece was the defendant Speidel as Military Commander of Greece.

Turning now to Document Book 13, page 13, page 1 of the German, Page 1 of the English, we have Document [NOKW 856](#), which is offered in evidence as Prosecution Exhibit---

THE PRESIDENT: Pardon me just a moment. I am informed the German translation is not coming over.

THE INTERPRETER: That is what I just wanted to say.

THE PRESIDENT: The Court will be in recess for a few minutes. Hold yourself subject to be recalled immediately.

(Thereupon a recess was taken.)

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THE MARSHAL: Military Tribunal V is again in session.

THE PRESIDENT: May I inquire of counsel for the defense as to whether or not they desire to have the preliminary remarks by counsel for the prosecution repeated at this time? They were solely of a preliminary nature.

Dr. Laternser, representing the defense, has stated that he does not desire, nor do the defendants desire, to have the preliminary remarks repeated, so you may continue.

MR. FENSTERMACHER: Turning first to page 1 of the English document book, page 1 of the German, Document [NOKW-856](#), which becomes prosecution Exhibit 311, this is biographical affidavit of the defendant Weichs outlining his career in the German Army.

"I, Maximilian von Weichs, swear, testify, and declare:

"I was born on 12 Nov. 1881 in Dessau as the son of the senior Master of the Horse in Anhalt Otto Freiherr von WEICHS. I was married on 28 July 1928 in Kassel to Margaretha von Niesewant. I have no children. I attended the Humanistic Gymnasium in Dessau and Munich. I completed my studies at the latter in 1900.

"I entered the Bavarian 2nd Heavy Cavalry Regiment in Landshut as an officer candidate in 1900. In 1902, I was promoted to 2nd Lieutenant. I attended the Bavarian War College from 1910 to 1913. In 1914, promoted to Captain. In the 1st World War. I was staff Officer of the Bavarian 4th Cavalry Brigade from August to October 1914. From May 1915 to July 1917 I was the second general staff officer of the Bavarian Inf. Div. From July 1917 until the end of the war I was general staff officer with the Deputy Headquarters of the 2nd Bavarian Infantry Corps in Wuerzburg.

"From 1919 to 1920 I was general staff officer of the 23rd Reich Defense Brigade in Wuerzburg. From 1920 to 1922 I was general Staff Officer with the 3rd Cavalry Division in Kassel. From 1922 to 1925 squadron chief in the 18th Cavalry Regt., Stuttgart Constadt. In 1922, I was promoted to Major. From 1925 to 1927 I was tactical instructor at the infantry school (Ohrdruf and Dresden); from 1927 to 1923, Major with the staff in the 18th Cavalry Regt.

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(Ludwigsburg); 1928, I was promoted to Lt. Colonel; from 1923 to 1930 I was commander of the 18th Mounted Regiment Stuttgart-Cannstadt; 1930 I was promoted to Colonel; 1930 to 1933 I was Chief of the General Staff of the 1st Cavalry Div. Frankfurt on the Oder; Feb. to Oct. 33, Infantry Fuehrer 3 in Potsdam. In 1933 I was promoted to Brigadier General from 1 October 1933; I was the commanding General of the 3rd Cavalry Division Weimar. From 1 Oct. 1935, this division was reformed into the 1st Panzer Division, the commander of which I remained until 1 Sct. 1937.

"In 1934 I was promoted to Maj. Gen., 1936 to Lt. Gen. Cavalry. From 1 Oct. 1937 I was Commanding General Infantry Corps, Nurnberg. In this position I participated in the occupation of Austria and of the Sudeten Land 1938, as well as Bohemia 1939.

"I participated in the Polish campaign in the 2nd World War as Commanding General of the XIIIth Inf. Corps., which I led from the district OILS/Gross-Wartenberg through Lodz to Warsaw.

"In Oct. 1939. I was nominated Commander-in-Chief of the and Army. I had to supervise the training of a number of divisions in the winter of 1939/40 in Wesel, then in Bonn.

"In the campaign in the West in 1940 the 2nd Army was brought in as a reserve Army and was not used during the 1st part.

"In the 2nd part, I led the attack of the Army from Chemindesdames through the Aisne at Reims, over the Marne to the Loire.

"After the Armistice, I first of all, conducted in France the changing of an Infantry Division into Panzer Division and motorized protective divisions."

Now, if your Honors, please, I believe there is missing from your Honors' document book one sentence which I would like to read slowly at this time:

"In October 1940 my staff was transferred to Munich where it was changed"----I beg your pardon---"where I was charged with the supervision of the training of a number of divisions."

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"In October 1940 I was promoted to General.

"For the Balkan campaign the newly formed 2nd Army was deployed in Styria and West Hungary and then led the attack through Zagreb in the direction of Sarajevo and Belgrade. On 17 April 1941 I had to sign the Armistice with Yugoslavia in Belgrade. After finishing this mission I returned to Munich in order to continue the previous training missions.

"At the beginning of the campaign against Russia in 1941, my staff was committed to Warsaw and was not used at first. Some weeks later, relieved the staff of the fourth Army (Klunge) at the front, continued the attack begun through Minsk, then over the Dnjepr on both sides of Mohilev. Then, the Army participated in the battles at Doeml, Kiev, and Brjansk. In the winter of 1941/42 it was in a position somewhat East of the line Kursk/Orel. From this position, it led the attack against Vornesh on both sides of the Don in summer 1942. On 15 July 1942, I was named Commander-in-Chief of Army Group B which had the mission of taking the Don Front and Stalingrad. In the course of this attack, the heavy set-backs at Stalingrad and in the North occurred, from Nov. 1942 on. In Dec., the front of the Army Group was split through the entrance of the new Army Group Mannstein. During these battles, the Army Group had to be recalled considerably from the Don. On 15 Feb. 1943 the Army Group Staff was pulled out and remained, not utilized at first, in Viniza.

"On 1 Feb. 1943, I was promoted to General Field Marshal.

From February to the end of July 1943 I was in the home land without being used. Only in April and May for 6 weeks, I represented Field Marshal von Mannstein who was ill, in Shaporosche. At the end of July 1943 I received a mission from the OKW to make a tour of orientation in the Balkans principally Greece, and to hold myself ready for use in that district.

"In August 1943 the staff of the Army Group [F was](#) set up in Belgrade. On 26 August 1943 I took over the command, as Commander-in Chief of Army Group F, (Commander-in-Chief, Southeast), and held then the command of all the German combat troops committed in the Balkans.

The Army Group E which was already employed there and the High Command of the 2nd Panzer Army which had been brought in recently were subordinated to me for this purpose.

"Through the withdrawal of Army Group E from Greece and the commitment of the 2nd Panzer Army to Hungary at the end of 1944 the front of the Army Group was so shortened that its staff was unnecessary. It was accordingly deactivated. The Commander-in Chief of Army Group E became Commander-in-Chief Southeast. I myself was assigned from the 26th March 1945 to the Fuehrer reserve to which I belonged, until my capture on 2 May 1945 in Ettal (upper Bavaria).

"I have received the following order and decorations:

1st World War: Iron Cross 1st and 2nd Class, Bavarian Military Service Order with Swords 4th Class.

German: Clasp to the Iron Cross 2nd Class)) in the Polish Campaign Clasp to the Iron Cross 1st Class) 1939 Knights cross of the Iron Cross in the Campaign in the West 1940 Oak Leaf to the Knights cross of the Iron Cross after close of the retreating battles in the Balkans, 1944.

Non-German: Great crosses to the:

Hungarian Service Order, Order of the Italian Crown, Bulgarian St. Alexander Order, Croatian Zvonimir-Order.

"I have never belonged to the Party or one of its branches.

"I have read the statement above, consisting of 4 pages in the German language, and I declare that to the best of my knowledge and belief it is the entire truth. I have had the opportunity to make changes and corrections in the above statements. I have made this statement voluntarily without any promise of reward and I was neither threatened nor compelled to do so."

Signed: "Freiherr v n Weichs," Nurnberg, German, dated 12 March 1947.

I should like to hand defendant von Weichs' affidavit to your Honors for examination of the signature.

DR. LATERNSEER: (Counsel for the defendants List and Weichs) Your Honors, I would like to have two translation mistakes corrected on page 2. The word "Schuetzen Divisionen" was used as "protective divisions." It should be translated, as far as I know, as "rifle divisions." To protect --rifle divisions have nothing to do with protecting. It's on page 2, near the bottom.

MR. FENSTERMACHER: We'll accept whatever the Court Interpreter says on that.

INTERPRETER: Well, I agree Dr. Laternser. It should be "rifle divisions."

DR. LATERNSEER: The second mistake--

THE PRESIDENT: Pardon me--we are having difficulty in locating it. Will you repeat again the place, the page and the line in the English?

DR. LATERNSE: In the English Document Book on page 2, last third of the page, bottom third, a paragraph begins with: "After the Armistice, I first of all, conducted in France the changing of an Infantry Division into Panzer Division and motorized protective divisions," and I suggest it to be "rife divisions."

THE PRESIDENT: As I understand it, the interpreter approves of the suggested change.

THE INTERPRETER: Yes.

THE PRESIDENT: The prosecution also accepts the change.

MR. FENSTERMACHER: Very well.

DR. LATERNSE: Then on page 3 of the English Document Book -

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DR. LATERNSE: Then on page 3 of the English document book -I beg your pardon, still on page 2 of the English document book, the German sentence on page 2 reads, I quote now: The word "abzuschliessen" is translated in the English text on page 2 as, --translated as "to sign" and this translation is not strong enough in my view.

It merely means to underwrite a treaty or to sign it, whereas "to conclude" means to conclude. That comprises negotiations, and well, conferences which lead to a treaty.

For this reason I ask for better translation of the word "abzuschliessen".

MR. FENSTERMACHER: I suggest we hand the original document to the court interpreter for his version of the text.

PRESIDENT WENNERSTRUM: It is so ordered.

INTERPRETER: This is on page 2, the last paragraph, and the sentence -- I repeat, that this is in the German document book, page 2, the last paragraph but one, and in the English document book it is on page 2, the paragraph starting, "After the Armistice," no, I am sorry , I must correct that. It is the last paragraph starting with, "For the Balkan campaign the newly formed 2nd Army was deployed in Styria and West Hungary and then led the attack through Zagreb in the direction of Sarajevo and Belgrade".

I think "concludes" is a better word than "signed" in this text.

DR. LATERNSE: I agree with this translation.

PRESIDENT WENNERSTRUM: You may proceed.

MR. FENSTERMACHER: Turning next to page 6 of the English and page 4 of the German, Document [NOKW 042](#), becomes Prosecution Exhibit 312. This is the German Army service record of Field Marshal von Weichs. Your Honors will note on page 6 of the English, page 4 of the German, the war time service record of the defendant Weichs, 1 September 39:

"Commanding General XIII Infantry Corps 23 Oct 39 C-in-C 2nd Army 13 July 42 C-in-C Army Group B 10 July 43 OKH Fuehrer Reserve 25 Aug 43 C-in-C Army Group F C-in-C Southeast 22 Mar 45 Fuehrer Reserve OKH at the disposal of the Fuehrer" Turning next to page 7 of the English, still page 4 of the German, various decorations which he received ---Turning next to page 8 of the English, and page 4 of the German, various commendations which he received from other commanders in the German army, 25 Feb 1941, General Leob writes of him:

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"Perfect Army Commander-in-Chief with strong influence on training and a good insight for fiction and untruth. His next higher assignment cannot be sufficiently appreciated."

Then Rundstedt: A thoroughly proven Army Commander whose clear and well-defined leadership merits special mention. 29 Jan 42, v. Kluge: After an extended sick leave Weichs took over his 2nd Army recently when it joined Army Group South. I am unable to judge his army leadership since he was not subordinate to me. 3 Apr 42.v. Field Marshal von Bock: Continues to prove himself fully as Army Commander. Suitable for next higher assignment if required."

On page 9 of the English, page 5 of the German, there appears in chronological order the career in the German Army of the defendant von Weichs.

Turning next to page 11 of the English, page 6 of the German document [NOKW 878](#), which becomes prosecution Exhibit 313, this is a biographical affidavit of the defendant, Rendulic, as commander of the 2nd Panzer Army, who as commander was subordinate to the defendant von Weichs, Commander -in-Chief, Southeast, and Commander of Army Group F:"I, Lothar RENDULIC, being duly sworn, say and declare:

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I was born in Wiener-Jeustadt (lower Austria) on the 23 October 1887. My father was an officer in the Austro-Hungarian Army. I attended the elementary school and the Gymnasium of Wiener-Neustadt. I began to study Jurisprudence and political science at Vienna University in 1906/07. However, in the fall of 1907 I entered the Theresian Military Academy in Wiener-Neustadt. In 1910 I received my commission as an officer.

During World War I, I was a Company Commander, a Regimental Adjutant and finally an Officer of the General Staff Corps. I was promoted to Captain in 1917. After the end of the war I again studied law, and I received the degree of Doctor of Laws at the University of Vienna on the 24 December 1920. A short time prior to that I had been taken over by the Bundesheer, which had been recently organized. At first I had different assignments with the troops, later assignments with the Bundes Ministry for National Defense. I was promoted Colonel in the General Staff Corps in the Spring or summer of 1933. From the fall of 1933 until the beginning of 1935 I was military attache for France and for England with my residence in Paris. After that period I commanded a motorized brigade in Vienna.

I became a member of the National Socialist Party of Austria on 12 May 1932. The Party was already dissolved in the summer of the following year (1933). This ended my membership forever. After the

Anschluss, I was taken over into the German Reichsheer on 1 April 1938, just like the majority of the officers of the Austrian Army. I became the Chief of the General Staff of the XVII Infantry Corps. With this Corps I participated in the Polish Campaign in 1939. The Commanding General of the Corps and the Commander-in-Chief of the Group applied for my promotion, waiving the customary period of service in rank, as early as spring 1939, (I had been a Colonel for 6 years), but the Army Personnel Office refused.

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I became a General major (Brigadier General) in the normal course of procedure on the 1st of December 1939.

After the Polish Campaign I began to suffer from severe lumbago which made me unfit for service until June 1940. I was appointed commander of the 14th Infantry Division during the last days of the Western Campaign. When this Division was transferred home to be transformed into a motorized division I took over the command of the 52nd Infantry Division in France toward the beginning of October 1940. At the beginning of the war against Russia, the Division was sent to the East. I commanded this Division during the summer and fall offensive of 1941, during the winter battle 1941/42 and during the summer fighting 1942 to October 1942. Meanwhile -- I was promoted in the normal course of procedure to Generalleutnant (Major General) on 1 December 1941 after having held the rank of Generalmajor (Brigadier General) for just two years.

I became Commanding General of the XXXVth Infantry Army Corps on 23 October 1942. In view of my achievements the IVIth Army Corps to which I was subordinate at that time, as well as the 4th Army, and Army Group "Mitte" had proposed my appointment as Commanding General, waiving the customary period of service in rank in February of the year 1942. I commanded the Corps until the 5th of August 1943, in the winter and summer battle of Orel (Central Russia).

I was promoted to General of Infantry on the 1st of December 1942. On 26 August 1943, I was appointed Commander-in-Chief of the 2nd Panzer Army in the Balkans at the suggestion of Field Marshal von Kluge. I was glad when I was appointed Commander-in-Chief of the 20th Mountain Army in North Finland (Lapland) on 24 June 1944. There the period of my command was filled up with the struggle to extract the Army from a three sided pincer-movement and to lead the men back to Norway during the Arctic winter, 1944/45."

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"I was appointed Wehrmacht Commander Norway on 18 December 1944.

On the 22nd of January 1945 I took over the High Command of Army Group "North" in East Prussia. I had hardly done so when I was assigned to take over the High Command of Army Group "Kurland", which had been cut off and which was fighting in the north of Lapland. There, the preliminaries for the "6th Battle for Kurland" were just under way.

On 6 April 1945 I was recalled and was appointed Commander-in Chief of Army Group "South" which was withdrawing from Hungary and Slovakia. My mission was to prevent the Russians from

penetrating into the Alps and from pushing forward to the Danube Valley. On the 7th of May I surrendered the Army Group to the 3rd American Army.

I married in September 1916. I lost the elder of my 2 sons in the Polish Campaign. My wife and my younger son reside in See walchen in Upper Austria.

I have read the above statement, consisting of 3 pages in the German language. I declare that to the best of my knowledge and belief the statement contains the full truth. I had the opportunity to make changes and corrections in the statement above. I have made this statement voluntarily without any promise of reward, and I was neither threatened nor compelled to do so.

Nuernberg, Germany, 13 March 1947.

(signed) Dr. Rendulic Colonel-General".I ask your Honors to note only two things.

One is that the defendant studied law and received a degree of Doctor of Law, University of Vienna 24 December 1920, and ask your Honors to take note of the various promotions the defendant received, especially from the period August, 1943 on, when he commanded the 2nd Panzer Army in the Balkans, and the 20th Mountain Army in North Finland, Wehrmacht Commander Norway, and High Commander of Army Group North, High Commander of Army Group Kurland and finally Commander in Chief of Army Group South.

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I ask your Honors to examine the affidavit and see the actual signature of the defendant, Rendulic.

I would like to point out just one more thing, if your Honors please, -- the membership in the National Socialist Party of Austria, of the defendant, Rendulic, in May 1932.

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DR. FRITSCH: Counsel Fritsch for the Defendant Rendulic. Your Honor, from my experience in other trials before other tribunals I have found that a tribunal values objections made by the Defendant in his own affidavit or brought to the attention of the Tribunal in due time. I, therefore, intend at this stage of the trial not to bring any motions, but only to state that in view of my client -- the affidavit signed by him -- that for himself he had an opportunity to make alterations et cetera is not in conformity with the facts to the full extent. My client, when he was examined, asked to make additions to this affidavit, especially regarding the question of his membership in the National Socialist Party, which the Prosecutor has just been mentioning, as regards the time of entry into this party. He further wants to point out how his promotions came to take place in every case, and he especially wants to explain, his own position to the Party and to Hitler. The purpose of what I am saying today is merely to point out that to this affidavit further explanations will be submitted.

THE PRESIDENT(Judge Wennerstrum): I take it you are not making any objections at this time.

DR. FRITSCH: No, I don't make any objections at this time, Your Honor. Only in view of the discussions before other Tribunals to this point I merely want to make this statement for the record.

THE PRESIDENT: Counsel for the Defendant Rendulic and the Defendants will have ample opportunity at the time of the presentation of the evidence on behalf of the Defendants to make any explanation they may desire or that he may desire.

MR. FENSTERMACHER: Continuing next on Page 14 of the English and Page 8 of the German Document Book, Document No. [NOKW-063](#), which becomes Prosecution's Exhibit No. 314. This, if Your Honors please, is the Service Record of the Defendant Rendulic. It outlines on the first page his career. I think I need only call your attention to his knowledge of languages which appears on Page 14 of the English, Page 8 of the German:

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"French, perfect; Italian and English, good." The remainder of the page simply outlines matters which we have already heard in the biographical affidavit. Turning to Page 15 of the English, page 8 of the German, the decorations of the Defendant are listed:

"Iron Cross 2nd Class 18.9.1939 Iron Cross 1st class 10.

10.39 German Cross in Gold 26.

12.41 Knight's Cross of the 6.3.42 Iron Cross Eastern Medal 2.8.42 Oak leaves to Knights 18.

1.45 Cross with Swords"

MR. FENSTERMACHER: Turning now to Page 16 of the English and Page 9 of the German are various statements made by other German commanders about the Defendant Rendulic.

"1/2/41, WAEGER: Clever, high military knowledge, clear thinking, acts decisive, possibly later Commanding General. Specially fit for leader of negotiations, by reason of his earlier activity in Paris.

11/4/42, KIRSHNER: Mentally as well as physically very well gifted, still very active and fresh, unobjectionable character. In possession of high tactic and operative knowledge and ability, a clear-thinking, energetic, and force-ful personality with clear judgement and view. Conduct in difficult defensive combats quiet and decisive. Commits himself completely in the interest of a subject. German Cross in Gold. Commanding General.

25/4/42, HEINRICI: Mentally highly rated, versatile, educated, forceful, personality. Brave. Also reliable when placed in the most difficult position. As leader against the enemy especially proven, tough, methodical, strong, willed.

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Very good division commander, commanding general.

6/5/42, v. KLUGE: Agreed.'

At the fall Inquiry by Commander in Chief, Centre, aptitude for Commanding General adjudged.

1/3/43 SCHMIDT: Conducts his corps in the most difficult situations with considered calm and security. Very good nerves. Clear view for the most important things, above average. Later on commander in chief of an Army.

2/4/43, v. von KLUGE: Fit for commander in chief only after further, longer employment as Commanding General.

15/8/43, MODEL: Superior leader equal to the most difficult situations. Especially proven by the hard defensive battle before Orel July/August 1943. Fully fit for Army Leader.

MR. FENSTERMACHER: Now, if your Honors please, the date in the next recommendation of von Kluge should be changed in the English Document Book to read 23 August 1943, and perhaps it needs to be changed also in the German Document Book. It should read 23.8.43 Von Kluge "A leader who has distinguished himself especially in the most difficult defensive battles at Orel. He constantly understood how to call on reserves which could be risked only by a specially responsible cheerful leader. A tough leader who has gained his aptitude for Army Commander by corresponding battles."

"1/3/44 - The Defendant Weichs who at that time was Commander in Chief, Southeast, says of him:

"Tough, strong-willed personality, with his own methods and clear point of view. Clean character stands strong on the ground of Nazi principles. As leader especially proven before the enemy. Leads his Army surely and circumspectly, understood how to use the troops subordinated to his command for combating bandits ably and successfully. Mentally high rated. Physically especially efficient. Very good nerves.

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Clear tactical point of view. Over average."

MR. FENSTERMACHER: Page 17 of the English and Page 10 of the German outlines in chronological order the career of the Defendant Rendulic, as he passed up through the Austrian and German Armies. I will call Your Honors' attention to Page 18 of the English and Page 10 of the German, to the career of the defendant from 1933 on.

"28.6.1933 Military Attache, France and England 21.

6.1933 Colonel in the Gen Staff.

1.1.1935 Army Inspectorate 1.6.1935 Commander of Light Infantry Brigade (motorized) 1.2.1936 Temporarily retired 16.

3.1938 Again active 1.4.1938 C. of S. XVIIth Infantry Corps Seniority 1.3.38 1.12.

1939 Brig. Gen.

1.12.1941 Major Gen.

1.12.1942 General of the Infantry 1.4.1944 General "

MR. FENSTERMACHER: Turning now to Page 19 of the English Document Book, Page 11 of the German Document Book, is Document No. [NOKW-859](#), which is offered as Prosecution's Exhibit No. 315. This is the biographical affidavit of the Defendant Ernst Dehner, who as Commander of the 69th Special Reserve Corps, was subordinated to Defendant Rendulic, as Commander in Chief of the Second Panzer Army, and also to Defendant Weichs as Commander in Chief and Commander of Army Group F.

"I, Ernst Dehner, swear, testify, and declare:

I was born on 5 March 1889 in Hersbruck, Bavaria.

Schooling:

I attended the Elementary School from the 1st to the 4th class in Hersbruck and Ansback, the first and second class of the humanistic gymnasium in Ansback, the third class of the humanistic gymnasium in Nuernberg, where I passed the "Abitur" examination, in the year 1908.

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(4th to the 9th class, Realgymnasium).

Military Career:

On 1 October 1908 I entered the Army as a I year volunteer with the 14th Bavarian infantry regiment, Nuernberg. Made exercise "A" in early 1917, and became staff sergeant in 1910. After transferring into the Corps of active officers, I visited the War College in Munich from 1910 to 1911, and was promoted in Fall of 1911 to 2nd Lt. in the 14th Bavarian Inf. Regt.

During World War I I was promoted:

In the year 1915 , to 1st Lt. After World War I:

In the year 1919 , to Capt. (Nuernberg and Regensberg garrison) In the year 1931 , to Major (Muenster in Westphalia garrison) In the year 1934, to Lt. Col.

(Muenster in Westphalia and Aix-laChapelle garrisons).

On 1 October 1936 I was named C. O. of the 87th Inf. Regt., Wiesbaden and promoted to Col. With this regiment, I fought in World War II in South Belgium at Sedan and Verdun. In 1940 I was promoted to Brigadier General and made Commander of the 106 Division War Theatre: Russia, Summer 1941-early 1942, North France 1942. In 1942 -

MR. FENSTERMACHER: I believe the German Document book should be corrected --

I was promoted to Major Gen. On 1 Nov. 42 in charge of the IXXXIInd Corps, I was promoted to Lt. Gen., Inf. on 4 Dec 42 and made Commander of the IXXXIInd Army Corps. War Theatre: North France.

About the end of August (or the beginning of Sept.) 1943 I commanded the IXIXth reserve Corps in Croatia until the beginning of March 1944.

Following that, I was promoted into the Fuehrer reserve of the OKH until August 44.

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At the beginning of August 44, nominated to the Commander of the Army Area, South France; this Command was changed after several days into the Corps Headquarters, Dehner and subordinated to the 19th Army. War Theater: Franche Comte, Belfort, from Nov. 1944 to January 45 I was promoted again into the Fuehrer reserve of OKH. From Jan. 45 to Mar. 45, I was in command of the Refitting staff, Army Group Center, March 45 to 3 May 45, promotion to the Fuehrer reserve of the OKH. 3 May 45, day of Capture by American troops in Prien (Chiemsee) Decorations:

Before the first World War:

Bavarian Prince Regent Luitpold metal in Bronze In the 1st World War:

Bavarian Military Service Order 4th Class with swords.

Prussian Iron Cross 2nd Class, Prussian Iron Cross 1st Class, Wound decorations;"After the 1st World War:

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Honer decoration for front line fighters, Service decoration 1st to fourth class in the 2nd World War Silver Clasp to the Prussian Iron Cross 2nd Class, Silver Clasp to the Prussian Iron Cross 1st Class, Infantry assault decoration, Knights Cross to the Iron Cross "Winter Battle in the East" medal Order of the Holy Zwenimus.

Party membership, Gen. Staff, SS:

I never belonged to the Party, the Gen. Staff, nor the SS. Family:

I have been married since 5 Feb. 18 and have two sons, 23 and 19 of age, respectively:

I have made this deposition voluntarily, without any sort of promise or reward and I was at no time put under pressure or threat.

I have read each of the 3 pages of this affidavit through carefully and signed each with my own hand, I have made the necessary corrections in my own handwriting, and signed with my initial, and affirm herewith under oath, that all of the facts given by me in this affidavit correspond to the complete truth, according to my best knowledge and conscience.

(Sgd.) Dehner" I ask your Honors to examine the actual photostatic copy for the defendant's signature.

Turning next to page 23 of the English, page 13 of the German, Document [NOKW-609](#), which is offered as prosecution Exhibit 316, this is the German army service record of the defendant Dehner. I call your Honors' attention to page 23 of the English, page 13 of the German, to the middle of the page.

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"15.7.43 Commanding General IXIX Infantry Corps (Reserve) "21.

1.44 Commanding General LXIX Inf. Corps for special assignment."

Now turning to page 24 of the English, page 15 of the German, are various comments made about the defendant by other members of the German army.

"On 15.2.41, Briesen said of him: Basically sound, unselfish, devoted to duty, energetic, absolutely diligent, a good teacher and trainer Suitable.

10.1.42, Ruoff: Vigorous, energetic person, takes pleasure in his work. Clear tactical judgment. Sense of the important. Indefatigable in looking after his men. The fact that the division, which had been severely depleted in strength, still had in Nov. and Dec. 1941 so much force for attack and defense, is above all due to General Dehner who applied himself daily without consideration.

1.4.42, Wetzel: Decidedly energetic, vigorous person with clear tactical sense. Indefatigable active, gets the last ounce of effort out of his division. Always rises above difficult situations. Suitable for Commanding General.

25.4.42, Field Marshal V. Kluge: Cannot yet decide whether suitable for Commanding General.

18.4.42, Ruoff: Entirely agree. Has again and again stood the test as Div. Commander. Commanding General.

10.3.43, v. Vietinghoff-Scheel: Honorable, straight character. Has stood the test of being Div. Commander in the East. Indefatigable will to work, without consideration of himself. Very capable trainer, Good average. Commanding General in the West. Tactical ability and sense of the important not yet quite sufficient for the broader framework of corps leadership.

v. Rundstedt: I agree.

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20.7.43, v. Vietinghoff-Scheel: Especially suitable for command position in training.

v. Rundstedt: Agreed.

1.3.44) Fromm, Chief of Ordnance and Commander of the Replacement Army: Good character, virorous, energetic and very versatile. In the short time in which he has been under me he has devoted himself to training with the greatest zeal and has made it a big contribution although, in view of its employment in battle special difficulties lay in the way of the training of his division. Good average. Commanding General of an Infantry Corps at the front.

17.3.44, Rendulic, C-in-C 2 Pz. Army: Under whom defendant Dehner was serving as Commander of the LXIX Special Reserve Corps, a person of high operational capabilities, he has accomplished a great deal with the few troops he had in relation to the area to be conquered. Takes great care of his men on whom he makes high, but always justified demands. Had no opportunity to collect more experience in the leadership of a corps in battle. Experience in training. Average. Commanding General of a Reserve Corps.

1.3.44, Rendulic, C-in-C 2 Pz Army: Yearly report as for 17, 3. 44.

Baron v. Weichs, C-in-C South-East: Under whom the defendant served, agreed. As his main strength lies in the sphere of training it is recommended that he be further employed accordingly.

9.11.44, Wiese, Acting Commander of the 19th Army: Very energetic, tactical leader and outstanding officer. Extraordinarily active and far-seeing. Distinguished himself in the face of the enemy. Proved himself again during the heavy defensive fighting at Besancon by his personal bravery. Still lacks the necessary calm, balance and tactical perception for leadership of a full corps."

There follows then the chronological career of the defendant Dehner through the German army.

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We turn now to the first big event that occurred following the reorganization of the Southeast Command, the collapse of the Italian army, the surrender to the Allies, on the 8th of September, 1943, with the provisions in the Armistice to return to the Italian mainland as quickly as possible.

On page 27 of the English and page 18 of the German, Document NOKW-898, which is offered as prosecution Exhibit 317, this is an order from Field Marshal Keitel dated the 9th of September, 1943, relating to the taking of Italian prisoners of war. The distribution list is given on the first page and your Honors will note under "2" the copy which was sent to the Commander-in-Chief Southeast, the defendant Weichs.

"Subject: Further treatment of Italian Soldiers under German jurisdiction. Italian soldiers who do not wish to continue fighting on the German side are to be disarmed and considered prisoners of war. They are to be taken over at first by the OKW Chief of Prisoners of War affairs. In Cooperation with the Plenipotentiary General for the Employment of Labor, the skilled workers among the Prisoners of war taken over are to be selected for the armament economy and are to be put at the disposal of the Plenipotentiary General for the Employment of Labor. Further, in cooperation with the Reichfuehrer SS, the Fascists still among the prisoners of war are to be selected and handed over to the above. All other prisoners of war are to be at the disposal of the General Staff of the Army, General Quartier Meister and of the Commander-in-Chief of the Air Force, General Quartermaster in the proportion of 7 to 1 as workers for the construction of the East Wall.

The selection ordered has to be carried out as soon as the prisoners of war are taken over, so that the camps are free for new prisoners of war as quickly as possible.

The Chief of the Prisoner of War Affairs will report the total number and their distribution to me every fifth day from 15 Sept. on.

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Should the guards at the disposal of the OKW Chief of Prisoners of War Affairs be insufficient for the task, the Chief of Army Armament and Commander of the Replacement Army is to help out on guarding with persons who have recovered from their wounds or sicknesses, etc.

The transfer of English and American prisoners of war from Italy is to precede the transfer of Italian prisoners of war.

And the order is (signed) Keitel" Turning next to page 30 of the English and page 20 of the German, Document [NOKW-813](#), which becomes prosecution Exhibit 318, this is a teletype from the XXI Mountain Corps to the II Panzer Army which your Honors will recall was commanded at this time by the defendant Rendulic.

For information V SS Mountain Corps. It is the daily report for the 26th of November, 1943. Under the 297th Infantry Division, the report states:

"During "Edelweiss" fighting much impeded by rain and terrain, supply by inundation.

Area Northwest of Debar: 16 communists shot to death, 30 Italians captured. Reprisal measures carried out against 8 Italian officers. Intention: continuation of mopping up area of Debar-Poshkopija.

Under the 100th Jaeger Division: Enemy before 1/54 moved far towards South. Nationalist forces have reached Vijose S. Greshice that is the reason for movement of 1/54 back to Patos. During road reconnaissance, 7 Italians shot while trying to escape. Two trucks and three passenger cars captured East of O Lushnje. 8 Italians and 1 civilian shot while trying to escape.

And the report is signed Corps Hqs., XXIst Mountain Corps by the Ia or Operations Officer" On the same page in both the English and the German is an order of the day of the XXI Mountain Corps which was commanded at that time by General Fehn who was subordinate to General Rendulic and in turn the defendant Weichs.

The order is dated Corps Headquarters 28 November 1943, and it is a commendation to the 297th Infantry Division for the carrying out of the action which we have just heard about in the preceding report.

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"I wish to express my appreciation to those units of the 100th Jaeger Division and 297th Infantry Division as well as to II/2 Regiment Brandenburg which have carried out the pacification of the area Debar-Peshkopija under the orders of the 297th Infantry Division."

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Notwithstanding the most difficult terrain and weather situation, in part almost tropical cloud bursts, they succeeded in the surprise thrusts into the Communist band center which so far has not been entered by any German unit.

My particular recognition is expressed to the Anti Aircraft 297 which forced an enemy combat group to fight by attacking them roughly and in doing so put 3 Englishmen out of action.

Our own losses being negligible, the enemy suffered 130 counted dead and 300 prisoners. Considerable amount of arms, ammunition and other equipment including 5 guns were captured and destroyed.

My appreciation is to be made known to the troops.

Signed The Commanding General 21st Mountain Corps FEHN General of Panzer Troops.

On page 31 of the English and page 21 of the German is another report from the 21st Mountain Corps to the Second Panzer Army See Daily Report of 21.11.43297 Infantry Division:

During continuation of operation "Edelweiss" Sllovo and Velleshe (15 km. North Peshkopija) taken by A.A. 297 on 19.11 after hard fighting.

Enemy losses: up to now, 48 dead among them 3 English officers. 4 heavy machine guns, 3 light machine guns, 1 English bazooka, 2 heavy machine guns, some light machine guns and many rounds of ammunition destroyed.

Losses of our own: 5 dead, 7 wounded.

During large scale raid in Grossrazzio and Shijak, arrests of 300 communists and 50 Italian soldiers, up to now. Arms depot and communist printing press raided.

Intention: Execution raid in Kavaja.

.....

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Signed Corps Hqs., XXIst Mountain Corps I believe this does not appear on the German but if defense counsel wishes to examine the exact document they may do so, signed XXIst Headquarters, XXIst Mountain Corps by the Operation Officer, November 21, 1943.

Turning now to page 33 of the English and page 23 of the German, Document [NOKW 1403](#) which is offered as Prosecution Exhibit 319. These are a series of orders of the XV Mountain Corps which at this time was commanded by General Lueters in Croatia, who was subordinate to General Rendulic, who was in turn subordinate to Field Marshal Weichs. It is a teletype to the SS Division and the 114th Jaeger Division and, "For information to the 373rd (Croatian) Infantry Division.

No shipping space available for evacuation of Italians and supply via sea route."

DR. LATERNER: Your Honors, I object to what the Prosecutor is saying regarding arguments. For instance he has just said this Corps was subordinated to General Rendulic and he again was subordinate to General Field Marshal von Weichs. This is not true for the period to which documents now refer. For this reason I repeatedly ask that the Prosecution desist in arguments unless they are sentences and comments of a connecting nature.

MR. FENSTERMACHER: No argumentation your Honor.(Film unintelligible)

PRESIDING JUDGE WENNERSTURM: I think counsel for the prosecution should exercise care in connection with any comments concerning the evidence other than that which is self-explanatory.

MR. FENSTERMACHER: Continuing on page 33 of the English, 23 of the German with the order of the XV Mountain Corps to the SS Division and the 114th Jaeger Division:

No shipping space available for evacuation of Italians and supply via sea route. The Italian units in the area Split-Zara are to be ordered to Bihac via land route immediately under the responsible leadership of

their Commanders and their Headquarters authorities pursuant to Corps Headquarters Ia/Qu. No. 769/43 Top Secret of 11 September Severest compulsory measures as well as reprisal measures are to be applied in the event of refusal (shooting to death).....114th Jaeger Division and SS-Division are requested to report immediately intention with time table and security precautions (for instance employment of Panzers). The order is signed XV Mountain Corps For the Operations Officer 12 September 1943 Next on page 34 of the English and page 23 of the German, here is another communication of the XV Mountain Corps dated September 11, 1943.

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Subject: Carrying out disarmament of Italians As a matter of principle the Italians are to be requested to turn over immediately all their heavy weapons.

If attempts are made to delay ruthless measures are to be applied with employment of dive bombers. If the occasion warrants the Italians may retain their small weapons temporarily as protection against bands.

.....

Basic principle: Any open or attempted resistance is to be broken by applying severe methods. Disciplined leadership of return march by Italians themselves according to directives of the Division is the prerequisite for regular provisions, otherwise there is danger that they may starve to death.

.....

This communication is signed Lueters, and its distribution appears on page 35 of the English, page 4 of the German; 2 copies for each Division subordinate to the XV Mountain Corps.

Turning now to page 36 of the English, page 25 of the German, Document [NOKW 037](#), offered as Prosecution Exhibit 320. This document contains 2 reports of the Second Panzer Army.

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The first dated 13 September 1943, Daily Report, and under the unit subordinate to the Second Panzer Army which was commanded at this time by the defendant Rendulic there appears XXI Mountain Corps and subordinate to the 100 Jaeger Division:

In Argirocastro (70 km southeast Valona) communists attacked our own forces as well as disarmed Italian soldiers.

.....

118 Jaeger Division: Arrest and eventual execution of the Commanding General of the Italian XIVth Army Corps, General Boncalia, is intended in case of further insubordination and under III. (Germanic) SS-Panzer Corps: Coal mines were burned out by bandits north of Agram

The sender of the report appears on the bottom of the page, page 36 of the English, 2 of the German as the Second Panzer Army.

DR. LATERNSEER: Your Honors, I believe that the word "Widersetzlichkeit" is not translated strongly enough. I have heard that "Widersetzlichkeit" has been translated by "insubordination".

PRESIDING JUDGE WENNERSTURM: Pardon me, Dr. Laternser, will you refer to the German document and also to the English Document. It will be helpful to the Tribunal.

DR. LATERNSEER: On page 36 of the English Document Book and the middle of the page there is the word "insubordination" on the daily report of the 118 Jaeger Division. This word is supposed to be a translation of the word "Widersetzlichkeit" which is a more active element which is not contained, as regards my feeling for language, in the English word "insubordination".

PRESIDING JUDGE WENNERSTRUM: May I suggest that you refer to the interpreter for their decision.

DR. LATERNSEER: Yes. I ask for a new translation if this word "Widersetzlichkeit".

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(Interpreter: The sentence reads: "Arrest and eventual execution of a commanding general of the Italian XIV Army Corps, General Boncalia is intended in case of further" 'refractoriness' you may say, but 'insubordination' is not definitely wrong.)

PRESIDING JUDGE WENNERSTRUM: You may proceed.

DR. LATERNSEER: Your Honor I must make a brief statement because I assume that it is decent to do so. I made an objection sometime ago to what the Prosecutor said. I said something about a period in which General Rendulic was not subordinate to Marshal von Weichs. I made a mistake in regard to the date. In the period of time quoted by the Prosecutor General Rendulic was subordinate to Marshal von Weichs.

PRESIDING JUDGE WENNERSTRUM: Very well.

MR. FENSTERMACHER: Continuing now on page 37 of the English, page 26 of the German, still part of [NOKW 037](#) which is Exhibit 320, we have a report from the Second Panzer Army, dated 13 September 1943, teletype report to the Commander in Chief Southeast, High Command Army Group F, which at this time was the defendant Weichs.

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: Your Honors will recall that prior to the recess we were considering Document [NOKW-034](#), Exhibit 320. We are looking at page 27 of the English and page 26 of the German. This is a report from the 2nd Panzer Army, commanded at this time by the defendant Rendulic -a report to the Commander in Chief Southeast (High Command Army Group F) at this time commanded by the defendant Weichs.

A. Copy of the report of the 2nd Panzer Army was sent for informational purposes to the "German Commanding General -- Plenipotentiary in" --and here your Honors' document books should be changed to "Croatia" instead of "Serbia" -- "For information: German Commanding General Plenipotentiary in Croatia", who at this time was Glaise-Horstenau; and another copy for informational purposes to the "Military Commander Southeast", who at this time was General Felber, whose Chief of Staff, your Honors will recall, was the defendant Geitner.

The report is dated 13 September 1943 and contains language very similar to the report on the preceding page which we have just seen. I call your Honors attention only to the portion dealing with the 118th Jaeger Division which at this time was subordinate to the 21st Mountain Corps:

"Arrest and eventual execution of the Commanding General of the Italian XIV Corps, General Roncalia, is intended in case of further insubordination."

And the report is signed: "2nd" -- it should read on the bottom, if your Honors please, the "2nd Panzer Army", rather than "2nd Army Panzer Corps". The report is signed by the Operations Officer.

DR. LATERNSEER: Your Honors, the translation of the word "Widersetzlichkeit" as "insubordination" -- I will have to point out again -- just at the moment -- the prosecutor mentioned the word "insubordination" again and I believe the interpreters will have to consider will whether this word really has the right sense.

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"Widersetzlichkeit" is active whereas "insubordination" does not have to be active and I believe in this case, for the evaluation of this particular case, it has a special meaning. Unfortunately, I am not in a position to suggest another translation but I would like to ask the interpreters again to think it over.

THE PRESIDENT: The matter will be submitted to the interpreters for their decision.

MR. FENSTERMACHER: This is on page 27 of the English and page 26 of the German under 1.8 SD.

THE INTERPRETER: I might suggest another word, "resistance", but in my mind "insubordination" could also be active. In other words, if someone does not subordinate he does something active. It is rather difficult to make a distinction there. From my own knowledge of the languages, I would say "insubordination" could well be used as read. "Resistance" would be a little too strong, but I can suggest it.

THE PRESIDENT: Judge Carter has suggested the word, "non-cooperative."

DR. LATERNSEER: Mr. President, I believe that the word as mentioned now, "resistance" would fit best because at that time the Italian Army had already fallen off, did not belong to the German any more. If they use the word, "insubordination", that means that the person in question is under an obligation to obey. However, that was not the case any more and on activity -

THE PRESIDENT: May I suggest that we take the translation as suggested now by the translator and with that I believe there will be no necessity for any further comments on that particular matter.

DR. LATERNSE: Mr. President, which word do you suggest is to be used now?

THE PRESIDENT: "Resistance."

DR. LATERNSE: I agree to that and I therefore ask for an order, on page 37 as well as page 36 of the English document book, to correct these pages correspondingly.

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That is page 36 and 37.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: If Your Honors please, at this time we should like to discontinue the presentation of documents in Document Book XIII and put on a prosecution witness.

THE PRESIDENT: Very well.

MR. DENNEY: May it please your Honors, we would request that the Court direct the Marshal to summon the witness, Zivojin Iovanovitch. That is spelled Z i v o j i n I o v a n o v i t c h.

THE PRESIDENT: Mr. Marshal, you will present the interpreter and the witness to the Court.

MR. DENNEY: Your Honors, please, the witness does not speak any English and the interpreter is Mr. Targoni, who is thoroughly familiar with both the Serbian language and the English language; and the procedure which will be followed is that which has been followed in other cases where we have a third language, two basic languages here being German and English. The questions will be put in English. The questions will be interpreted by the regular interpreters into German for the benefit of the Defendants and their counsel. The question will be interpreted into Serbian from the English by Mr. Targoni. The witness will make his reply into the microphone in Serbian. He will make pauses as he replies. Mr. Targoni will take note and then Mr. Targoni will speak into the same microphone in English, and the regular interpreters can make a simultaneous translation from the English into the German for the benefit of the defendants and their counsel and such other people, including the German court reporters and those listening on the German channel in the court room.

THE PRESIDENT: Mr. Targoni, if you will raise your right hand and be sworn?

I, Vasiljek Targoni, do solemnly swear that I will perform my duties as interpreter to this Tribunal to the best of my ability and skill.

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(The interpreter repeated the oath.)

THE PRESIDENT: The witness will raise his right hand and be sworn.

I swear that the evidence I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.

(The witness repeated the oath.)

THE PRESIDENT: You may be seated.

DIRECT EXAMINATION BY MR. DENNEY:

Q. What is your name?

A. My name is Zivosin Iovanovitch.

MR. DENNEY: Perhaps I might spell it in order that there may be no confusion in the record. It's Z i v o j i n, and the second name:

Item-Oboe-Victor-Able-Nan-Oboe-Viktor-Item-Tear-Charlie-How.

BY MR. DENNEY:

Q. Where were you born?

A. I was born in Vranje.

MR. DENNEY: That is spelled: Victor-Roger-Able-Nan-Jig-Easy.

BY MR. DENNEY:

Q. And where is Vranje?

A. Vranje is a Federal Republic of Serbia.

Q. When were you born?

A. I was born on the 4th of September, 1902.

Q. How much schooling did you have?

A. Two courses of elementary school.

Q. Where have you lived?

MR. DENNEY: Withdrawn.

Q. When did you move to Kragujevac?

A. I moved to Kragujevac in 1911.

Q. And have you lived there since?

A. I always lived in Kragujevac, since 1911 up until now.

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Q. What was your employment prior to 1941, April?

A. I was graduated in the Military-Technical Military Plant in Kragujevac.

Q. And did you continue to work in the Technical Military Armament Plant at Kragujevac after the German occupation?

A. After the occupation I continued my work as a clerk in the Military Technical Plant in Kragujevac.

Q. Were you given some instructions subject to April of 1941?

A. I was sent to a training center, – German Training Center known as "Goering-Werke", and I was certified there as a bookkeeper.

Q. After this training as a bookkeeper where did you go?

A. The training center was in the Military Technical Plant in Kragujevac. I remained on duty until I finished this course.

Q. How large a town is Kragujevac?

A. Kragujevac is about 35,000 inhabitants.

Q. In what direction is it from Belgrade?

A. Southwest direction.

Q. About how far?

A. 30 kilometers.

Q. And, if Your Honors please, it is submitted that that is approximately 78 miles, more or less.

Are you married?

A. I am married.

Q. Do you have any children?

A. I have a daughter.

Q. How old is your daughter?

A. She is over 17 years old now.

Q. Directing your attention now to the period of September, 1941, will you tell the Tribunal what happened to you at that time?

A. I will tell.

Q. You may proceed, if you will please.

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A. On the 17th of September, 1941, I was working in my office in the Military Technical Plant in Kragujevac. On that day I got a telephone call to go to some other office in the Military Technical Plant, and this office was away from the building I was usually working. When I arrived at the office I found there three armed German soldiers and the chief of this office told me, "You will follow these men."

Q. May I interrupt there? Were these, -- what kind of uniforms did these men have on?

A. In the usual German Army uniforms, with the insignia GFB.

Q. Please continue.

A. We entered into a car and they took me to the building where they were stationed. In the room they took me in, there was a captain and a Lt, an interpreter and a typist. They started with questioning me, imputing me that I was a member of the illegal underground organization. I denied this, because I was not a member in any of the underground organizations.

MR. DENNEY: Let me interrupt there for a moment, did you ever do anything to help, either before 17 September, 1941 or after September, 1941 – did you ever do anything to help the partisans or chetniks?

A. No, I never have helped anybody because I am a poor man. I got my family and I have to take care about them.

Q. In fact, you had been working for the German occupation forces from the time of their occupation in April until 17 September, 1941?

A. I was working for the German occupation of Kragujevac, as a bookkeeper in the Military Technical Plant in Kragujevac

Q. Please continue.

A. Because I denied being a member of the illegal organization, they started to beat me; they beat me for about one hour and some more, maybe. The Lieutenant beat me, and the interpreter always was telling me, "You have to admit; you have to admit."

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After about two hours, and a quarter of an hour, they stopped to beat me, because they broke the lamp. The first thing I didn't tell, because I could not tell that I was a member of the illegal organization. I always denied that. After that they told me, "You still have time to think this matter over in jail."

They took me into a car and took me into a Serbian jail, and told the men in charge of the Serbian jail to put me into a cell. I stayed there in a cell in the Serbian jail up to the 20th of October 1941.

Q. This jail was manned by Serbian Guards?

A. Yes, this jail was subordinated to Serbian authorities.

DR. LATERNER: I object to this question. It is a leading question and not admissible.

MR. DENNEY: If your Honors please, I am trying to help the witness and the court. He was testifying he was taken to a Serbian jail.

PRESIDENT WENNERSTRUM: The objection is overruled. By the tone of his voice it was given as a question.

MR. DENNEY: I shall be very careful not to lead the witness. Perhaps we may see some more of it later, however.

Q. How big was the cell in which you were?

A. The cell was long, - about two meters, - and wide about 70 centimeters, without any windows.

Q. Did you ever get served with any papers, or were you ever interrogated; did anyone ever tell you why you were in there?

A. No, I was never interrogated in the Serbian jail. I was interrogated only in the building of GFB, before I was in jail.

Then I was told that I would be arrested because I was a member of the illegal organization.

Q. During the period which you were in jail, you never received any official charge sheet indicating why you were being held, and no one ever came to see you to tell you the reason for your detention?

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A. At that time "between the 17 September and 20 October in the Serbian jail, nobody came to tell me why I was arrested and nobody gave me any papers, any documents; Nobody interrogated me.

Q. Tell the Court what happened on the 20th of October.

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MR. DENNEY: All right, tell the Court what happened on the 20th of October.

A On the 20th of October German armed soldiers arrived at the jail and ordered me to get out of my cell and go to the courtyard. We went to the courtyard, and we met there a Serbian who counted us. After he finished counting he said fifty-three.

Q These other people who were in the courtyard with you, of what nationalities were they?

A They were all Serbians but one who was a Jew.

Q Did you recognize any of the people?

A When we entered into the courtyard I recognized several of them. I used to know one of them who was an attorney and another man, but several of them I knew from seeing them in Kragujevac.

Q And then what happened?

A The German armed soldiers in the courtyard put us into a marching column and we started our march through the city. We were marching along the main street surrounded by German armed soldiers and then I could see other groups of German soldiers going into the houses in other small streets leading to the main streets. These German soldiers collected people from the houses and took them to the main street.

Q How far was it from the jail to the first place that you stopped?

A It took about half an hour.

Q And how many soldiers were around you during that march--that is, around your group?

A There were about twenty-five German soldiers.

Q Were they armed?

A They were armed.

Q What kind of weapons did they have?

A They were armed with machine guns, sub-machine guns, and automatic weapons.

Q Now, where did these soldiers take you?

A They took us to the courtyard of the Artillery barracks, in the city of Kragujevac.

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Q And what did you see when you got there?

A When we entered into the courtyard of the artillery barracks I could see three big hangars filled with prisoner Serbians. I saw that they were at the windows and the doors because the Germans tried to push some more people inside, but they couldn't; they were filled up.

Q How many people were in the courtyard itself, excluding the barracks?

AAAt that time there were about 1,000 people in the courtyard, at the moment of our arrival.

Q And did they maintain our group separately, or did they mix them up with the other people?

A No, our group was kept separately. We got an order to sit down and not to talk to anybody; otherwise we would be killed. They repeated that we have to stay still--not to talk to anybody, otherwise they must kill all of us.

Q What happened while you were sitting there?

A I have seen some additional groups of population taken by Germans into the courtyard from the city, and I saw some mistreatment. For instance, if somebody couldn't walk fast, these people were kicked by the Germans.

Q And for how long did they continue to bring people into the courtyard?

A They were bringing people in up to about 3 o'clock in the afternoon.

Q Did you have anything to eat while you were there?

A No, we didn't receive anything to eat.

Q Anything to drink?

A Neither.

Q Then what happened?

A I remember very well one group of students of the first class of high school, about fourteen years old, taken along by Germans with their teachers. They arrived in the courtyard with school books. They were taken from the school.

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Q Did you see anybody else come in that you were able to recognize?

A There was another group which struck me. There were about five priests--five or six priests, and then some other people. I remember very well one of them--one of these priests.

Q What was his name?

A He was a priest named Cvetic.

Q That is spelled C V E T I C.

Have you ever seen him since?

A I have never seen him since.

Q And he was a priest from Kragujevac?

A Yes, he was a priest from Kragujevac.

Q Now, there came a time when you left the courtyard at the artillery barracks. Will you please tell the Court what preceded that and where you went.

AAbout 11 o'clock came a German officer--a tall German officer-into the courtyard surrounded with some other people. He was giving some orders. I couldn't hear them, but he showed some directions and explained something. After that I realized that he was indicating places where the shooting should take place on the following day.

Q About what time was it that this officer came?

A It was about 11 o'clock.

Q 11 o'clock in the morning?

A Yes.

Q This was shortly after you arrived there?

A Yes, it was shortly after our arrival.

Q And how long did you stay after that until you left?

AAbout 5 o'clock and maybe some later.

Q 5 o'clock in the afternoon of the 20th?

A Yes, 5 o'clock in the afternoon of the 20th of October.

Q And then you did leave, and then what happened?

AAAt that time arrived another group of German soldiers armed in the same way as the previous one.

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They surrounded our group and took us out in the courtyard.

Q Where did you go?

A We started our march to the outskirts of Kragujevac into the direction of another artillery barracks in Kragujevac.

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We didn't enter into the courtyard of this other artillery barrack but we continued our march for about 200 more meters. At that moment, I saw a short German officer running towards our column and shouting in Serbian "Stoj"--that is to say, "stop."

MR. DENNEY: And if your Honors please, I believe we recall a document which had the word "Stoj" that equals "halt" in it. Continue.

MR. JOVANOVIC: In the vicinity of this German officer, I could see some bodies lying around but it was a bit dark so one couldn't recognize well the people lying on the ground.

MR. DENNEY: What did you do then?

MR. JOVANOVIC: Because I had seen these people lying around on the ground, I realized that we had to be shot and I decided to escape. I got out from the columns and started to run in the direction which is near Kragujevac. I was running away and I heard a general shooting behind me. Running away from the group, I passed a German guard who was staying on the gate leading to the artillery barracks.

MR. DENNEY: And then what did you do?

MR. JOVANOVIC: Running away, I passed this guard and entered into the first courtyard, the first house in the outskirts of Kragujevac. I jumped over the fence and entered the second house and jumped over some more fences.

MR. DENNEY: Then what happened?

MR. JOVANOVIC: There was another man running away from the group, together with me. I couldn't see him but when I reached the first fence I saw this man on the left side from me. I jumped over some more fences and getting out from the last courtyard, I ran into another German guard.

MR. DENNEY: What did you do then?

MR. JOVANOVIC: I stopped and recollecting several German words I knew, I begged of him not to kill me and explained to him that I had a mother, a wife, and a child.

MR. DENNEY: What did he do?

MR. JOVANOVIC: He asked me only whether I belonged to the upper group of people.

MR. DENNEY: What did you say?

MR. JOVANOVIC: I answered that I was in this group.

MR. DENNEY: Did you know what the upper group was?

MR. JOVANOVIC: Yes, I did. I realized that this German guard was asking whether I was in the column who was led by Germans to the shooting place.

MR. DENNEY: Then what happened?

MR. JOVANOVIC: He took me by the sleeve and led me into the direction of the place from which I had run away. He told me "Vorwaerts." He took me along a small street leading to the same place where I started my escape.

MR. DENNEY: And did you run into somebody on the way back?

MR. JOVANOVIC: When we reached the first guard which I passed in my running away, this guard gave a sign to the guard escorting me to get away. This first guard wanted to shoot at me but the guard who was escorting me didn't want to get away but shot himself. He wounded me in the back in the left side. The bullet came out in the front side.

MR. DENNEY: Then what happened?

MR. JOVANOVIC: I fell down but didn't lose consciousness. I heard some talks. I couldn't understand all but I understood that the guard who shot me asked for a pistol from the second guard. This one not having a pistol - because this one did not have a pistol the guard who shot me once shot at me the second time.

MR. DENNEY: Where did he shoot you the second time when you were lying down?

MR. JOVANOVIC: He shot me at the left side of my back. The bullet went out from this part (indicating on upper chest just below shoulder); it scratched my cheek and wounded me in the middle finger on the left hand.

MR. DENNEY: And then what happened?

MR. JOVANOVIC: I realized that there was immediate danger of being killed.

I concentrated all my power to remain still and not to show any signs of life. I heard some talks between these two German guards. I couldn't understand everything but I understood very well one word I have heard clearly, "Fertig." I understood they considered me killed and I felt much easier after that.

MR. DENNEY: You never lost consciousness?

MR. JOVANOVIC: No, never. I was always conscious.

MR. DENNEY: And later did you succeed in getting away?

MR. JOVANOVIC: Yes, I left this place. I couldn't tell how long I stayed there but it was night when I left this spot.

MR. DENNEY: And how far did you go?

MR. JOVANOVIC: I stayed in this place up until late at night and then more crawling than walking I left this place and went about three kilometers far from it. It took me more than two hours.

MR. DENNEY: And did you come to a house?

MR. JOVANOVIC: I went to the first house on the outskirts of Kragujevac, this house belonged to a woman whom I used to know. I asked her to let me in but she wouldn't accept me so I stayed in the open in the courtyard of this house.

MR. DENNEY: Did you ask the woman to do anything for you in addition to letting you in?

MR. JOVANOVIC: Yes. I asked for help but she didn't dare to do that because she was afraid of Germans. Finally I succeeded to persuade her to inform my wife and she did it early in the morning.

MR. DENNEY: Now, in the morning--

THE PRESIDENT: Pardon me, Mr. Denney, we will adjourn at this time until one-thirty.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION

THE MARSHALL: The persons in the court room will be seated.

The Tribunal is again in session.

PRESIDING JUDGE WENNERSTRUM: Pardon me a minute, Mr. Denney. May I say to the defendants, if the weather conditions are such that they are exceedingly warm if they want to unbutton their coats it is their privilege and the court will take no exception to it. If you wish to change your tightened garb in which you came to the court room during this warm weather the court will not take any exceptions to your changing from your present uniform to something which will be more in keeping with the type of weather that we are now having. That may be worked out by you and your counsel. As I understand it the Prosecution has no objection and the Tribunal certainly does not have any objection. You may proceed.

WITNESS JOVANOVIC -resumed DIRECT EXAMINATION (Continued) BY MR. DENNEY:

Q If you Honors please: Witness, we had reached the point in your testimony where you had gone to a house, asked the person residing in that house to call your wife back or remain outside the house. Did you spend the balance of the night outside the house?

A Yes, I spent the night outside in the courtyard.

Q What happened in the morning?

A In the morning I can't tell exactly what time was it or how late was it, but I believe it was about six o'clock in the morning I had firing on the other end of Kragujevac. At the same time I heard rifles screaming, coming from the city.

Q The screaming and firing lasted for how long?

A I have heard that until about 11 o'clock in the morning and how long was it later I don't know because at that time I was taken already by horse-drawn vehicle to a hospital.

Q This firing, what did it sound like? Was it heavy artillery firing, large field pieces, canons, or was it small arms fire?

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A It was mostly shooting from rifles, usually infantry rifles.

Q Was the firing constant, did it go on all the time or was it sporadic? Did you hear some and it stopped and then started again?

A It was almost constantly up until 11 O'clock.

Q Now, what happened which caused you to leave this place by the house where you spent the night; you said a horse-drawn vehicle came and took you away.

A I asked the woman from the house where I spent the night outside, still in the night time, that she should inform my wife about what happened to me so she did in the morning and my wife arrived with the horse-drawn vehicle and took me to the hospital.

Q How long were you at the hospital?

A I spent in the hospital about one hour.

Q How long did it take you to go from the place where your wife picked you up with the horse cart, to the hospital?

A It would be about one hour.

Q And did you see anybody in the hospital?

A I have seen at the hospital doctors and some patients.

Q Did you see anybody else?

A Later on, about an hour from there, there came about four soldiers from the Serbian Voluntary Battalion and they took me away from the hospital imputing to me that I was the person who fired some rifle on the soldiers during last night.

Q These were Serbian soldiers?

A Yes, they were Serbian soldiers.

Q Serbian soldiers who were serving with the Germans?

A They were the soldiers belong to the Fourth Voluntary Battalion Serbian under the Command of Marica Petrovic in relation with Germans.

Q That is spelled M-A-R-I-C-A- P-E-T-R-O-V-I-C. Then where did they take you.

A They took me away imputing that I was the person who fired some shots on them during the last night but it was impossible because the last night I was wounded and laying on the ground outside of the house at Kragujevac.

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Q Witness, you must pay attention to the questions, and to what I say. I asked you where did they take you. Please pay attention and try to make your answers responsive.

A They took me from the hospital to their headquarters.

Q The headquarters of the Fourth Serbian Voluntary Battalion?

A Yes, to Headquarters of the Fourth Serbian Voluntary Battalion.

Q What happened there?

A They took me to the headquarters and started interrogations imputing me always that I fired some shots at them last night. I refused it and denied it always and another soldier me on the stairs, hit me in such a way that I fell down the stairs. They handed me to another guard in the courtyard and told me that I will be put before the court martial next morning.

Q Where did you spend that night?

A I spent this night in the guard house.

Q At the headquarters?

AAAt the Headquarters of the Fourth Voluntary Serbian Battalion.

Q When did they release you?

A I spent the whole night there for sometime and they released me in the morning because they were sure that I wasn't the person in question.

Q Where did you go?

A I went straight home.

Q And after you were home did someone come to your house?

A In the morning I was released in the morning and went home; I don't remember exactly the time but sometime in the afternoon, the very same day there came 3 persons from headquarters of GFB and they

told me not to leave the house and as soon as I recovered, my daughter was to come and inform the headquarters of GFB that I am all right.

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MR. FRITSCH: DR. Fritsch for the defendant Rendulic. Your Honor, the objection which my colleague, Dr. Laternser, made I want to join in his objection. I must state here that the questions which are given to this witness here are leading questions. Obviously, it is very important for us to test the credibility of this witness regarding each question, but when the Prosecution questions the witness in a way that he puts the answer in his mouth, then in even less important questions it is very difficult for us to find out how far this comes from the own knowledge of the witness and how the witness feels on the individual points, and how the witness approached the things at that time. I would like to ask the Prosecutor to put simple questions which can not anticipate in any way the answers.

THE PRESIDENT: I think the objection which counsel has made does not apply to all the questions that have been presented to the witness. I do feel in one or two exceptions he has led the witness somewhat, and I caution him and ask him to watch that feature of his interrogation. I think under the circumstances there may come times when you to have to ask leading questions in a situation such as we have here, working through an interpreter, but until that time happens I see no cause for asking leading questions.

You may proceed.

MR. DENNEY: I might add parenthetically for your Honors, none of this testimony concerns the client of Dr. Fritsch. This is all in October 1941.

Q How, these people, ---and I am recapitulating what the witness said. Dr. Fritsch was up here without the earphones on, so he may assume I am leading the witness again ---these G.F.P. people came to your house on the 21st and told you not to leave, and when you were well your daughter should come and tell them; how long did you stay in your house?

A I spent at home about 20 days.

Q And when you recovered did you return to your position?

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A In about 20 days I left my house for the first time and went to the building of the G.F.P. I asked them whether I am allowed to find some job and do that, and what is my position now. I was answered that I am free and I can look for some job again.

Q And did you find a job later?

A Yes, I got a job with the tax office in Kragujevac on the 1st of February 1942.

Q Did you continue to hold that job until the liberation?

A Yes.

Q Now, going back to the period before you got the job with the tax commission in Kragujevac, and after you left your house recovering from your wounds, which would have been sometime around between roughly say the 8th and 14th of November, what did you do?

A I spent most of my time at home, and was getting out of the house very few and far between time, because I was not feeling too well still.

Q Did you ever return from the place from which you had fled on 20 October?

A Yes, I went there. I can't remember exactly when it was, but I am pretty sure that it was in the period when I had been for the first time in the building of G.F.P. and I would say during the first month I left the house.

A What did you see there?

A I went only to the first, to the first beach and it was pretty bad, it was maybe the 9th of November. I could see some blood and some water coming out from this area, which was covered, and there was still a terrible stinking around.

Q Did you ever see any of the soldiers who were involved in these various incidents which you have described prior to that day when you saw them on the 20th or did you ever see any of them subsequently?

A Which soldiers?

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Q You saw the German soldiers who guarded you in the artillery barracks when you were there?

A I didn't know them personally.

Q Well, had you seen any of them before, to your knowledge?

A I have never seen them personally, but I saw later on some of these soldiers and soldiers in the same uniform in Kragujevac.

Q Soldiers wearing similar uniforms, but so far as you know you never saw any of them who were the same people, you didn't recognize their faces?

A No, I had never seen them.

Q Now, as you looked around Kragujevac after you left the house and during the subsequent weeks what, if anything, did you see which attracted your attention?

A On the first day when I left my home and was going to report to the headquarters of G.F.P. I saw a poster in the window of a shop telling that 1200 people have been shot because 12 German soldiers have been killed, somewhere in Kraljevo, and there were a long list of 1200 names of this post.

Q You didn't count the names of the list, did you?

A No, I didn't. I saw the last counted number on the list and the number was 1200.

Q Now, did you see anything else that indicated to you that people had been killed on the 20th of October?

A Yes, according to the customs in Serbia there were black flags on every house from which a person was executed or killed, and there have been black posters with the names of the killed people, executed people, and even the pictures of these people, which was according to the usual practice in Yugoslavia.

Q Well, as you went around the town afterwards you saw many of these flags and these posters on the houses?

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A. Yes, it was quite usual. It was a common case. There couldn't be seen almost a house without this black flag.

Q. Now, did you ever -- had you ever heard of a Captain Bischofshausen?

A. No, never.

Q. Did you know who was the town major of Kragujevac?

A. Yes, I used to know one by the name of Schuster.

Q. Well, did you hear anything -- did you know anything -- about the activities of the town major at this time?

A. Yes, I know that he was the town major that time, which was before the 21st of October. In the same group with me there was another man. The town major the very next day went out in a tank to the place of execution and the noise of the motor woke up this man who was lying on the ground unconscious. The town major saw this man still living, looked around, and, because nobody from the Germans was near in the vicinity, he dragged this man into the tank, took him to the headquarters and kept him about seven days there, fed him well, and then sent him home.

Q. Did you ever the name "Major Koenig"?

A. I have heard the name of Major Koenig later, afterward, and I learned that Major Koenig was the same tall German officer who arrived at the artillery barracks when I was sitting down on the ground, and Major Koenig was the person who gave the orders and who indicated the places, the points, where the shooting took place the following day. I learned that afterwards.

Q. And so far as you know, the troops that performed these executions were not troops who were regularly stationed in Kragujevac?

THE PRESIDENT: Mr. Denney, will you watch and endeavor not to ask leading questions, if possible?

MR. DENNEY: Your Honors please, thank you.

A. No, the soldiers of the Kragujevac garrison participated in this special action but everybody, even the town major of Kragujevac, was subordinated to Major Koenig during this time. That's what I learned afterwards.

Q. Did you ever learn how many people were executed in Kragujevac?

A. Yes, I can tell you that. About 8,000.

MR. DENNEY: You may inquire.

DR. LATERNSEER: Your Honors, may I first of all ask in what manner we are going to have translations into these several languages--

THE PRESIDENT: I didn't get the inquiry, Doctor.

DR. LATERNSEER: Your Honors, I have asked how the translation is going to take place. Will my question put in German be translated into the Serbian language from English into Serbian or will my German question at once be translated into Serbian?

MR. DENNEY: If Your Honors please, Mr. Targoni advises me that he understands German sufficiently to translate from German into Serbian. He is familiar with the German written and spoken word, the first as he reads it and, of course, the latter as hears it. However, he feels that it is better if he translates from Serbian back into English, and if that's agreeable with Dr. Laternser, I see no objection -- I suggest that it be handled in that manner because that saves one translation each way.

THE PRESIDENT: That will be agreeable with the Tribunal if it is satisfactory to counsel.

DR. LATERNSEER: I agree to this.

CROSS EXAMINATION BY DR. LATERNSEER:

Q. How long have you been in Nuernberg?

A. This is the first day I'm here.

Q. Did you arrive yesterday or today?

A. No, it was the day before yesterday.

Q. You just said that you were here for the first day.

A. That isn't right. It is possible that I told that.

DR. LATERNSEER: I would like to draw your attention that you are under oath also as regards to the answering of my questions.

MR. DENNEY: If your Honors please, I object to Dr. Laternser's inference, and I object to his arguing with the witness.

PRESIDENT WENNERSTRUM: Sustained.

DR. LATERNSEER: Your Honors, I would like to make my position clear as regards the ruling of this court. I am justified in putting them questions in cross examination. In cross-examination every kind of

questions can be put, also leading questions. However the prosecution may not do so in that type of examination.

PRESIDENT WENNERSTRUM: The statement is quite correct, Dr. Laternser, but I see no occasion for any inference at this time that the witness is not telling the truth or that he is not conscious of the fact that he is under oath.

DR. LATERNSEER: Your Honor, I did not say that he was telling the untruth. I reminded him of the fact that he should be very careful in the answering of my questions too.

PRESIDENT WENNERSTRUM: You may proceed.

DR. LATERNSEER: Witness, I ask again, therefore, how long have you been in Nurnberg?

A. The witness is sorry but he arrived exactly on 28 July at 1730 in the afternoon.

Q. With whom did you talk in the meantime? During this time?

A. In order to talk to the men of the Yugoslav Delegation, he talked to Mr. Denney, I was present too, (meaning the interpreter); there was another man I cannot remember his name. I believe it was one of the members of the prosecution staff.

MR. DENNEY: Your Honors, the person of whom he is speaking is Mr. Fenstermacher, of the prosecution staff, who was in my office for a portion of the time that we discussed the testimony of the witness, and I believe that Mr. Rapp came in once for a period of perhaps five minutes or so.

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I am not sure the witness say him.

DR. LATERNSEER: Your evidence today was probably discussed at this occasion?

A. Yes, that's true.

Q. Was your evidence fixed in writing?

A. No.

Q. Were documents submitted to you?

A. No.

Q. There were documents presented to you?

A. No documents, but especially one thing was emphasized, that is to say, that in the course during the interrogation, I have to say only what I say myself, with my own eyes, and what I heard afterwards, that I should not tell, that is later on, only what I have seen with my own eyes.

Q. Witness, were you not shown a report which the Yugoslav Commission made about the things that happened in Kregujevac?

A. Yes, I saw the document.

Q. You said before that no documents were shown you.

A. This one is not a document; it is my testimony given in my own country, YUGOSLAVIA, it's my own testimony.

Q. Which testimony.

A. Yes, it is my statement, my testimony given in Yugo Slavia, what happened to me on the day of 21 of October, 1941.

Q. You had not given testimony about that in Yugo Slavia, already had you?

A. Yes.

Q. Was only that testimony submitted to you or was the report of the Yugoslav Commission also submitted to you, as I asked you before?

A. I do not know anything about some other documents.

Q. You still live in Kragujevac?

A. Yes, now too.

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Q. And during which time were you active for the German occupation authorities at that place?

A. I cannot remember exactly well, but I started my job for the German occupation forces almost immediately after the occupation was completed, and I held this job until the 17 September when I was arrested.

Q. Did you get pay for your work?

A. Yes, I was paid.

Q. Did you also get subsistence?

A. No.

Q. Did you ever have any claim to holidays?

A. No, it was a short period I was working for Germans.

MR. DENNEY: If your Honors please, I do not want to limit Dr. Laternser, there is no charge that the man was not paid, or that he worked involuntarily or anything else, and I submit there are better ways of testing his power to recollect than whether or not he worked there, and whether they paid him or fed him.

PRESIDENT WENNERSTRUM: Overruled.

DR. LATERNSE:

Q. How were you treated by the Germans while working for them? I am talking about the time until your arrest.

A. I was treated in a courteous way and enjoyed their confidence,

Q. In September 1941, as you said, you were arrested?

A. Yes, I was.

Q. You said that two or three armed soldiers-- that you were arrested by two or three armed soldiers?

A. Yes, and they had insignia, "GFP", on their shoulders.

Q. Witness, what does GFP stand for?

A. I don't know.

Q. Now I want to tell you what it stands for. It stands for "Secret Field Police".

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Do you believe-- really believed,-- that a secret police would show his insignia openly? In that all of the secret police would be recognized at once?

A. I don't know.

Q. Are you quite sure that you saw those insignia, or is it possible that you are in error.?

A. No, I am quite sure that I have seen this insignia and I even saw a sign with an arrow showing the direction to the building, "GFP" also "GFP" shown on this sign.

Q. Would you kindly repeat this. I do not quite understand it.

A. I am quite sure that I have seen this insignia, not only on the soldiers' shoulder patches, the same insignias were worn by officers, and on the door of the office when I was interrogated there was in light blue glass the letters "GFP", written in a black color.

Q. You were then arrested by these people. What was your interrogation about?

A. I was arrested by these people, yes, and interrogations took place on the 2nd floor of the same building bearing the sign GFP.

Q. And what were you interrogated about? About what subject?

A. The matter of the interrogation was that I am a member of the illegal underground organization, and they tried to get my answer in the positive.

Q. You were not a member of the partisans or the underground movements?

A. No, never.

Q. Why were you not a member of the partisan movement?

A. Well, I was good Serbian. I couldn't tell that while there were Germans around. Being a poor man, and bearing on my shoulders my mother, my wife and my child, I had to take care about all of these people. To be a partisan meant to leave the house and my folks and go south to the mountains to fight. I felt too weak for that.

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Q. Witness, you probably also did not do it because you did not think it right to do anything against the occupation forces?

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A. Well, there was a period of time when I was working in the Military Technical Branch in Kragujevac. I had a pretty good life, that is to say, everything was taken care of. I didn't think whether it would be loyal or not to German occupation authorities if I joined the partisans, but later on when I was treated in such a brutal way and was wounded twice; I scared the Germans, that's true; but I didn't join partisans at this time because I was too weak. After two wounds I couldn't do that.

Q. Witness, the question which I'm putting to you refers to the time until your arrest. Did you think it right that fellow countrymen of yours were shooting Germans from ambush? What did you think about that?

MR. DENNEY: If Your Honors please, there is no evidence that this witness knows anything about fellow countrymen shooting Germans from ambush. And I don't think it's a proper matter of inquiry. Further, it probes the witness's the operations of his mind - in matters with which we are not here concerned.

DR. LATERNER: Mr. President, may I make my attitude plain in regard to this. Witness, I had asked you whether at that time and for what reason you refused to join the partisans, because the partisans shot Germans from ambush.

MR. DENNEY: If Your Honor please, he's asking the same question that Your Honor just sustained the opposition to.

THE PRESIDENT: Sustained.

BY DR. LATERNER:

Q. Witness, did you ever talk with partisans--that is, fellow countrymen of yours who were members of those bands.

A. No, never, until 1944.

Q. Until 1944 you did not talk to partisans, if I understood you rightly?

A. No, I had no opportunity for that.

Q. And after 1944 did you then talk to the partisans?

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A Yes, I did, but only when the defense arrived, not like bands, but like a regular army.

MR. DENNEY: I have no objection to Dr. Laternser's going into the 1944 period if he desires to make him his own witness. This testimony has definitely been limited to the period prior to April 1941, except for explanatory matter and some time within a few months after October, 1941.

DR. LATERNSEER: Your Honor, I have never heard--now for the first time--that a witness may only testify about a certain period of time, and that the Defense Counsel in cross-examination must be confined only to put questions about this period of time. I must have the opportunity to question the witness quite freely and this is also in conformity with the American rules of procedure, either for fact or for investigating the question, regarding the credibility of the witness. For this reason, I cannot see how this objection can be sustained.

THE PRESIDENT: The objection is over-ruled.

BY DR. LATERNSEER:

Q Witness, I had just asked you whether after 1944 you had talked with partisans.

A Yes, certainly, I had.

Q What did they tell you regarding the manner in which they fought the Germans? They probably were proud of that, I take it.

A It's historical; it's what everybody in Yugoslavia talks about right now, and I can't tell it in several words.

Q Yes, I understand that. For that reason I will ask something more pointed. What did the partisans tell you personally how they treated the German prisoners?

A It was according to the military situation. Sometimes when it was just to take the prisoners back into the rear zone, they took them but sometimes they killed them.

Q And they told you that?

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A Yes.

Q Did they also tell you the kind of orders they had from Marshal Tito regarding the treatment of such German prisoners?

A I am not acquainted with this problem.

Q Did they tell you the kind of weapons they had and from whom they got these weapons?

A Yes, they did--some of them. They told me that they got their arms and weapons from the Germans, from the killed Germans.

Q Did they also tell you that at night English and American planes --English planes came overhead at night and threw arms and ammunition down?

A Yes, you are right. That's what I told before. It pertained to the first period of the fight, but later on they were supplied, and very richly supplied, by allies because they were recognized as a regular army.

Q You say they were recognized as a regular army. By whom were they recognized as a regular army?

A That's what I have heard. The partisans were recognized by the Allies as a regular army, and besides they even--the German authorities--made sometimes the exchange of prisoners. That is to say, unofficially the German army recognized this unit as an army.

THE PRESIDENT: Pardon me, Dr. Laternser. It occurs to the Tribunal that even though we want to be very liberal in our rulings on cross-examination, that we are getting quite far afield from anything which might have any bearing upon this witness's interest or his credibility. I suggest that we refer to the matters which are at hand--the original testimony of the witness which has heretofore been presented.

BY DR. LATERNSER:

Q We have rather strayed, Witness. I asked you what you were interrogated about after your first arrest. You said then whether you were a member of the partisans or not. And one question you have not yet answered--I asked you did you also not join the partisans because you looked upon it as not right that the occupational forces were shot at from ambush.

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MR. DENNEY: If your Honors please, why he did not join the Party of the Cetniks, the witness has said he didn't. I think it inquires into the operations of the witness's mind, matters which are not under consideration here.

THE PRESIDENT: Over-ruled.

Q Then, I should like to ask you to translate the question in order that the witness may answer it. (Statement to Interpreter Targoni).

A So far as I remember, I gave a quite clear answer to this question. I told you that what concerned the first period of my job in the Military Technical Branch. I didn't think about joining partisans because I had been taken care of. My family was all right, and I was hesitant to leave this job and join the partisans. I didn't concern myself with the problems of whether it would be loyal or not. So I believe that later on, after what happened to me on the 21st of October 1941, I would join partisans because I hated the Germans; but I couldn't do that because of my physical condition.

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Q. What did one have to fear if one was caught as a partisan?

MR. DENNEY: If your Honors please, it has been established that the man was never in the partisans. I don't know how he could tell what one could fear from an organization of which he was never a member.

THE PRESIDENT: Sustained.

BY LATERNER:

Q. Did you in Kragujevac see any posters which were made by the Germans?

A. Yes. I saw some people killed from the same group I was on the 21st of October, 1941. Later on, I saw a man hanged on the street in Kragujevac and I know one shop keeper who was killed too.

Q. I am afraid you have not understood me correctly. I did not mean attacks. I mean posters. I mean posters on walls. Did you see any of those?

A. Yes, I have seen these posters but the very first day I left my home and went to the building of GFP. I saw this poster in the window of a shop. It was written that because 12 German soldiers were killed in the vicinity of Kraljevo, 1200 people in Kragujevac have been shot. There was a longer list of names and last of the numbers was 1200.

Q. Yes, you have already said that. Did you ever see a poster on which it said who was taking active part in the activities of the partisans will be shot? Did you ever read anything of this kind?

A. Yes. Even such notices I signed when I started my job in the Military Technical Branch in Kragujevac.

Q. Yes. Now witness, you were unfortunately arrested beginning after December 1941. You said you were taken to a prison after being interrogated?

A. Yes, that is true.

Q. Yes, and you said that you were put into a cell which was two meters by 70 centimeters and did not have any windows?

A. Yes, that is true.

Q. What is the prison in question?

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A. It was the Serbian Police Jail in Kragujevac.

Q. Who had built this prison? Did the Germans build this prison?

A. No

Q. Well, who had built it then?

A. This building was built up by the former Yugoslavian State. It is an old building.

Q. You said, however, that on October 20 you were taken away by armed soldiers?

A. Yes, that is true.

Q. And you said further that all those who were taken away from this prison were taken into a courtyard.

A. Yes, that is true.

Q. First of all, in this prison, did you know all the persons which you saw in this courtyard?

A. No.

Q. Witness, well how did you come to say that all these people were Serbs?

A. Well, I realized it afterwards. I have heard it afterwards. Then I would like to repeat that I told the Court that there were Serbians but one. This last one was a Jew.

DR. LATERNER: The translation isn't coming through.

THE PRESIDENT: Perhaps we should see if the mechanical matters are coming through all right. We will test it out momentarily.

We will take our recess at this time.

(A recess was taken)

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THE MARSHAL: The Tribunal is again in session.

PRESIDING JUDGE WENNERSTRUM: You may proceed with the crossexamination.

BY DR. LATERNER:

Q Mr. Witness, you said that in the first prison you were until the 20th of October?

A Yes.

Q Why were you fetched away from there?

A I was taken from this jail the 9th of October because on this day there was a special action going on in Kragujevac and I, together with all other jail persons, was taken away from the jail.

Q What do you mean by special action? Do you know in particular whether during those days around about Kragujevac there were hard fights between the German troops and the partisans?

A No, I never saw that in the vicinity of Kragujevac. There were some fights about 40 kilometers away from Kragujevac by a town named Milanovac and there were some killed German soldiers brought to Kragujevac later on.

Q Mr. Witness, I have here a communication from the Serbian Commission for the Investigation of Crimes of the former occupation troops and in this report of this government Commission it says that in October 1941 in the surroundings of Kragujevac there were bitter fights taking place.

A I don't know anything about that.

Q Have you heard anything about it, that there were bitter fights in the neighborhood around Kragujevac, in October 1941?

A No, I never knew about it.

Q Can you somehow explain then how this Commission came about to report such bitter fights in that neighborhood.

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MR. DENNEY: If your Honor please, Dr. Laternser is now trying to probe the minds of the people who are not here, of the Commission of which this witness was not a member; he was in jail. It has been submitted both in cross and on direct from the 17th of September to the 20th and he has said he doesn't know anything about it and I object to the question.

PRESIDING JUDGE WENNERSTRUM: Sustained.

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Q. Where was the prison where you were located, was it located in Kragujevac or in the outskirts or outside of town?

A. I never was in Kragujevac in jail. It was about the middle of the town, in the center of the town.

Q. Did you while you were under arrest in this prison at any time, did you hear any noise of battle, did you hear shots so that you could assume that there were bitter fights going on in that neighborhood?

A. There were a couple of firings, but there no fight.

Q. You said, that then on the 21st you were taken away from the prison and in a march led to the main highway?

A. Yes, that is true.

Q. Can you then describe to the Tribunal how this march was carried out, and did you have to go in close formation or were you allowed to march wider spread?

A. We were all in a column three and three.

Q. And in close formation or in wide formation, were there any guards or no guards?

A. We have been escorted by about 25 of the German armed soldiers.

Q. Would you like to look at this picture, please, and tell me whether that was taken on the occasion of that particular march we are discussing?

A. Yes, this is a building which we passed, which we entered after the end of our march.

THE PRESIDENT: Dr. Laternser, I think for the purposes of the record some references should be made to the number of the picture and the exhibit.

MR. DENNEY: Your Honor, it is Exhibit 100-B-23. I have the original here. Perhaps the witness would like to see that.

Q. I am showing the witness the original so that he can see it a little closer?

A. Yes, this picture is a bit better. The same kind of groups that come before mine and afterwards. Something like that should be my group too.

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Q. And when was that, on what day?

A. It happened on the 20th of October 1941.

Q. On the 20th of October 1941, you said?

A. Yes, on the 20th of October.

Q. You said you were then led into a court yard which was near the artillery barracks, how many persons were in this courtyard at this time?

A. When I arrived there, there were about thousand.

Q. How did you know that there were about a thousand people?

A. There were about a thousand I mean.

Q. You yourself didn't count them, did you?

A. No, I didn't.

Q. That is merely a guess, is it?

A. Yes, I guess so.

Q. As you further said later you together with other groups were led into another barracks by German soldiers?

MR. DENNEY: If Your Honor, please, that was not his testimony. He said he was taken out of one artillery barracks kaserne and by another one. He did not say he was taken into another one. It may have come over improperly in the German.

MR. LATERNSEER: That is why I asked him, to clarify the matter. These kind of questions are certainly admissible.

THE PRESIDENT: The witness will be able to take care of himself, I am quite certain.

Q. Please, would you translate the question then so it can be answered; where were you led from this barracks?

A. We were taken by the barracks to a workers settlement outside Kragujevac, and then to a field outside of Kragujevac.

Q. And who was there when you arrived there?

A. There was a German officer there, and there being some bodies lying around on the ground in the vicinity of this officer. I couldn't see that really, because it was about 200 meters from me.

Q. Didn't you say before--maybe I misunderstood you, that it was already dark.

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A. That is true. It was pretty dark, and apart from that there was a difference of about 200 meters, but it wasn't completely dark.

Q. And at that opportunity that was when you escaped?

A. Yes, that is true.

Q. Then you had a contact with two guards and one of these guards wounded you twice by shots?

A. That is right.

Q. When were you bandaged the first time?

A. On the next day about 12 o'clock.

Q. You mean around 12 o'clock noon?

A. Yes, at mid-day.

Q. And who bandaged you?

A. There was a hospital, a physician of the hospital who bandaged my wounds.

Q. Do you really mean to say that only on the next day around 12 o'clock you were bandaged for the first time?

A. Yes, that is right.

Q. How did you manage that the wound stopped bleeding?

A. I don't know, but I lost plenty of blood and the scars could be seen on my body even now.

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Q.- So you were then asked how many inhabitants of Kragujevac were shot in October 1941, you named the number "8,000".

A.- Yes, I talked about 8,000 people.

Q.- Who gave you that figure?

A.- First I learned it from our priests.

Q.- And where else did you hear any thing about it?

A.- Everybody knew that in Kragujevac. It was a matter of common knowledge.

Q.- Next, witness, I would like now to show you Document 100a, where the Serbian Commission ascertains or believes that in an ascertain 5,00 people were shot or allegedly shot. Are you still maintaining that 8,000 people were shot after the official commission believed that only 4-5,000 people were shot?

A.- I don't know anything about this official report of the Yugoslavian State Commission. I know exactly well that people in Kragujevac thought there were about 8,000. I have heard that from priests who counted the number of the victims according to the meals brought in the church; according to Serbian custom, for everybody was prepared a special meal and brought into church for every person.

Q.- Did you yourself witness shootings?

A.- No, I haven't seen any.

Q.- How can you say then that 8,000 people were shot?

DR. LATERNSEER: I am just being told that the transmission doesn't come through properly.

DR. HINDEMITH (Alternate for Dr. Rauschenbach, counsel for the defendant Foertsch): I have doubts on the correctness of the transmission of the interpreter. Dr. Laternser asked: "Did you yourself witness shootings?" According to my knowledge of the Slav language -- I know polish -- this question, by adding one word "micno" would be quite different. According to my knowledge, "micno" means "numerous" -- "Did you witness numerous shootings?"

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That, in my opinion, would not comply with the duties of an interpreter if, by such an addition, the question is not properly expressed.

THE PRESIDENT: The Court first wishes to ascertain as to whether or not the German translation is coming through to the German defendants and German Counsel.

I think that answers the first inquiry of the counsel.

The next matter to be considered is as to the interrogation of the witness, or the interpreter, as to the statements made by him.

I take it that the cross examination should not be carried on by more than one counsel. I would suggest you permit Dr. Laternser to interrogate the witness on that point.

DR. HINDEMITH: I apologize, Mr. President. I only wanted to ascertain that the translation by the interpreter was correct. We get the impression that the transmission of the interpreting is not correct. This is not the first case that I notice the discrepancy. I remember when the examination first started the witness was being asked who interrogated him on the 17th of September when he was being collected. The witness designated the officer as "Porushnik". "Porushnik" corresponds to the Polish word "Porushnik." That means "Lieutenant." The interpreter transmitted "Captain." If one compares the record, this could be easily ascertained. There was, therefore, a discrepancy during the examination of the witness.

THE PRESIDENT: Pardon me. May I suggest -- repeating -- may I suggest that you make a note of this matter and hand it to Dr. Laternser or confer with him concerning this matter so that he may carry on the examination? We cannot have it carried on by two parties.

DR. HINDEMITH: Very well, Your Honor.

THE PRESIDENT: I might add that if counsel wishes to take a little time to confer with Dr. Laternser, the Tribunal will give him that opportunity; but I do not think that we should be interrupted and have the matter handled by two persons.

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BY DR. LATERNSEER:

Q.- Now, witness, I asked you -- I don't know whether the answer has come through -- whether you yourself witnessed shootings; that is in the course of the 20th or 21st of October, 1941.

A.- No, I answered that I never saw any killings by myself.

Q.- And, in contradiction to the report of the commission in which the alleged number of 4-5,000 are mentioned, you want to increase that figure to 8,000 without ever having witnessed a shooting yourself?

MR. DENNEY: If your Honors please, I object to the form of the question. He is saying that he is contradicting the commission. The record is clear that Dr. Laternser says the commission says 5,000 and that the witness says it was 8,000 and I believe the Tribunal can make any inference they wish to make from it, but I object to Dr. Laternser using the term to him of "contradicting the commission."

THE PRESIDENT: Sustained.

BY DR. LATERNSEER:

Q.- Witness, you further said that the Town Commander -- I think you mentioned the name "Schuster, the town major -- on the 21st of October, with a tank, drove to the spot of the execution.

A.- Yes -- but only one correction. It wasn't the town major. It was the "Ortskommandant."

Q.- And you mean to say that he, on the 21st of October, with an armored car drove to the spot of the execution?

A.- I don't know whether I told on the 21st of October. If I did, it wasn't correct. It should be 22nd of October. I am sorry.

Q.- Did you know the local commander Schuster personally?

A.- No, I didn't know him personally but I have seen him for quite a time. He was a short man, a blonde one.

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Q.- Where were you yourself on the 21st, or be it the 22nd of October?

A.- On the 22nd of October I was home.

Q.- Didn't you say previously that on the 22nd of October you were in a hospital?

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A.- No.

Q.- Did you, yourself, see Major Schuster drive in that tank, you are talking about?

A.- No, I didn't see him.

Q.- How can you say that he drove to the spot of the execution in a tank?

A.- I was told about that by the person who was saved by Major Schuster, as I told you before.

Q.- There is one last question I would like to put. Are you free now, are you at liberty?

A.- Yes, right.

Q.- How did it happen then that you are appearing here as a witness? Did you volunteer, or were you requested to come here.

A.- I reported myself as a voluntary witness, and I do not know through what channels that application of mine, went on.

Q.- I did not understand that answer.

A.- I reported myself to witness any German atrocities committed in Kragujevac, and according to this, my statement, I was called presumably by the State Commission. I do not know exactly.

Q.- There is one more point I would like to bring up. Have you ever seen a partisan in uniform?

A.- Yes, when I arrived in Kragujevac, in 1944.

Q.- Would you please describe that uniform, that that partisan you are talking about was wearing?

A.- Mostly it was a British soldier's uniform, battle dress.

Q.- Yes, what color did this uniform have?

A.- The same color as that man sitting here.

Q.- For the purposes of the record, it is a brown color?

A.- Yes, if you want brown.

MR. DENNEY: In order that we do not have Dr. Latenser's eyesight or mine on the record, I am willing to state that the witness pointed to a current uniform of a member of the United States Army which is known technically as "Uniform B; winter; olive drab color", but I object to the use of the term, "brown".

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DR. LATERNSE: Did you see any insignia on that uniform?

A.- Yes.

Q.- What kind of insignias were this?

A.- There were lines on the sleeve.

Q.- Did you see several partisans in uniforms?

A.- I have seen a complete brigade of partisans in uniform.

Q.- Did you ask to be shown weapons also?

A.- Yes, twice.

Q.- What kind of weapons were that; German, Serbian, English, American?

A.- And Russian, too.

DR. LATERNSE: I have no further questions.

DR. HINDEMITH, Alternate for Dr. Rauschenbach.

PRESIDENT WENNERSTRUM: I take it you have completed your cross examination, Dr. Laternse?

DR. LATERNSE: Yes.

PRESIDENT WENNERSTRUM: Counsel, you may speak/

CROSS EXAMINATION

DR. HINDEMITH, Alternate for Dr. Rauschenbach, for defendant Foertsch:

Q.- Your Honor, before I start putting questions I would like to point out what kind these questions should be. I would like to say that the statement of the witness does not seem likely to me in several points.

THE PRESIDENT: You just go ahead and ask the questions you see fit.

To begin with, I would like to put one question which Dr. Laternse has already put, and that is the question whether the testimony of the witness has been put down in writing prior to having been made here;

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As I am repeating this question now, I would like to say the following for my reasons to do this. When the afternoon session started the representative of the prosecution summarized the latter statement of the witness, that is he repeated it. When he did that, he said amongst other things, that the witness had declared that he had managed to inform his wife that he was lying in some courtyard and his wife sent him a car.

PRESIDENT WENNERSTRUM: I think that we can hasten matters considerably if you will ask any questions that you see fit to ask in the way of cross examination. The matter of explanation of why you are asking the question is not of interest to the Tribunal.

We do not want to limit you in your cross-examination but I suggest that you proceed with it.

DR. HINDEMITH: Your Honor, I am only interested to ascertain from the record whether during the morning the witness had made a testimony to the effect that he managed to get information to his wife, and that she came to the courtyard where he was, in a car.

PRESIDENT WENNERSTRUM: Then ask him the question.

MR. DENNEY: If your Honors please, I think that he is trying to find out whether or not the witness' testimony was overwritten down and handed to him. It was not. I kept a record myself, which I will be very glad to show the court, in my own handwriting. I have never given it to the witness and the Yugoslav representatives in Nurnberg have never prepared any written statement which has been handed to him.

PRESIDENT WENNERSTRUM: May I suggest that the witness be interrogated with due respect to both counsel, and we will proceed more rapidly and more expeditiously, if we question the witness and not make any general statements.

DR. HINDEMITH: Very well, Your Honor.

Q.- Witness, what experiences did you make on the basis of the events of the 17th of September and of the 20th of October, in respect to the German authorities?

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A.- I had the worst opinion of them.

Q.- You believed then that no fair treatment was to be expected from German authorities?

A.- Later on that is true, but not before that. Before this event, I mean, I didn't think so hard.

Q.- My question was what experiences, what opinion you gained on the experiences of the 20th of September -- 17th of September and 20th of October, is that correct then?

A.- No, not before them.

Q.- On the 20th of October, when you marched from the Artillery Barracks to that place where an execution was to take place, were you the last group that left the barracks, or when you left were there other people left behind?

A.- The first; only our group which was taken away from the artillery barracks; all other people were left in still.

Q.- Was this an action which was carried out rather suddenly?

A.- No, this action did not come quite suddenly.

Q.- Were the name of the persons taken before they were put on the march?

A.- No, I don't know how they did that.

A.- You yourself had no personal data taken off of your own person; was there?

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A. Yes, they asked me because I was in jail; I was arrested.

Q. On the 17th of September was that, or was it on the 20th of October when they asked you?

A. It was on the 17th of September.

Q. How far was that place where you were led to distant from the town or rather from the artillery barracks?

A. It was about 5 Km.

Q. And you escaped back into town from that place? Is that correct?

A. Yes, to the city.

Q. And on your escape you passed the artillery barracks again --that same artillery barracks from which you were put on the march?

A. No.

Q. But, I seem to remember quite well that you said you passed the artillery barracks; you encountered a guard there.

A. That's right, but it was another artillery barracks in Kragujevac not the first one; there was another one.

Q. How many artillery barracks are there in Kragujevac?

A. There are two artillery barracks in Kragujevac.

Q. And you went through both those artillery barracks didn't you? I think I understood your testimony to that effect.

A. I was taken into one of them--into the first of the barracks--and the second one I only passed by.

Q. But in the second barracks there were also Serbs under Guard gathered together. Is that correct?

A. No.

Q. I do believe though that you said something else in the morning, but we shall leave it at that. Tell me wasn't it very foolish of you to escape back into Kragujevac on the basis of the experiences with you had made previously -- on the 17th of September, and especially on the 20th of October? You simply had to assume that since the action hadn't been completed that you would be picked up again.

MR. DENNEY: If Your Honors please, I object to the form of the question, "Wasn't it very foolish of you to escape back into Kragujevac?"

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THE PRESIDENT: It is sustained as immaterial.

BY DR. HINDEMITH:

Q. What aim did you have when you went back to Kragujevac?

MR. DENNEY: I object to the question, Your Honor; it's immaterial. --What reason he had to go back to Kragujevac when he had been wounded twice.

THE PRESIDENT: Over-ruled.

DR. HINDEMITH: May I say something in connection with this? ...

THE PRESIDENT: The Court has over-ruled the objection; you may proceed with the cross-examination.

BY DR. HINDEMITH:

Q. Where were you trying to go to in Kragujevac?

A. My aim was only to be alive, to save my life. I was almost killed; I was almost dead already.

Q. The reasons for your escape are perfectly clear and understandable. What I wanted to know is in what locality did you think you'd find shelter.

A. My aim was to reach the very first house--somewhere; and to get some help.

Q. Was the barracks which you passed situated on the outskirts of the city?

A. Yes, it was on the outskirts of Kragujevac.

Q. Now, something else. You were severely wounded by two shots fired by a German soldier, if I understood you correctly.

A. Yes, that's right.

Q. And, as a consequence of these wounds, in the beginning you were almost unconscious and our collapsed.

A. No.

Q. Almost unconscious, I said.

A. No, I never lost my consciousness.

Q. How long were you lying there?

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A. Because of complete darkness, I can't remember. I can't tell; I lost plenty of blood.

Q. And how and when did you reach that courtyard where you spent the night?

A. I don't know; I can't tell; it was at night; I was wounded.

Q. Well, did you get there with the help of other people, or did you manage to walk or creep there yourself?

A. No, I did it by my self. Nobody helped me. I crawled mostly and spent a long time to reach this first house.

Q. To begin with, you attempted to find shelter in that house, and the woman in the house rejected that because she was afraid to be persecuted by the Germans for that reason.

A. Yes, that is right.

Q. When did you ask the woman to inform your wife?

A. Immediately after my arrival at this house I asked her that.

Q. And when did the woman send the communication to your wife?

A. Early in the morning.

Q. How far is it to your home from the house where you found shelter?

A. It takes about one hour, roughly.

Q. That was on the outskirts of Kragujevac--that courtyard where you were lying, and you yourself lived where? In the city of Kragujevac or some place else?

A. My house was in another part, quite opposite that of Kragujevac.

Q. That is a town of 35,000 inhabitants. If one thinks of our conditions of towns, such a town, in my opinion, can be travelled through from one end of the town to the other, in a much shorter time than one hour. Can you give us an explanation why it took a whole hour from the house where you were lying to your own home? It was merely a small town wasn't it?

A. Yes. Maybe it is so here, but not there in Kragujevac.

Q. Did the woman in whose courtyard you had found shelter give the message to your wife herself?

A. I don't know that.

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Q Didn't she say anything about that?

A No, she didn't.

Q And you didn't ask her either?

A It wasn't important for me at that moment who brought this message.

Q I believe that the obvious thing to your wife should have been when she received such terrible message that in the quickest way possible she would come herself to help you. Can you make any explanations for the fact that did not happen?

JUDGE BURKE: Just a moment. What is it you are seeking to establish?

DR. HINDEMITH: May it please the Tribunal, the witness has testified that his wife arrived in a car around about eleven o'clock in the morning.

JUDGE BURKE: I think we are familiar with that. What is it you are attempting to establish?

DR. HINDEMITH: I think it is most unlikely that a wife received such a dreadful message that her husband is heavily wounded, that she let so much time pass before she reaches him. A further thing is that the woman in whose courtyard the witness had found shelter was very worried to get into trouble because the witness was staying there. For that reason she refused to let him into her house. The woman and the other woman herself must have been very interested -

JUDGE BURKE: Pardon me for interrupting you. Isn't that a matter of argument at the appropriate time and place?

DR. HINDEMITH: May it please the Tribunal, the defense has no opportunity since they don't know the locality or the conditions there to make other inquiry with something that can be based on facts to establish its credibility; we therefore have to for the most part assume--for the most part, we have to take as a basis what the witness testifies. I am of the opinion that the testimony has to be evaluated whether from general human experiences point of view if it is likely, credible, and I am of the opinion that various statements which the witness has made here are of such an unlikely nature -- at least, they seem that way to me --that I deem it necessary that the witness get an opportunity to as far as possible remove the unlikelihoods.

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JUDGE BURKE: I would like to refer the matter back to our presiding judge for such action on the individual questions as he desires to make.

THE PRESIDENT: You may proceed with the cross-examination with this suggestion from the Tribunal, however, that you direct your inquiries to the matters which were testified to by the witness and not endeavor to question him as to his interpretation of certain conditions that are disclosed by his testimony. You may proceed.

BY DR. HINDEMITH:

Q Witness, continuing, you then were brought to hospital -- that was when?

A It was on the 21st of October, 1941.

Q I don't mean the day. I mean the time of the day?

A It could be about one o'clock in the afternoon.

Q I think you said before it happened around eleven o'clock because you said you already left the hospital around about twelve.

A No as far as I remember I told you one o'clock.

Q Well, we will leave that. The records can show what you said.

Where you able to walk to the hospital? That is, could you have walked?

A No, I was taken to hospital by a horse-drawn vehicle.

Q And the horse-drawn vehicle -- what did happen to that after you came to the hospital?

MR. DENNEY: If your Honors please, I certainly submit it is irrelevant as to what happens to a horse-drawn vehicle after he got to the hospital.

THE PRESIDENT: Sustained.

DR. HINDMITH: May it please the Tribunal, I would like to point out the following. The witness testified that he left the hospital again.

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He just told us that he was brought to hospital in a vehicle; on the other hand, he left the hospital because four men of the Serbs Voluntary Organization came there and fetched him.

THE PRESIDENT: You ask him then as to how he left and that will answer our question them.

BY DR. HINDEMITH:

Q You were then fetched from the hospital?

A Yes, that is right.

Q And where were brought to? To the headquarters of the German Secret Field Police, if I remember correctly?

A I was taken from hospital into headquarters of the 4th Serbian Voluntary Battalion.

Q How were you brought there?

A The horse-drawn vehicle.

Q Now a different point. You said that you learned on the 20th or rather on the 21st of October, I don't know, about 1200 people were shot. This fact you assumed from two circumstances: first of all from a placard and then from the rest that were put up on several houses. On these posters, according to you, the people were written by name and you further said that you convinced yourself of the number, that the number of the last victim -- you looked up the number of the last victim. Is that correct?

A No, you didn't understand me quite.

Q Will you please tell us then how it is correct?

A I told only that the first day I left my house and went to the GFP headquarters I saw a poster in a shop with a long list of names. The poster was telling that 1200 people have been shot because 12 German soldiers were killed somewhere in the vicinity of Kraljevo. That is what I told you.

Q That was about 20 days after that that you read that, is that right? That you saw that poster? When was that?

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A I don't know when this poster was put in. I didn't get out from my house for 20 days.

Q Another question. They you were dismissed and you were allowed to return to your home?

A Yes, that is right.

Q Then you were ordered immediately after you had got well you had to report to the Field Police and if I understood you correctly that your daughter should give a message to that effect to the Field Police. Is that correct?

A Yes, that is true.

Q And you did comply with this order which was given to you?

A No, I didn't.

Q But you said that you did go to the secret police or to some other authorities and that the question of your further employment was clarified later?

A Yes, that is true.

THE PRESIDENT: The Tribunal will stand adjourned at this time until nine-thirty tomorrow morning.

(The Tribunal adjourned until 31 July 1947 at 0930 hours.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List, et al., defendants, sitting at Nurnberg, Germany, on 31 July 1947, 0930, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, you will ascertain if all the defendants are present in the courtroom.

THE MARSHAL: May it please your Honors, all the defendants are present in the courtroom.

THE PRESIDENT: Judge Burke, my associate, will preside at this day's session.

PRESIDING JUDGE BURKE: You may proceed.

MR. DENNEY: If your Honors please, we were having cross examination yesterday by the counsel for the defendant Foertsch who I believe was Dr. Hindemith acting for the absent Dr. Rauschenbach, and there has been no expression to the Court that that cross examination has been concluded; and I notice at the microphone counsel for another defendant, and I would appreciate an expression from counsel who through his representative was cross examining the witness for the record.

PRESIDING JUDGE BURKE: The Tribunal will appreciate such a statement.

DR. RAUSCHENBACH (Counsel for defendant Foertsch): I have no further questions to put to the witness, President. I believe that one of the other defense counsel would like to further cross examine the witness.

DR. SAUTER (Counsel for the defendant von Geitner): I have a few short questions to put to the witness.

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CROSS EXAMINATION BY DR. SAUTER:Q.- You told us yesterday that in 1944 you met Serb partisans.

In the previous years, 1943 or 1942, did you never in those years encounter any partisans?

A.- I had never met with any partisans until 1941. It was on the 20th of October.

Q.- 1944, was that?

A.- Yes, that's right.

Q.- And during the whole previous time of war, did you never meet any partisans in Kragujevac? Surely there were plenty of people who belonged to the partisans.

A.- No, never.

Q.- In these previous years, before October 1944, did you hear of any Yugoslav partisans against German forces? Did you hear nothing about that before October 1944?

A.- Yes, I have heard. I have heard about some fights, somewhere pretty far from Kragujevac.

Q.- Before October 1944, for instance -- let's say in 1943 or 1942 --did you hear that German soldiers down there in your neighborhood were killed by Yugoslav partisans -- that is, before 1944?

A.- Yes, I heard there were about 20 German soldiers killed by partisans in the vicinity of Vroni-Milanovac -- that's about 40 kilometers from Kragujevac.

Q.- Was that the only case, those 20 soldiers? Was that the only case that you heard of before October 1944 where German soldiers were killed by partisans; or isn't it correct -- I would like to add that -- isn't it correct that such cases down there in Kragujevac occurred quite frequently and were talked about amongst the civilian population and were known to them?

A.- No, I never heard anything else. I would like to make a correction.

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I didn't mean to tell 20 soldiers, but 12 soldiers.

Q.- Didn't you hear anything about, in the time period before October 1944, that repeated numerous sabotage acts occurred against the German Wehrmacht -- for instance, attacks against railways lines, robbings -lootings and robbings of magazines, etc. Didn't you have about that in Kragujevac?

A.- No, I never heard that. I was sick and just was getting out in order to reach my office where I was working and from my office I went usually immediately home.

Q.- You didn't read anything either about attacks against the Serbian civilian population or posters by the German authorities which mentioned that certain attacks had occurred against the German Wehrmacht and that the German Administration would make ruthless measures against such attacks? Did you never read such posters in Kragujevac?

A.- No, I have never seen these posters and I would like to emphasize that I wasn't feeling well. I was concerned with my own business, and, in addition to that, my wife was sick, so I had plenty to do in my home. I wasn't interested in these things.

Q.- Witness, I have to remind you that today, too, you are under oath. I think it is incredible that during the years 1942 and 1943 you were ill all of the time, that as a Serbian National you weren't interested in those matters. I can't believe that and, therefore, I have to ask you really maintain this under oath that during the whole years of 1942 and 1943 you heard nothing about these things, not even from Serbian compatriots -

MR. DENNEY: If Your Honors please, I object to Dr. Sauter's arguing with the witness.

PRESIDING JUDGE BURKE: The objection is sustained.

Q.- Witness, when you heard in 1944, as you say, that German soldiers were killed, what were you told about the partisans in which manner were these soldiers being killed, these German soldiers?

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A.- I have heard from some individual partisans that some German soldiers had been killed but in which way this happened I don't know.

Q.- Did you hear of such a case in 1944, as you say? Did you hear about such a case only once or several times where German soldiers were killed by partisans?

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A.- I have heard that from several persons. I do not know whether it is true or not.

Q.- Did you try to gather information about how many German soldiers that might have been?

A.- No, that wasn't the business of my concern.

Q.- You were not interested in that?

A.- No.

Q.- You weren't interested in who ordered the killing of these German soldiers, and -- whether it was an officer of the partisans or a court, who ordered that.

A.- I got the impression this was just talks about some soldiers by some partisans, but maybe it is true. I don't know.

Q.- But before you told us that you heard about these things from various sides, at least that is what the translation brought out. This wasn't just talk and gossip by one partisans. Several people must have talked about it.

A.- I heard that from several persons, and I remember very well I heard it this way from several individuals.

Q.- And you didn't know whether that was mere gossip?

A.- I don't know. I had heard it.

Q.- But you did hear of the shootings of the 8,000 Serbians which you told the court about. You know about those shootings. Was that mere gossip, or was that a fact? How did you know that?

A.- About 8,000 people who were killed in 1941, there are plenty of documents testifying to that, and there are still the ditches where the corpses of these people are lying.

Q.- But just previously you told us you were so sick all of the time and your wife also that you could not possibly be interested in all of the things that went on. How then do you know now that there are documents? Did you see those documents in existence? Did you see those documents in spite of your illness or how did you know that and since when?

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A.- Now I am not sick any more, and the place -

DR. SAUTER: Now you are not sick any more?

A.- The population is going there, it is a religious place now in Kragujevac.

Q.- Witness, what then did your partisans tell you why the German soldiers were being killed or hanged? What reasons did they give you?

A.- I didn't hear that from partisans. I saw this poster, with my own eyes at the first time I left my home and went to the building myself, to GFP. I saw the poster with 1200 names.

Q.- I believe, witness, you misunderstand my question. Yesterday you told us, and today you confirmed it, that you heard from partisans that captured German soldiers were killed, and now I would like to hear from you what did the partisans tell you; for what reason were the German soldiers killed by the partisans? I only want to know the reason, nothing else.

A.- I don't know this.

MR. DENNEY: If your Honors please, I suggest that he establish whether or not he was given any reasons, assuming reasons were given him, as to whether or not these Germans were killed. He assumes that he was given reasons. He can ask him, and if he tells him "yes" he can inquire.

PRESIDING JUDGE BURKE: He has given the comprehensive answer that he does not know. Proceed.

Q.- Witness, today you say you do not know the reason, but yesterday you did give the reason. I put this question, in order to find out how far your answers are credible. Please employ your memory and tell us what the reason was why those German soldiers were shot. I just remind you, you said yesterday the German soldiers were taken away when they had fallen in battle, by the partisans and others again were killed. Now I want to know from you, - and that is on your oath, - what reasons were you being told why those soldiers were killed?

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A.- I told yesterday that there were some cases, - that is to say, I heard about some of these cases, that this was depending on the military situation, that is to say, if there was possibly time to take these captured German soldiers into the rear zone the partisans did take them, but sometimes it was not possible, the soldiers were killed.

DR. SAUTER: Your Honor, I have no further questions to put to the witness, I think.

PRESIDING JUDGE BURKE: Do I understand that counsel terminated his examination at the conclusion of yesterday's session, and there is no further examination?

DR. RAUSCHENBACH (For Defendant Foertsch): When the session started I had already mentioned that the cross-examination which was started yesterday by my assistant is considered finished. There are no further questions.

PRESIDING JUDGE BURKE: You may proceed.

MR. DENNEY: May it please your Honors, we have no further questions to put to the witness and if there are no questions by the court, I request that the witness and Mr. Targoni be excused, unless there are further questions by the defense.

PRESIDING JUDGE BURKE: The members of the Tribunal have indicated that they have no questions.

The witness may be excused.

MR. DENNEY: Thank you, your Honor, Mr. Fenstermacher will proceed with document book 13.

PRESIDING JUDGE BURKE: Proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: Your Honors will recall with the introduction of Documents in Document Book 13, we are concerned with the final period, from the staff end, and the number of defendants

involved, it is the most important period in this case, – that is, the period from August 1944 until October 1944, when the German troops withdrew from Greece and Yugoslavia.

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We were concerned yesterday particularly with the events in Croatia and during that period, your Honors will recall, that in Croatia at that time, General Rendulic was Commander in Chief of the 2nd Panzer Army, and that the defendant, General Dehner was subordinate to the General Rendulic, as Commander of the 69 Reserve Corps and in November 1943 the defendant Leyser also became subordinate to the defendant Rendulic as Commander of the XXI Mountain Corps.

Turning now to page 39 of the English, page 27 of the German Document Book, [NOKW-739](#), it is offered as Prosecution Exhibit 321. These are two extracts from enclosures to the War Diary of the 21st Mountain Corps, for the period 26 August to 30 September 1943. The entry for the 13th of September, 1943: "Commander in Chief Southeast," and your Honors will recall that at that time the Commander in Chief Southeast was also simultaneously Commander of the Army Group F, was the defendant von Weichs.

"Commander-in-Chief Southeast orders the execution of General Roneaglia, Italian XIVth Corps, for his disobedient attitude in case deportation to Belgrade, is not guaranteed. Corps Headquarters instructs 118th Division to send General Roneaglia immediately to Belgrade under guard."

"1620 hrs Report to 2nd Panzer Army on changes in the departure plan of the Italians in compliance with proposal by Army. 118th Jaeger Division receives the order to send General Roneaglia immediately to Belgrade under guard."

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DR. TIPP: Dr. Tipp, Defense Counsel for Defendant von Leyser. I believe that the Prosecution made a little mistake just now. This Document [NOKW-739](#), General Command of the 21st Mountain Corps, at this time, does not refer to the Defendant von Leyser.

MR. FENSTERMACHER: May it please. I didn't say that this document related to the Defendant von Leyser. I simply pointed out that the document was extracts from the War Diary of the 21st Mountain Corps for the period from 26 August to 30 September 1943. I had earlier pointed out that the Defendant Leyser became Commander of the 21st Mountain Corps in November, 1943.

DR. TIPP: Thank you.

PRESIDING JUDGE BURKE: You may proceed.

MR. FENSTERMACHER: Turning next to Page 40 of the English and Page 28 of the German Document Book, Document No. [NOKW-727](#), which is offered as Prosecution's Exhibit No. 322. First is an order from the 21st Mountain Corps to the 118th Jaeger Division, dated 13 September 1943:

"To the 118th Jaeger Division General Roncaglia, Commanding General, Italian XIVth Infantry Corps, is to be shot without delay as a franc-tireur on the basis of illegal conduct reported in the Daily Report of the XXIst Mountain Corps of 13 September 1943, in the event immediate transport to Belgrade is not fully guaranteed."

MR. FENSTERMACHER: This, if Your Honors please, is signed by the Commander in Chief of the Second Panzer Army, who, at this time, was the Defendant Rendulic; and there is a "Addition of the XXIst Mountain Corps: Transport of General Roncaglia by plane under escort is to be carried out at once. Report of completion is to be directed to Corps Hqs." And the order is signed "XXIst Mountain Corps," by the Operations Corps, Ia officer. And then for the 18th of December 1943 in the War Diary, "1235 hours, the 100th Infantry Division reports..."

DR. LATERNSEER: Your Honor, I request to ask the Interpreters to ascertain whether the translation of the order just read to the 118th Jaeger Division is correct or not.

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PRESIDING JUDGE BURKE: Proceed. The form followed by the Tribunal will be followed in this matter, if you will hand the transcript to the Interpreter. (Court Page hands papers to Interpreter). Now, Dr. Laternser, if you will indicate the portion of the document on which you wish further explanation.

DR. LATERNSEER: I am concerned with the Document No. [NOKW-727](#). That in the English Document Book is on Page 40, at the top; and in the German Document Book, it lies also on the top of Page 28.

PRESIDING JUDGE BURKE: It may be done so. Will you indicate the language in question.

DR. LATERNSEER: Thank you, Your Honor. The paragraph starts with "General Roncaglia" and ends with "guaranteed." In this paragraph there is in the second half of a sentence a mistake in the translation, that is, in my opinion. I would like to have a renewed translation by the Interpreters.

MISS SCHAEFFER (German-English Interpreter): I think what Dr. Laternser means is that "widersetzliche handlung" is translated "with illegal conduct." The word shouldn't be "illegal." It should be "insubordinate" or merely "resistance."

DR. LATERNSEER: No this is a wrong idea of the interpreter. This part is correctly translated only the second part. The English translation is, "In the event immediate transport to Belgrade is not fully guaranteed." That is correct, but in my opinion "widersetzliche" is an insubordinate attitude and not an "illegal" attitude. There is nothing illegal in being insubordinate, and it can't be assumed immediately that it is illegal. Your Honor, in the German it is being expressed "falls", that is, in the event it is not fully guaranteed, and this sentence should, in my opinion, be started with "if" or "when"; it is not correct.

MR. FENSTERMACHER: Your Honors, please, I don't think Dr. Laternser should argue with the interpretation given by the Interpreter.

PRESIDING JUDGE BURKE: Do I understand that you disagree with the Court No. V, Case No. VII.

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interpretation given by the Interpreter for the disputed question or item?

MR. FENSTERMACHER: Are you addressing me, Your Honor, or Dr. Laternser?

PRESIDING JUDGE BURKE: I am addressing Dr. Laternser.

DR. LATERNSE: When the words "in the event" mean the same as "if" or "when" then I agree.

MISS SCHAEFFER (German-English Interpreter): "In the event" is perfectly correct.

PRESIDING JUDGE BURKE: Is that quite sufficient, Dr. laternser?

DR. LATERNSE: Thank you.

MR. FENSTERMACHER: Continuing now on the bottom of Page 40 of the English and Page 28 of the German with the entry from the War Diary for 18 September 1943, "1235 hours, the 100th Infantry Division reports: Order to the divisions concerning treatment of Italian troop units who deliver up their weapons to insurgents. Officers are to be shot by court martial; transport to the East for labour service is stipulated for NCOs and men." Turning next to Page 42 of the English, Page 29 of the German, is Document No. [NOKW-916](#), which is offered in evidence as Prosecution's Exhibit No. 323. This, if Your Honors please, is a quite important order. It's dated Fuehrer Headquarters, 15 September 1943. It related to the:

"Basic Policy Concerning the Treatment of Soldiers of the Italian Armed Forces and of the Militia.

All previously issued orders concerning the treatment of soldiers of the Italian armed forces of the Militia are herewith rescinded and the following is ordered:

I. Basic Principle:

Italian soldiers must declare unequivocally whether they desire to continue fighting on our side or whether they wish to participate in the breach of faith of the Badoglio Government."

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MR. FENSTERMACHER: Your Honors will recall Here that on the 8th of September 1943 the Italian forces surrendered to the Allies, and as the terms of the armistice provided that the Italian troops should return immediately to the Italian Mainland, under orders of their Commander in Chief, Marshall Badoglio.

"Whosoever is not for us is against us and consequently he becomes a prisoner of war. (Irrespective of any German citations of War he may have received.)

"II. One must distinguish three classes of Italian Soldiers including the Militia:

1.) Italian Soldiers faithful to the alliance who

a) wish to continue armed fighting on our side

b) wish to be employed in the order and security service, in the supply organization of the Wehrmacht units or with the Navy of the Ground Forces of the Luftwaffe without, however actively participating in combat.

2.) Italian soldiers who do not wish to assist us in any way.

3.) Italian soldiers who have resisted either actively or passively or who have allied themselves with the enemy or with bands.

"To 1.) (Italian Soldiers faithful to the alliance):

Italian officers wishing to fight on our side according to 1 a) or 1 b) are to retain their arms, the same applies to non-commissioned officers and men in as far as they are committed in organized formations on newly organized units. The treatment of these Italian soldiers who remain faithful to the alliance is to be one which is completely consistent with their honor.

Their rations are to be based on those of the German; if possible, they are to receive their own kind of food derived from Italian supplies. Until the final completion of the regulation, they are to receive 50% of the German Court No. V, Case No. VII pay corresponding to their ranks.

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"A special order will be issued regarding the oath and/or another declaration of obligation by Italian Soldiers loyal to the alliance.

Commitment:

a) Commitment as units limited up to company (Battery, etc.,) strength within German units or by insertion of strong German cadres (for instance, heavy artillery with Army Group B and C-in-C West).

b) Commitment in Militia Units in accordance with detailed directive of Reich Fuehrer SS within Italy as a Police Unit, outside of Italy in the fight against bands. The last named employment may be taken into consideration particularly if the Italian troop units concerned have previously seriously taken up the fight against bands together with us as, for instance, in Istrien. After (the units have) proven themselves, they will also be employed with Security Troop Units."

Then, if Your Honors please, there are certain words which are crossed out in the original. Continuing now in sub-paragraph "d":

d) Commitment as "Italian Voluntary Helpers" within units of our own. The Security requirements of the unit decide the extent and form of this employment of foreign forces. The employment is regulated by 2 a (1) - (4) of the Order concerning indigenous helpers dated 4 February 43." And then, the code number for the order is given. "Italian Voluntary Helpers" can be employed if there is a vacancy in the table of organization.

e) Soldiers of the Luftwaffe, of anti-aircraft artillery and of the air reconnaissance service of the Italian Navy including those who were employed in coastal Court No. V, Case No. VII.

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defense, who are willing to fight with us are to be made available to the C-in-C Navy: Naval Soldiers in the sense of this order also include all those employed with coastal batteries committed to fire against Naval targets."

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"Employment in accordance with principles a) to c) is prohibited altogether in areas whose indigenous population is of German origin, and in the Croatian and Bulgarian area.

Any additional employment is and remains impossible if troops who have fought against us with force of arms at present influenced by the release of the Duce now declare their willingness (to fight on our side).

To 2) (Italian Soldiers who do not wish to assist us in any way). Italian soldiers who do not wish to be available to continue fighting on the German side are to be disarmed and are prisoners of war. The OKW/Chief of Prisoner of War affairs will take them over first. Regarding their sifting and distribution for purposes of war economy, there is a special directive in agreement with the Reich Minister for War production and armament and with the Plenipotentiary for Labor Employment.

To 3) (Italian Soldiers who have resisted either actively or passively, etc.)

Italian soldiers having actively or passively resisted German measures or having allied themselves with the enemy or with bands are also Prisoners of War. The following directives which are most severe apply to them:

a) By order of the Fuehrer, the following procedure is to be applied to all Italian Troop Units who have let their arms fall into the hands of insurgents or in any way made common cause with the insurgents:

1. The Officers are to be shot to death by summary court martial.
2. Non-commissioned Officers and men are to be transferred to the East for labor employment with AWA/Chief Prisoner of War Affairs and made available to the Army General Staff/Gen. Qu., if possible avoiding transit through the Reich."

b) An ultimatum with a short time limit is to be sent to Italian troops or other armed units still offering resistance at this time.

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(This ultimatum) is to make it clear that the Italian Commanders responsible for the resistance will be shot as franc-tireurs unless they have ordered their troops to surrender their arms to the German units before the time limit expires.

If your Honors please, I should like to recall to you that these Italian troop units were acting under orders of their own Supreme Commander, Marshal Badoglio, to return to the Italian mainland.

"Paragraph III. Sifting: The following is ordered in order to relieve transportation --"

DR. LATERNSEER: Mr. President, I have to object to the last remark of the prosecutor. That again is purely an assertion which to be put into evidence has to be proved. I have seen no evidence for the fact that the Italian troops which were against the Germans in the Balkans received any orders from Badoglio for this behavior. I object to this statement.

MR. FENSTERMACHER: We will introduce proof on that point later but I am sorry for the remark and I withdraw it.

THE PRESIDENT: Very well, you may proceed.

MR. FENSTERMACHER: "III. Sifting:"

"The following is ordered in order to relieve transportation: Army Group B, C-in-C West and C-in-C Southeast are to classify and to retain immediately:

1. Italian units continuing the fight on our side.
2. Individual Italian soldiers willing to continue on the German side and who may be organized into new Italian Militia Units or who may be employed as Italian voluntary helpers in German troop units.
3. All Volksdeutschen Italian soldiers. They are to be collected at a camp to be installed in South Tyrol by Army Group B for the purpose of later recruitment for the German Wehrmacht and Waffen-SS.

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4.Units and troops as well as individual Italian soldiers that are in the Luftwaffe and Navy in the Reich, in the area of operation or in the occupied territory will remain available for the Luftwaffe and Navy and are to be treated according to the foregoing policies.

5.All other officers and men are to be evacuated to the Reich in so far as Special Directive II, 3, comment to 3) is not applicable.

6.C-in-C South transfers all Italian soldiers to Army Group B excepting Italian voluntary helpers. Army Group B is charged with the immediate transfer of prisoner of war transports" of C-in-C South to the Reich.

7.All Fascists (i.e. members of the Fascist Party) who wish to cooperate further are at the disposal of the Reich Fuehrer SS at his request.

IV. Treatment of Officers and Higher Staffs.

Officers and Higher Staffs who have declared their willingness to be committed on our side according to II, 1 a) and b) or according to their special qualifications but for whom there is no use at present are to be kept in honorary confinement by the Army Groups in their corresponding areas.

Proper billets(for instance in hotels to be confiscated) are to be secured. Until further notice they are to be informed that because of the restless attitude of the population and for their own interests they will be granted no release for him even though it may be within the area of German authority.

And the order is signed Chief OKW Keitel".I think it within the bounds of prosecution, your Honors, if I may comment at this time and direct your Honors attention to the fact that there are no limitations in this order and that so far as the order itself is concerned it applies to uniformed Italian troops fighting under responsible leaders and obeying the rules of land warfare as well as to un-uniformed Italian troops.

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Turning now to page 48 of the English, page 33 of the German, Document [NOKW-701](#), which is offered as prosecution Exhibit 324, this is a report from the 297th Infantry Division to the headquarters of the 21st Mountain Infantry Corps, the Section Ic or Intelligence Section, your Honors will recall that the XXIst Mountain Infantry Corps is at this time subordinate to the Defendant Rendulic as commander-in-chief of the 2nd Panzer Army.

"In the combat at Kruga 30 Italians and 7 partisans were shot on being taken prisoner.

"85 enemy dead counted up to now. Exact determination not possible because of roughness of the terrain.

"Besides the combat action, 66 officers, 1512 non-commissioned officers and men deserted and part of them have already been evacuated."

And then there follows a table of Italian troops and units which I believe is self-explanatory.

Turning now to page 50 of the English, page 34 of the German, Document [NOKW-896](#) becomes Prosecution Exhibit 325. This is a receipt showing the transfer of Italian prisoners from the 7th SS "Prinz Eugen" Division to the 114th Jaeger Division. The heading at the top of the page is "SS Volunteer Mountain Division "Prinz Eugen". Command post 29 September 1943 to the 114th Jaeger Division.

"The SS-Volunteers Mountain Division Prinz Eugen transfers today to the 114th Jaeger Division:

"9400 Italian prisoners (NCOs and men) who according to Fuehrer decree" and then the order number" ..are available for work camps in the east." Signed for the Division Command, the 1st General Staff Officer, SS-Hauptsturmfuehrer.

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"Transport of prisoners taken over," dated "Klein the 30th Sept. 1943," signed by a captain.

On the left hand side of the document, "Transport of prisoners turned over," dated again the 30th of September, 1943, and signed by a Lieutenant, presumably of the Prinz Eugen Mountain Division.

The next on page 52 of the English, page 35 of the German, Document [NOKW-830](#) becomes prosecution Exhibit 326. This is a series of extracts from the War Diary of the 15th Mountain Corps. The War Diary started on the 26th of August, 1943, and concluded 31st of December, 1943. The cover sheet of the document states "Corps Headquarters XV Mountain Corps", and indicates that the Mountain Corps from 26th of August, 1943, until further notice was subordinate to the 2nd Panzer Army which, your Honors will recall, was at this time commanded by the defendant Rendulic.

On page 53 of the English and page 36 of the German we begin the entries in the War Diary, which are pertinent to this proceeding. On the 27th of September, 1943:

"Banja Luka: 0700 hours SS Division and motorized Regiment 92 approached SPLIT."

The city of Split, your Honors will recall, is on the Dalmatian Coast of Yugoslavia.

"0800 hours reached northern edge of SPLIT. 0900 hours city and port of SPLIT occupied against local resistance. 202 Italian officers and 9000 men captured.

Italian officers are to be shot to death according to Fuehrer orders.

Commanding General has caused investigation to ascertain guilty officers. Then the entry in the War Diary for three days later:

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30.9.43 3 Generals in SPLIT shot to death by virtue Banja Luka of summary Court-Martial.

The entry for the 1st of October, 1943, again Banja Luka 45 additional guilty officers (Italian) shot to death by virtue of summary Court-Martial in SPLIT."

The next on page 54 of the English and 39 of the German is the entry in the War Diary for the 3rd of December, 1943; Banja Luka. Your Honors will recall that I mentioned earlier that in November of 1943 the defendant Leyser succeeded to the command of the 15th Mountain Corps which was at that time subordinate to the defendant Rendulic; and here is the entry in the War Diary from that 15th Mountain Corps for the 3rd of December, 1943. It is the final entry in the War Diary for that period.

"2nd Panzer Army sanctions intention "Panther" and orders preparation of evacuation, which is to be kept completely secret from Croatian authorities, (and further orders) suggestions for its execution to be submitted. It is believed practical to transport the population capable of bearing arms, to Germany for labour employment."

The War Diary is concluded on the 31st of December, 1943, and the last page of that War Diary is signed "The Commanding General von Leyser, General of Infantry."

I should like your Honors to examine this document, especially the final page for the signature of the defendant von Leyser.

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Turning next to page 55 of the English, page 41 of the German, Document [NOKW 910](#), which is offered as Prosecution Exhibit 327. This is a collection of orders and reports of the Second Panzer Army and its subordinate units, among them the XV Mountain Army Corps and the 7th SS Prinz Eugen Division. You might as well note on the first page of the document page 55 of the English, 41 of the German, the sender, in the middle of the page is the Second Panzer Army, the date of transmission of the order is the 11th of September, time: 1500 hours.

"OKW has ordered: Wherever Italian Troops or other Italian bearer of arms are still offering resistance at this time, they are to be given a short term ultimatum which is to express that the Commanders responsible for the resistance will be shot to death as franc tireurs unless they order their troops by the time stated to surrender their arms to the German Units.

"Implementation 2nd Panzer Army. All Italian Command Authorities within reach are to be informed of this order."

Signed, Chief of Staff 2nd Panzer Army, Operations officer Ia.

I should like your Honors to note the code numbers for this order, 313/43 which we will find appearing in several documents which will be later introduced.

Turning next to page 56 of the English, page 42 of the German, another order transmitted by the 2nd Panzer Army which was commanded by the defendant Rendulic at this time. The communication is on the 12th of September, 1230 hours received on the 13th of September 0420 hours.

Subject: Returning of Italians.

Pursuant to teletype 2nd Panzer Army Ia No. 127/43 top secret of 12 Sept.

43 it is ordered:

According to the order of XVth-Mountain Army the direction of the return of the Italian troops in the area of the XVth Mountain Army is in the hands of the Italian XVIIth and the Italian VIth Corps. For this purpose, the Commanding General of this Corps is to be given order as follows:

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to.

1. The Italian XVIIIth and VIth Armies with their entire personnel and material are German Prisoners of War. Should Italian Units refuse to lay down their arms, they will be subdued and subsequently their leaders will be shot to death as insurgents.

More sections to follow: The order is signed and Certified true copy by person whose signature is illegible.

Next on page 57 of the English, and 43 of the German, another order transmitted by the 2nd Panzer Army on the 12th of September 1943, received on the 13th of September. The order is sent from the 2nd Panzer Army to the XV Mountain Army Corps. I should like your Honors to compare the textual matter contained in this order, with the order we have just seen, the previous exhibit the Keitel order of the 15th of September 1943 which was introduced on page 42 of the English and 29 of the German, as Exhibit 323. The Keitel order was on the 15th of September. This order of the defendant Rendulic was transmitted on the 12th of September.

The Commanding General of the XVth Mountain Army Corps, General Lueters issues order to the Commanding General of the Italian XVIIIth and VIth Army Corps:

A) Organization of units, keeping Italian troops in their present billets, securing transportation and all heavy weapons and of all motorized vehicles (except 2 supply trucks per battalion)

b) Direction of return of Italian units to the localities ordered. Direction of the supply during the marches. Keeping up strict discipline.

4. Reprisal Measures:

A) In case of destruction or looting of arms, ammunition, fuel, supply depots, besides the culprits 1 officer of the Divisional Staff and 50 men of the Division concerned will be shot to death.

b) Any soldier selling or giving away Italian arms to civilians or destroying them without orders will be shot to death.

c) Any Italian soldier arriving at the entraining railroad station without arms left to him will be shot to death together with his responsible unit leader.

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d) For any motorized vehicle which has been destroyed 1 officer and 10 men will be shot to death.

e) In case of excesses toward the civilian population, looting of agricultural products, cattle and the like, the culprits as well as a responsible officer will be shot to death.

5.) This order is to be transmitted immediately to all Divisions and corresponding units and to be published down to companies, batteries, etc.

6.) Every Divisional Unit and corresponding Corps Unit temporarily retains for his supply a 40 ton column. That cancels the subordination of Italian VIth Army Corps under the Italian 9th Army.

The order is signed by operation officer 2nd Panzer Army and your Honors will keep in mind the code numbers for this order; General Rendulic for the 12th of September, code number 127/43.

JUDGE CARTER: Do I understand that this order was sent out three days before the Keitel was transmitted?

MR. FENSTERMACHER: That's right; your Honor, the Prosecution contends this is an order which the defendant Rendulic sent out on his own initiative before he received orders from higher headquarters in Berlin.

Turning now to page 59 of the English, page 45 of the German, another order from the 2nd Panzer Army, to the XV Mountain Army Corps. Your Honors will also notice this order was also transmitted on the 12th of September 1015 hours and received on the 12th of September 1826 hours.

1.) Tonnage for the evacuation of the Italians from Zara by sea can not be secured within a reasonable time. Rations also in this way are a problem.

2.) XVth Mountain Army Corps immediately dispatches the Italian Units situated in the area of Zara-Split including with one responsibility suitable Italian Commanders, Commanders and Command

Authorities for leadership and supply on the march on Bihac, if necessary severest measures of compulsion and in case of refusal, reprisal measures (shootings to death) are to be applied.

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Small arms as a protection against bands must be left to them. Continuous guarding by Luftwaffe whose immediate combat commitment in case of a possible running away of the Italians or of band attacks must be guaranteed, is to be secured.

3.) If the Italians remain any longer in the area of Zara it will be impossible to supply their rations. That must be made clear to them.

4.) Intention with time table is to be reported.

From 2nd Panzer Army, operation officer."

And, again, the code numbers 127/43, those which we have seen on the previous orders which appear on page 58 of the English and page 44 of the German.

Continuing now on page 60 of the English, page 46 of the German, we have an order by the XV Mountain Army Corps to its subordinate units, to SS Division and 114th Division and 373rd Division. This, if your Honors, please, is passing on of the XV Mountain Army Corps of the order which we have previously seen on the succeeding page, page 59 of the English, page 45 of the German. The text is almost identical. I think we needn't read it in its entirety. I again direct your Honors' attention to the language in the first paragraph of the order, beginning with the seventh line of the first paragraph:

"In case of refusal (application of severest coercive measures and/ or reprisal measures (shootings to death))."

Next on page 61 of the English, page 47 of the German, is another order by Corps Headquarters of the XV Mountain Corps dated the 12th of September 1943 to the SS Division:

If it is confirmed that after having been offered (the opportunity to) surrender in Split, Italians are carrying out destruction, the persons responsible are to be shot to death publicly as franc-tireurs and this to be published giving the reason.

Next on page 62 of the English, page 48 of the German, is an order of the 2nd Panzer Army to the XV Mountain Army Corps. Your Honors will note that it was transmitted on the 13th of September 1943 and received on the 14th of September, one day later.

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Your Honors will note on page 63 of the English and 48 of the German the code numbers for this order, 131/43 which were the code numbers we have seen earlier on the Keitel order of the 15th of September. I simply call your Honors' attention to note the code number on this order 131/43. They will appear later and I ask you to note these numbers because they are distinct from the code numbers 127/43 which were the code numbers for the Rendulic order of the 12th of September.

OKW has ordered: "Subject: treatment of Italian Troop Unit turning over arms to insurgents and/or negotiating with insurgents. By order of the Fuehrer, the following procedure is to be applied with respect to any capture Italian Troop Units which have permitted their arms to fall into the hands of insurgents or who have cooperated with insurgents at all.

- 1.) The officers are to be shot to death by summary court martial procedure.
- 2.) Officers and men are immediately, if possible through (corrected mistake; leading) avoiding transit to the Reich to be sent East by AWA/Chief Prisoners Affairs to be at the disposal of the Army General Staff, General Quartermaster for labor employment.

"Implementation 2nd Panzer Army: All such cases are to be reported to 2nd Panzer Army.

We turn next to page 64 of the English, 49 of the German. This is simply a message to the 2nd Panzer Army with respect to the mistake in the transmission of the order which we have noticed in the parenthesis of the proceeding order. It is of no particular importance so I think we may pass on.

Turning to page 65 of the English, page 50 of the German, is another order from the 2nd Panzer Army to the XV Mountain Army Corps:

"Against Italian Combat Groups disarmed after having offered armed resistance in area Cattaro - Gruda.

"120th Infantry Regiment is to proceed ruthlessly with severest measures pursuant to Fuehrer order.

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Report of execution requested."

And the order is signed by the operations officer of the defendant Rendulic.

Next on page 66 of the English, page 51 of the German, is a report from the SS Division Prinz Eugen to the Corps Headquarters of the XV Mountain Army Corps.

"Division Reports execution" and the report is signed Mountain Division, Prinz Eugen."

DR. LATERNSEER: Your Honor, I'd like to ask that it be ascertained whether the translation here is correct. The german word "Durchfuehrung" has been translated as "execution". I am talking about page 66 of the English, Document, and page 51 of the German Document Book.

PRESIDING JUDGE BURKE: That reference is made to the words "Division Reports Execution."

DR. LATERNSEER: Yes.

Mr. President, I did not get the answer of the interpreter.

INTERPRETOR: I said the word "execution" has two meanings; it means carrying out, and it also means an execution or hanging, but in this case it means carrying out. The German word is given in parenthesis in the English text just because the word "execution" has two meanings. In this case it means "carrying out".

PRESIDING JUDGE BURKE: Very well, proceed.

MR. FENSTERMACHER: Continuing on page 67 of the English, page 52 of the German, is another order of the 2nd Panzer Army. Your Honors will note in the middle of the page, to the right: Sender: 2nd Panzer Army, middle of the page, XV Mountain Division, transmitted/19th of September, time: 1810 hours.

"Report immediately.

"a) Which Italian units are defending Split?

"b) What is exact enemy and own situation there, course of front lines?

"c) Does employment of dive bombers on water works of Split hold promise of success? No.

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"d) What propaganda measures and threats of retaliation against Split are intended or have been carried out?"

And, again the order is signed by the operation officer of the 2nd Panzer Army.

Continuing on page 68 of the English, page 53 of the German, another order of the 2nd Panzer Army to the XV Mountain Army Corps, of the 20th of September:

"Because the Italian Divisional Commander of Korsika is treachorously continecis to withdraw the Fuehrer has commented that any kindness and comradeliness toward the Italian Officers is entirely out of place. That is why severe measures are to be applied everywhere as ordered several times before and the Italian Prisoners of War are to be sent marching ruthlessly even though local difficulties may have to be put up with.

2) The commitment of entire armed Italian Units in Croatian and Albanian territory is not permissible for any length of time. Those are to be dispatched as soon as possible to the entraining stations and to be disarmed. No objections exist to their employment in road construction and Prisoner of War Labor Battalions if sufficient German security is available. The employment of Italian volunteer helpers is also desirable.

Again the order is signed 2nd Panzer Army, Ia operation officer.

Continuing on page 70 of the English, page 54 of the German, your Honors will note this is also an order sent by the 2nd Panzer Army, XV Mountain Army Corps, transmitted on the 21st of September at 1235 hours. Your attention is especially called to order, Chief II, Panzer Army Ia, No. 313/43, Secret, 11 September and 2 Panzer Army Ia No. 131/43 Top secret.

Your Honors will recall the familiar code number 313/43 which refers to the Keitel order and the code numbers 131/43 which refers to the earlier Rendulic order.

"Care is to be taken that these orders get through to the subordinate unit and that they are carried out in the individual case without any scruples.

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The shootings to death carried out pursuant to the two orders mentioned above are to be included in each case in the daily report stating name and rank of people shot to death."

Signed 2nd Panzer Army Ia, and on page 71 of the English, and page 55 of the German is an order of the XV Mountain Corps dated 23 of September 1943 to the subordinate units 114th Division and SS Division.

"The orders of Army Corps Headquarters XVth Mountain Army Ia, No. 775/43 top secret 14 September 1943 and Ia No. 4816/43 secret to be followed ruthlessly. Name and rank of people shot to death by summary court martial to be included each time in Daily Report."

Next on page 72 of the English, page 56 of the German is an order from the XV Mountain Army Corps dated Command Post 26 September 1943, to: the subordinate 369th Division and 373rd Divisions:

"Subject: OKW has ordered: treatment of Italian Troop units turning over arms to insurgents and/or negotiating with insurgents. By order of the Fuehrer, the following procedure is to be applied with respect to any Italian Troop Units after they have been captured which have permitted their arms to fall into the hands of insurgents or who have cooperated with insurgents in any way at all."

Then I think your Honors are familiar with the text of this order which we have seen on several occasions earlier and I think it need not be read at this time.

Continuing now on page 74 of the English, page 58 of the German, your Honors will note that this is a report from the SS Division as sender of the communication to its next higher headquarters, the XV Mountain Army Corps. The report transmitted on the 27th of September:

"Split 3 Generals, 300 officers and about 9000 non-commissioned officers and men (non-combatants) arrested. Is treatment of Italians according to last order.?"

The inquiry is signed by Ia operation officer, page 75 of the English, page 59 of the German, is the reply of the next day which the Corps sent to the inquiring division, teletype to SS Division transmitted 28th of September, for information 2nd Panzer Army:

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"Proceed with 300 Italian Officers and 9,000 men captured in Split according to Corps Headquarters Ia 772/43 top secret," and the reference to the order of the 2nd Panzer Army with the code numbers 131/43.

Which Prosecution submits is reference to Rendulic order of the 13th of September which we have earlier noticed on page 62 of the English and page 45 of the German, part of this same exhibit.

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Continuing now with the answer of the 15th Army Corps to the inquiry of the Subordinate SS Division on page 75 of the English and page 59 of the German.

"(Officers to be shot to death by summary court martial, non-commissioned officers and men to be deported East for compulsory labor employment). Prisoners are to be turned over separately for transport."

And the message is signed: "15th Army Corps."

Continuing on page 76 of the English and page 60 of the German is a message transmitted from the SS Division on the 29th of September, received the same day, 29th of September. The message directed to the Corps Headquarters of the 15th Corps:

"Secret. Italian General Cigala Fulgoui convicted again of being main culprit in delivering weapons to partisans and sentenced to death. Inquiry whether shooting to death is to be carried out here. Answer urgently. Simultaneously, directive for other accomplices."

And the message is signed by the Commander of the 7th SS (Prinz Eugen) Division, von Oberkamp.

Page 77 of the English and 51 of the German is a reply from the 15th Army Corps to the inquiry of von Oberkamp. To the SS Division:

"For information: 2nd Panzer Army.

"Comment by Army regarding shooting to death:

"Main culprits and accomplices are to be shot to death. Accomplices generally are: Older commanders and General Staff Officers. In case of doubt, there is no objection to a suspension of sentence. Evacuate innocent ones. Sentence to be carried out there."

The message is signed by the Corps Headquarters of the 15th Mountain Army Corps.

If your Honors Please, the prosecution submits that the words, "Comment by Army Regarding Shooting to Death," refers to an inquiry on the part of the 15th Mountain Army Corps to the Higher Headquarters, the 2nd Panzer Army, commanded by the defendant Rendulic.

PRESIDING JUDGE BURKE: Mr. Fenstermacher, we will pause here and take our recess until eleven-fifteen.

(A recess was taken).

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Persons in the Courtroom will please find their seats.

Military Tribunal V is now in session.

PRESIDING JUDGE BURKE: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: Before continuing with the present exhibit, which is 327, we should like your Honors to make one correction in your document book, which is on page 70 of the English, and

page 54 of the German, as part of this very same exhibit. Dr. Laternser called my attention during the recess to the fact that there were four words left out of the English translation, in the English document book. This is on page 30 of the English, and it is the 4th line from the bottom of the page, the sentence beginning, "Death carried out", The words, "After summary court martial" should be inserted at that point.

PRESIDING JUDGE BURKE: What is the page number again?

MR. FENSTERMACHER: Page 70 in the English.

DR. FRITSCH, (for the defendant Rendulic): Your Honor, before we leave Exhibit No. 327, I would like to refer back to a short argument which Mr. Fenstermacher mentioned before with regard to the so-called Rendulic, because to this point one of the Judges made a special comment, because he probably thought it was important.

Mr. Fenstermacher said that the Rendulic order was issued before the Keitel order. This means on the own initiative, - of the defendant General-Oberst Rendulic, I must only point out that this argument is not correct.

On page 1 of document 910 -

MR. FENSTERMACHER: If your Honors please, I believe that this is a matter which can best be cleared up when the defense puts its case in chief.

DR. FRITSCH: Your Honors, I also think that this is an important question, but since Mr. Fenstermacher mentioned this point before when he presented the document, I would only like to draw attention to the teletype, the radiogram Exhibit 327 -- I would like to point out to this, from which it can be seen that already on the 11th of the month, 1943, that is before the Rendulic order, - the chief contents of the Keitel order was transmitted.

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PRESIDING JUDGE BURKE: Consideration will be given to the remarks of counsel, and if the facts bear out the indication of the document, it will be considered by the Tribunal.

MR. FENSTERMACHER: Continuing now, 78 of the English page, 62 of the German, part of this same Exhibit 327, to its subordinate units, the 114th Jaeger Division, and 369th and 373rd Infantry Divisions. The subject is, "Organization of Prisoners Construction Battalions": "Lack of construction troops compels extensive employment of prisoners of war for road construction, bridge building and similar purposes.

As soon as feasible, the Division will organize from the incoming Italian Prisoners a construction detachment up to 1800 men strong. Engineers suitable for the work mentioned above and Artisans/ are to be selected from the prisoners.

RESIDING JUDGE BURKE: Pardon me, Mr. Fenstermacher on which page is this?

MR. FENSTERMACHER: On page 78, Your Honor. Continuing now. "Possibly those prisoner detachments will later be exchanged for German Construction Troops. The prisoner construction detachments are to be equipped by the Division in such a manner as to be able to be committed at any time (Field Kitchens, most necessary supply vehicles, tent planes, blankets, etc.) Labor equipment (apades, etc.) can be requisitioned from Corps Headquarters.

Orders will be issued in due time concerning the German Guard Personnel.

The Organization of the prisoner construction detachment is to be reported to Corps Headquarters."

The order assigned "Pfaffmatt" For Corps Headquarters, The Chief General Staff.

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Continuing now with the same exhibit on page 80 of the English, page 63 of the German, it is a message sent by the SS Division to Corps Headquarters of the 15th Mountain Army, message transmitted on the 1st of October 1943:

"Proceedings against Italian Officers, concluded.

On 1 Oct. an additional 45 Italian Officers of Division Bergamo were shot to death. Sentenced to death in absentia by summary court martial were: General Bacuzzi, Commanding Officer of Infantry Division Bergamo, Colonel Boschi Chief of General Staff, Division Bergamo, Admiral Bobesi Commanding Admiral Split. Records of investigation with courier. And the message is signed by the Operations officer of the SS Division.

On page 82 of the English and 64 of the German, Prosecution's next document, Document [NOKW 1242](#), which is offered as Prosecution's Exhibit 328 This document represents an exchange of messages between the second Panzer Army and its subordinate 15th Mountain Army Corps, first as a communication from the 15th Mountain Corps dated, "Headquarters of the Corps, 6 October 1943."

"Subject: General Court Martial for Italian Officers."

It is sent to the headquarters of the 2nd Panzer Army commanded by the defendant Rendulic:

"1) Enclosed comprehensive folder contains as No. 18 the report of the commander of the SS Mountain Division "Prinz Eugen", about the General Court Martial which met on 30 September 1943 to confer about the treason charge preferred against the responsible officers of the Italian Infantry Division "Bergamo" at Split.

2) The General Court Martial sentenced to death 3 Generals and 47 officers named on the roster attached to this report. The sentence was executed.

3) On the basis of further investigations 9 additional Italian officers according to Daily Report of 3 October 1943, Ic No. 5221/43 secret, were found guilty of treason, sentenced to death, and shot.

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Roster will be forwarded upon receipt.

4) Reference is made to documents No. 13 and 14 in the folder: The treaty to surrender arms, concluded by the Commander of the "Bergamo" Division and representatives of the Communists and the Anglo-American Military Mission.

5) Confirmation of the verdict reached by the General Court Martial is requested, and the assurance of its execution on the 3 fugitives also sentenced to death, General Becuzzi, Admiral Bobesi, and Colonel Boschi, in case they can be arrested.

(Handwritten initial)

Lueters.

The message is signed by Lueters, whom your Honors will recall is the Commander of the 15th Army Corps at this time.

Continuing now with the same Exhibit, page 84 of the English, 66 of the German, it is a message from the 2nd Panzer Army Headquarters to 15th Mountain Army Corps, transmitted on the first of October 1943:

"All Italian troops, or whoever else bearing arms, who still offer resistance, are to be presented immediately with a short-dated ultimatum, if necessary parachuted by the Luftwaffe. In this it is to be made clear that those commanders are responsible for resistance will be shot as being insurgents, if within the time set they do not issue an order to their troops to surrender arms. German headquarters will report on 5 October 1943, compliance with the ultimatum presented with indication what Italian troops were included in this.

2) Further reference is made to the Fuehrer Order concerning the treatment of Italian troops who let their weapons fall into insurgent hands, or have at all."

Now, if your Honors please, we turn to page 86 of the English Document book for the conclusion of the message:

"made common cause with the Insurgents."

It is signed, "Headquarters 2nd Panzer Army, 1a Section."

I think that that page may be missing from the German Document book, but should any of the German counsel wish to examine the original document and include any portions not included in this document book they may do so.

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DR. LATERNER: Your Honor, on Page 66 of the German and on Page 83 of the English Document Book, there is the word "Freischuerler" in the original of the German text, translated as "insurgents." I think the translation is wrong because "Freischuerler" is a legal term, which should be translated as "franchiseurs" or "partisans." I would, therefore, ask that a correction be made in the translation.

PRESIDING JUDGE BURKE: The document will be submitted to the Interpreter for such translation as it may require.

MR. FENSTERMACHER: We agree to that procedure, Your Honors, but I ask, Your Honor, if I can make one remark at this time. When Dr. Laternser or any of the other defense counsel has comments on the translation, will they simply say that they believe there is an error, and ask that it be submitted to the Interpreter, rather than suggest another interpretation. We believe that this suggestion has influenced, in some cases, whether the Interpreter would change the translation or not.

PRESIDING JUDGE BURKE: I think that procedure may be followed without violence to the ordinary rules of practice.

DR. LATERNSEER: I gladly agree to this.

MISSEVAND (German-English Interpreter): "Freischaerler" can be translated as "partisans" or "guerillas" or "insurgents."

DR. LATERNSEER: Your Honor, since I don't agree with this translation, I would like to get information on the correct translation of the German word "Freischaerler" from the chief of the Translation Division.

PRESIDING JUDGE BURKE: I am sure there will be no objection on the part of the Tribunal to that procedure, and it may be submitted at such time as will be appropriate.

MR. FENSTERMACHER: Turning now to Page 88 of the English, Page 68 of the German, is Document No. [NOKW-721](#), which becomes Prosecution's Exhibit No. 329, the report from the 21st Mountain Army Corps to its higher headquarters, the 2nd Panzer Army--the Daily Report of the 9th of October 1943:

"Operation against Division Taurinense concluded in the main. Number of prisoners and amount of captured material still increasing.

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Except for about 5 to 8 hundred Italians, who together with the partisans, have fled into the area northeast Nikaio, one need no longer count on the appearance of independent closed Italian units in the area of Risan Grabovo - Niksia. Bloody enemy losses amount to 4 to 5 hundred (estimated) dead, up to now 100 wounded. The number of wounded is probably higher. Reprisal measures were carried out against 18 officers, in particular commander and their responsible leaders. At the moment the number of captured and deserting Italians amounts to 3,780 and is still increasing."

MR. FENSTERMACHER: And the report is signed by the Ia Operations Officer of the 21st Mountain Army Corps.

Next, on Page 90 of the English, and Page 69 of the German, is Document No. [NOKW-722](#), which becomes Prosecution's Exhibit No. 330. These are two reports from the 21st Mountain Army Corps to the 2nd Panzer Army. The first is dated the 12th of October 1943. "4 more officers of the Taurinense shot as reprisal." If Your Honors please, we believe that refers to the Italian Taurinense Division, which is mentioned on Page 88 of the English, Page 68 of the German, the document which we have just finished with. "The situation sharply south of Tirana requires larger operations within a short time. The

well armed and well organized enemy standing here (approximately 1 to 2 thousand communists and 500 - 100 Italians) led by Commander Firenze represents a threat to Tirana which must be taken seriously." The report is signed by the Operations Officer of the 21st Mountain Army Corps. On the same page, both the English and German is "Activity Report No. 2 for the War Diary, from 1.10-31.10," and the entry for the 11th of October 1943 reads: "Pursuant to teletype, 2nd Panzer Army Hq IIa dated 10.10.43 (order OKH PA Ag Pl Chef Section (b) dated 4.10.43) General Bader is transferred to the Fuehrer Reserve OKH/peace-time garrison effective 10.10.43." And the entry for the 13th of October 1943: "General Bader leaving by plane. He is accompanied by Lieut. Colonel Meyer to Belgrade. Arrival of General of Infantry, Fehn, who is appointed as Commanding General of the XXIst Mountain Corps pursuant to the above order." If Your Honors will remember, this date, the 13th of October 1943, when General Fehn, who previously commanded the 15th Mountain Army Corps, is now being transferred to the Command of the 21st Mountain Corps.

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We will see from later documents that the Defendant Leyser succeeded General Fehn, as Commander of the 15th Mountain Corps about this same time, 13th of October 1943. Continuing now on Page 92 of the English, Page 70 of the German, is No. NOKW-1244, which becomes Prosecution's Exhibit No. 331. This document is a series of reports from the 15th Mountain Corps to the 2nd Panzer Army, with respect to the execution of Italian officers. Your Honors will note that the first report is the Daily Report for the 14th of September 1943, and the distribution list is of interest. "To Headquarters 2nd Panzer Army," and we believe that means the 2nd Panzer Army. Your Honors, we submit that there has been a mistake in the translation. The words "PQNOKZ" appear in the original document, which we believe refers to the 2nd Panzer Army, commanded by the Defendant Rendulic. The Tribunal may wish to examine the original document. A copy of the report also goes to the "Headquarters Army Group F," which, Your Honors will note, at this time, was commanded by the Defendant Weichs, and his Chief of Staff was the Defendant Foertsch. Another copy went to "Fliegerfuehrer in Croatia." Another to "XXIst Mountain Corps", another to (IIIrd "Germn.") SS Panzer Corps", and a final copy to LXIXth Reserve Corps," which, Your Honors will recall, was commanded by the Defendant Dehner. Under the portion of the 15th Mountain Corps' report dealing with the IInd Croatian Corps...

DR. FOEHSE: Foehse for the Defendant Dehner. I would like to point out that when this teletype was handed to the 69th Reserve Corps, in the English text, on Page 92, there is also a comment that the letter was not sent because there was something wrong with the line. The Prosecutor probably missed this; I would like to point it out.

MR. FENSTERMACHER: I have not finished reading the document, if Your Honors please. I was coming to that next. Your Honors will note on the left-hand portion of the page, Page 92 of the English, a handwritten note: "Cannot be dispatched since line is out of order." Under the portion of the report of the 15th Mountain Corps dealing with the IInd Croatian Corps:

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"Ist Battalion 8th Infantry Regiment attacked by a strong band whilst marching to equipment changing station 3 km North of Raca. The battalion fought well. 4 dead, 15 wounded (2 officers); 47 enemy dead, 16 more enemy prisoners beaten to death by Domobranen." And the report is signed "Headquarters XVth Mountain Corps... 14 September 1943." Turning next to Page 93 of the English, Page 70 of the German, another report of the 15th Mountain Corps, dated 19 September 1943. This time, your Honors will also note that there are handwritten notations, but they do not indicate that the report was not sent to the distribution which appears in the center of the page, and which is again the same as on the original report. Copy to the "2nd Panzer Army", commanded at this time by the Defendant Rendulic. Copy to "Headquarters Army Group F," commanded at this time by Defendant Weichs, and as Chief of Staff, the Defendant Foertsch. And another copy to the "LXIXth Reserve Corps," commanded at this time by the Defendant Dehner. This is the Daily Report of the 19th of September 1943, and under that portion of the report which deals with the activities of the "SS Division 'Prinz Eugen'":
"Communists at Split frequently in Italian uniforms.

Italian officers and men fight with bands... In course of retaliation against Italian "Emilia" Division 7 officers were shot." Next, on Page 94 of the English, Page 71 of the German, the Daily Report of the same 15th Mountain Corps, with these same distribution lists with the copies of the report. The Daily Report of the 24th of September 1943, under the 373rd Division: "Strong forces of the bandits, supported by the population, are assembling in the area S. Bos. Krupa. Protected Signal Repair Squad attacked. 4 dead, 15 missing. Retaliations ordered." Looking now at the bottom of Page 95 of the English, Page 72 of the German, the Daily Report of the 15th Mountain Corps, as of 28 September 1943: "Situation: The main enemy forces in the area SPLIT withdrew to the DINARA Mountains, and parts to MOSOR in face of the SS Division's attack. The tenacious defense of the last days served merely to remove Italian booty.

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Majority of Bergamo Division taken prisoner. 300 Italian officers will be executed according to martial law in compliance with the Fuehrer Order." And the portion of the report dealing with the SS Division:

Page Unlabeled

"SS Division:

Enemy facing the Northern group withdrew towards Northwest and East. Weak rearguards still offered resistance. (Handwritten note: Hrvace 7 enemy trucks and 1 Armored Car destroyed.)

0700 the Division was ready to attack, had reached the outskirts of the town by 0800, and occupied SPLIT 0900. 300 Italian officers and 9000 Italian men captured. Details about SPLIT now known. Radio interrupted since 0100 28 September. Own losses on 26 September: 7 wounded, enemy losses: 187 dead counted, including 6 leaders."

The portion of the report dealing with the activities of the "373rd Division:

Mopping up completed in the area Southwest of Bos. Krupa. About 100 bandits fled to the wooded mountains in the Southeast. Communists' houses were burned. 15 enemy dead, 7 prisoners."

Next on page 97 of the English, page 72 of the German, report of the same XV Mountain Corps for the 1st of October, 1943. I call your Honors' attention to the portion of the report dealing with the activities of the SS Division:

"Executed according to martial law.

"Major General Pelligra, Corps Artillery Commander, XVIIIth Italian Corps.

"Major General Felgosi, Commander XVIIth Coastal Brigade.

"Major General Poticardi, Corps Engineer Commander, XVIIIth Corps."

Next on page 98 of the English, page 73 of the German, report of the XVth Mountain Corps for the 2nd of October, 1943, under the SS Division, "Case against Italian officers of the Bergamo Division concluded. On 1 October additional 45 Italian officers of the Bergami Division shot."

DR. LATERNSE: Your Honor, I now refer to page 97 of the English document book and page 73 of the German, The German words "standrechtlich erschossen" are on page 97 of the English document book translated as "executed according to martial law." I would like to query the translation since we have already received the official translation from the Translation Division.

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MR. FENSTERMACHER: May it please Your Honors, that this is the word about which we have had a memorandum from the Chief of the Translation Division. I myself have forgotten the correct translation which Mr. Jacobs suggested but perhaps your Honors have a copy of the memorandum handy, or perhaps the interpreters know of Mr. Jacobs' recommendations on the translation of the word.

JUDGE BURKE: The memorandum to the Tribunal states, "According to expert opinion, "standrechtlich erschossen" should be translated 'shot after having been sentenced by a summary court martial'.

"2. It ought not be translated 'according to martial law,' as there is a difference between 'standrechtlich' and 'kriegsrechtlich'.

"3. 'Standrecht' may be a peacetime emergency measure; 'kriegsrecht' is not.

"(signed) Noah J. Jacobs, Chief Translation Branch, Language Division."

MR. FENSTERMACHER: I believe Dr. Laternser would be satisfied then if your Honors changed your books to read on page 97 of the English "sentenced to death after having been"--no, I suppose "shot to death after having been sentenced according to summary court martial."

JUDGE BURKE: Does that satisfy the requirement?

DR. LATERNSE: Yes.

JUDGE BURKE: It may accordingly be done.

MR. FENSTERMACHER: Continuing on page 98 of the English and 73 of the German with the daily report of the XVth Mountain Corps for the 2nd of October, 1943, under the SS Division;

"Case against Italian officers of the Bergamo Division concluded. On 1 October additional 45 Italian officers of the Bergamo Division shot.

"The following were sentenced to death by Court Martial in absentia:

"General Bacuzzi, Commander of the 'Bergamo' Infantry Division.

"Colonel Boschi, Chief of Staff 'Bergamo' Division."

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May I call your Honors' attention to the execution here of the Commander of the Division as well as of his Chief-of-Staff.

"Admiral Bobesi, Commanding Admiral at SPLIT."

"Losses: Operation Split (10 September - 27 September.)"

DR. LATERNSEER: Your Honor, I regret I have to mention a translation again. On page 98 of the English document book, page 73 of the German, the German text reads: "45 Italian officers of the Bergamo Division shot." And the translation on page 98 of the English document book is "On the 1st of October, additional 45 Italian officers of the Bergamo Division shot." I would like a correction to be made of this mistake on translation.

MR. FENSTERMACHER: Perhaps your Honor would pass the original document to the translators since the word "additional" may well have been omitted from the German document book, but perhaps be contained in the original photostat.

JUDGE BURKE: That proceeding will be taken.

MR. FENSTERMACHER: I think this is on page 11 of the original photostat copy.

JUDGE BURKE: It is found under the daily report for 2 October 1943.

INTERPRETER: The translation in German - the translation from the original German reads: "On the 1st of October further 45 Italian officers of the Bergamo Division were shot."

MR. FENSTERMACHER: I take it there has been an omission from the German document book and it has not been correctly transcribed from the photostatic copy.

JUDGE BURKE: Does it represent simply an omission from the German document book?

DR. LATERNSEER: First of all, comparing the German original and the German document book, the difference is perhaps only an apparent one because the words "On the 1st of October, additional" would be crossed out in the original and therefore this can explain the version in the German document book.

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MR. FENSTERMACHER: I would suggest, your Honors, that the defense counsel insert in their document books the German word for "further" and then cross it out very lightly with a line. Your Honors may like to look at the actual condition of the word in question. It is a little difficult to tell whether the line is a scratch on the photostat plate or whether it is meant to be a crossing out of the word.

PRESIDING JUDGE BURKE: Our translation of it adds nothing to the sum of knowledge on the subject. Perhaps an agreement will be able to be reached with Dr. Laternser.

MR. FENSTERMACHER: Continuing with the daily report for the 2nd of October, 1943, of the XVth Mountain Corps on the bottom of page 98 of the English, page 73 of the German, the German losses involved in the operation are listed.

Page 99 of the English, 73 of the German, the total losses are given and then paragraph 2, "Enemy losses: 1200 dead."

Bottom of page 99 of the English, page 74 of the German, is a supplement to the daily report for the 3rd of October, 1943, under the portion of the report dealing with the 114th Division:

"114th Division:

Landing operation on Osljak Island (4 km South Southwest of ZARA) unsuccessful in spite of large employment of artillery. Strong enemy in fortified field positions and bunkers.

SS Division:

Additional 9 officers of "Bergamo" Division executed according to martial law."

I take it there again if your Honors please, we should change our English copies to read as we did before "shot after having been sentenced according to summary court martial."

PRESIDING JUDGE BURKE: That should take care of the matter.

MR. FENSTERMACHER: Next on page 100 of the English, 74 of the German, the daily report of the XVth Mountain Corps for the 5th of October, 1943, under the SS Division--this is on page 101 of the English, 74 of the German:

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"Colonel Verdi ('Bergamo' Division) was shot in compliance with the Fuehrer order."

Continuing with the daily report for the 6th of October, 1943, 373rd Division, "Continued danger to railway Bos. Novi - Bihac. 3 more interruptions. Hostages arrested."

Next on page 102 of the English, 75 of the German, daily report of the XVth Mountain Army Corps for the 13th of October, under IInd Croatian Corps, "Increase in enemy pressure on railroad Derventa Doboje. Train set on fire, line temporarily interrupted. Railway base Southeast of Gracanica overpowered, 6 Germans, 36 Domobrans killed. Retaliation measure."

Next the daily report for the 14th of October, 1943, page 103 of the English, 76 of the German, "II Croatian Corps: Enemy from the area of Tuzla by-passed Gracanica in the North and South. Garrison withdrawn to defense position Southeast of Doboj."

Your Honors will recall the report of the 13th of October on the preceding page.

"In retaliation (yesterday's report) village burned down, 100 enemy dead."

Under the 373rd Division: "Bandit activity in the vicinity of Prijedor. Several clashes with small enemy groups (handwritten annotation: Bruvno) at Bos. Krupa, Bihac, Vrtoce, and Bruvno. In return for railway sabotage West of Prijedor 7 hostages arrested."

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Next the daily report of the XV Mountain Corps for the 16 of October 1943, bottom of page 104 of the English, page 77 of the German, under SS Division:

"Near Metkovic 20 bandits were hanged for attempting to blow up railroad tracks.

Next the daily report for the 22 of October 1943, page 105 of the English, 78 of the German:

"373rd Division: Southwest of Bruvno explosives, propaganda, and ammunition captured. 3 bandits shot."

Next the report for the 27 of October 1943:

"373rd Division: Local fighting activity. Protected harvesting detachment attacked 6 km North of Lapac. Immediate search of wooded areas unsuccessful. 11 hostages taken."

Finally, the daily report for the 20 of September 1943, page 107 of the English, 79 of the German:

"373rd Division: Reconnaissance near Mazin, local engagement. 5 villages (strong points of the bands) set on fire by shelling and gasoline depot exploded hereby. Area Banja Luka: Nothing special to report."

This report, as were all the others, are those which the XV Mountain Corps sent to higher headquarters of the 2nd Panzer Army, signed by the Operations Officer.

We turn next to page 108 of the English, page 80 of the German, Document [NOKW 053](#) which becomes Prosecution Exhibit 332. With the first two portions of the exhibit we turn temporarily to conditions in Serbia. Your Honors will recall with the re-organization of the Southeast Command which occurred in the end of August 1943, General Felber was brought in to become Military Commander Southeast and simultaneously Military Commander of Serbia. Your Honors will also recall that the defendant Geitner continued to be Chief of Staff of the defendant Felber as he had earlier been Chief of Staff to General Bader in Serbia.

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I might mention in my remarks a defendant Felber the adjective "defendant" should be stricken, because, of course, Felber is not part of this proceeding.

This is the daily report of the military Commander Southeast of 4th October 1943, page 108 of the English, page 80 of the German:

"Serbia: Temporarily quieter.

"1) Communists (100) raided an agricultural school in Leskovac. Buildings burnt down, cereals were robbed, the Bulgarians did not intervene.

"2) In operations involving Bulgarians and German field -gendarmes district Uzice, 1 DM - bandit was shot 26 captured, houses burnt down.

"3) In Cacak 283 DM-hostages and 42 Communists were whot on the 1st of October in reprisal for a certain number of attacks carried out in the district of the F.K. 610 in which German and Bulgarian soldiers were killed."

I think we need not read the rest of the report. It pertains for the most part to operational and tactical details in which we need not be concerned.

Turning then to page 109 of the English, page 80 of the German, Daily report of the Military Commander Southeast for the 25 of September, 1943.

Serbia.

1). Political and enemy-situation unchanged. Continuous acts of terror by the insurgents of both parties against the civilian population and the local Serbian administration. Attacks of mobile guerillas against patrols of the occupation forces.

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Continuous mobilization activity of the DM gangsin South-Western and Western Serbia and of the Communists in the Southern Leskovac sector.

2. In Bulgarian operations against DM-gangs in the sector North-east of Nisch 17 enemies killed, 4 captured, 35 houses and 200 alpine cottages burnt down, our losses, 2 men dead, 1 officer and 2 men injured.

3) Reports about an increasing number of dropped weapons and explosives in the vicinity of Uzice as well as the parachuting of 7 English Officers,

4). After having takne Bijeljina (Croatia) West-South West of Sabac, parts of the Croation 8th sharp-shooter Regt. escaped across the Brina, combat group of the 173rd reserve division from South and East were checking the advancing Communists.

5). 5 other members of the DM-Intelligence staff which was raided yesterday as well as members of the DM civilian staff, Belgrade, were arrested in Belgrade.

6). Montenegrin frontier: Between Sjenica and Duga Poljana the detail which was intended to reinforce the group Buerger with customs-frontier-service was attacked, 1 driver dead, 7 men missing, 3 men came back.

7). 1 enemy operational flight in the south-western Uzice sector. Under "Greece", the Military Commander Southeast reports:

Greece:

In Athens an increased communistic propaganda-activity by means of inscriptions on walls.

Croatia:

No report so far.

Next on page III of the English, and page 84 of the German is the daily report of the XV Mountain Army Corps Headquarters for the 28 September 1943.

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Your Honors will recall that the XV Mountain Army Corps at this time was subordinate to the 2nd Panzer Army commanded by the defendant Rendulic.

"General situation: Mass of enemy forces in Split area retired before SS Divisions attack toward Dinava, some parts towards the Mosor mountains. The persistent defense of previous days only served for removal of Italian booty. Masses of division 'Bergamo' captured. 300 Italian Officers shot according to Fuehrer decree.

"114th Jaeger Division: Strong enemy forces, probably 6th, 8th and 10th Bosnian Brigade---"

I ask your Honors to note the reference of the Germans to the enemy units, 6th, 8th and 10th Bosnian Brigades.

"--beaten in the area Muc - Ramljane. Due to air interference no further news."

DR. LATERNSEER: Your Honor I would just like to ask which page of the document is now being read from.

MR. FENSTERMACHER: This is on page 84 of the German Document Book.

DR. LATERNSEER: I have found it. I would like to ask for the correction of a translation on page 84 of the German and 111 of the English Document Book. The German text runs, and I quote, (in German); the translation on page 111 of the English document book reads: "300 Italian officers shot according to Fuehrer decree." End of quotation. I would like to ask for a correction of the translation.

PRESIDING JUDGE BURKE: We will follow the same procedure as we have adopted heretofore.

MR. FENSTERMACHER: I am sending the original document to the interpreters for their version.

DR. LATERNSEER: Might I please have the original back in order to show the place.

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INTERPRETOR EVAND: The translation of the original German reads: "300 Italian officers are about to be shot after having been sentenced according to summary court martial." "Are about to be shot."

DR. LATERNSEER: Your Honor, I am very sorry; I have to object to this translation. "Werden" means in the future; I am very sorry I have to object to this translation, "300 Italian officers will be shot after having been sentenced by summary court martial."

MR. FENSTERMACHER: Does the court interpreter agree with Dr. Laternser's change?

INTERPRETOR EVAND: If it says "warden erschossen werden" it means "about to be shot" and that is also in the future.

DR. LATERNSEER: How then should this sentence read in the final version?

INTERPRETOR SCHARF: The original version of the translation should then read, "300 Italian officers, according to Fuehrer Befehl, are about to be shot after having been sentenced by summary court martial."

PRESIDING JUDGE BURKE: We are satisfied with the requirements of the situation. At this point we will take the usual recess until 1:30.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: May it please The Tribunal, Your Honors will recall prior to the luncheon recess we were considering Document NOKW 053, which is Prosecution Exhibit 393. We were especially examining the daily report of the 15th Mount Army Headquarters, which is on page 111 of the English and page 84 of the German Document Book. The portion of the 15th Mountain Crops report dealing with the Jaeger and the SS Division Prinz Eugen:

1) Enemy evaded Northern group toward North-West and East. Weak rear continued resistance. Division started attack at 0700 hours, reached town-boarder at 0800 hours and occupied Split at 0900 hours. Captured 300 officers and 9000 Italians. Details on Split not available. Wireless connections interrupted since 0100 hours today. Casualties on 36 September: 7 wounded. 187 registered dead enemies, 6 of them leaders. Strong forces evaded into Moser-Mountains presumably well equipped with Italian guns, endangering future garrison troops at Split. Parts of the 1st Prol. Division block western and northwestern of Imotzki all roads leading to Sinj. Intension: Division follows and beats enemy forces in the Moser-Mountains. Forces: G.R. (mot) 92, 2 Btl. SS, 2 Art. Abt. II/92 ordered towards Dugopolje on 28 September. Concentrated forces join 29 September, action continues until 3 October."

I think we need not read the rest of this report except the reference under 369th Jaeger Divsn, which is in the last portion of pg 111 English, and page 84 of the German:

2) Local partisan activities in the area of Travnik, Kiseljak and Prozor. Position at Visegrad worse. Cetnics received more reinforcements, ostensibly also from Italians. 0900 hrs attack by 400 Cetnics, supported by artillery on Visegrad, repelled. 2 dead, 10 wounded. Casualties of enemy not available. Railroad Sarajewo - Wisegrad interrupted.

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Turning next to page 118 of the English, which is page 82 of the German. This particular exhibit is assembled in an unchronological manner and that is why we are skipping from page 111 of the English to page 118, Page 82 of the German. This is the report sent by the 2nd Panzer Army, commanded at this time by the defendant Rendulic, of the same date as the previous report of the 15th Commanding Corps, 28 September 1943. The report on the 2nd Panzer Army was sent to the Plenopentiary General in Croatia, and also to the Military Commander of the Southeast. This is the daily bulletin for 28 September 1943:

3) At the XXI Mountain army corps (Geb. A.K.) over-all situation unchanged. In the district of the WV. Mountain army corps area, Split the enemy avoided the attack of the SS-Div-"Pr.E." by moving in masses in direction of the Dinara mountains, and in parts to the Moser mountains. Parts of the attacking groups are pursuing the enemy. 300 officers and 9000 enlisted men of the division Bergamo have been captured. Treatment according to the Fuehrer's order has been started.

And this reference, if Your Honor please, contained in the report of the Second Panzer Army, commanded at this time by the defendant Rendulic.

I think I need not read further, but pick up the report page 119 of the English, page 83 of the German, the report dealing with the Mountain Army Group and SS Division Prinz Eugen:

4) Partisan groups in the area Split avoided the progressing attack of the attacking force on Split by moving to the northwest and east. In Split resistance has been offered by weak rear-guards only. At 9:00 Split was seized. By small losses, 187 of the enemy were counted killed. The division is pursuing the enemy who escaped to the Mosor-mountains with the Gren.Reg. (mot.) 92, 2 Batl. SS-Div. "Pr.E." and 2 artillery corps. Enemy rear-guards escaping northwest towards the Dinara-mountains have been engaged in battle near Hrvace. Supplyroads leading from Sinj to the east are blocked by partisans.

Turning next to page 112 English, which is on page 86 of the German, we have the Daily Report of the 69th Reserve Corps for 28 September 1943.

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That group was commanded at this time by the defendant Dehner. Paragraph I, "Position Unchanged:"

"On the 27 September, 0125 hours, an Army transport train hit on a mine on main line in the East of Ruma. The engine and 7 cars derailed. Both rails of line are blocked for the time being. (already reported). Action Kammerhofer: On 26 September during clearance of Belegie gendarmerie fired on.

Arrested 2 armed partisans. One arrested communist official committed suicide. 1 partisan dead, 34 hostages taken. No casualties on our own side."

I direct Your Honors attention to the manner in which the enemy units are described during this period.

"According to the Security Service the Communists divisions 'Wolves' and 'Panthers' have been requested from Bosnia to avenge the action Kammerhofer. In continuing clearance of area the North of the Blankamen Beska road unto the Danube, action resulted in the death of 8 enemies and captured 125 partisan-members. No casualties on our side."

The remainder of the 69th Reserve Corps Report contains for the most part professional and tactical details with which we are not concerned.

Turning next to page 120 of English and page 91 of the German we have the Daily Report of the same 69th Reserve Corps, this time for 4 October 1943. The defendant Dehner still in command of the 69th Reserve Corps:

6) Ia Guerilla warfare situation unchanged. Only one plot against protected railroad sections.

II. 173 Reserve Division

a) Police project Kammerhofer in Save Bulge was continued. The horse-drawn Police battalions hardly had any contact with the enemy. A motorized combat group consisting of 1 Police Armoured Corps, 1 Battery and one Engineer Company of the 173 Reserve Division advanced as far as the Save Loop Kupinskut (40 kilometers southwest of Belgrade.)

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Small gerilla forces fled, taking along wounded and weapons of those killed in the swamp areas. Three gerilla camps destroyed. Own losses: one dead, one seriously wounded. Enemy losses: 31 dead; 47 prisoners. Booty: 1 rifle, one pistol, handgrenades, rifle munition, 2 bicycles, engineer equipment: 11 horses; Sanitary Corps material; considerable quantities of textiles and food.

In Prhovo (18 kilometers southwest of Ruma) Material of escaped guerilla bands safely guarded. After combing Save Bulge at Bechmen (18 kilometers west of Belgrade) country police guards, strength: 1:3; 100 employed."

Under Sub-Para. B of the 69th Reserve Report:

b) As measure of reprisal for assaults on railroads in recent days (refer to daily report of 1 October, figure IIc and daily report of 3 October, figure IIb) a total of 40 hostages were executed on the spot."

c) During night of 2 to 3 October passenger train hit a mine on main track near Grancenica (41 kilometers south-south-west of Bjelovar). Mail car and locomotive derailed. Traffic maintained through boarding other train; steps taken for levy of hostages at Gracenica and surrounding localities.

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Continuing on page 122 of the English and, I believe, 93 of the German, under "69th Reserve Motor Transport, 173rd Reserve Division:

"As measure of reprisal for assaults on railroads 40 hostages were executed."

I believe this is on page 93 of the German.

PRESIDING JUDGE BURKE: On what page?

MR. FENSTERMACHER: Page 122 of the English, your Honor, the portion under, "173rd Reserve Division," which your Honors will recall is a subordinate unit of the 69th Reserve Corps Commanded by the defendant Dehner.

"As measure of reprisal for assaults on railroads 40 hostages were executed. Parts of I Don Cossack Regiment I undertook attack against village in 25 kilometers northwest Mitrovica occupied by guerilla bands."

Turning to page 115 of the English, page 88 of the German Document Book, we have a report of the 2nd Panzer Army, dated 4 October 1943. This is an operation reaction report which contains information -for the most part, matters with which we are not particularly concerned.

I call your Honors' attention, however, to the references throughout the report which refer to the size and location and descriptions of enemy units.

Turning next to page 123 of the English, page 93 of the German, Document [NOKW-1552](#) becomes prosecution Exhibit 333. These are various extracts from the daily reports of army headquarters in Berlin, the OKH reports which the OKH compiled after having received various reports from the subordinate units in the field.

The first report is of the 27th of September 1943. Paragraph 3 of the report refers to the Balkans. There is nothing of particular interest for us under "Army Group E" which your Honors will recall at this time was commanded by General Loehr.

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Dropping down to paragraph "b) Mainland: Mountain Corps:" We have a reference to events in Greece during this period:

"Corfu is firmly in our hands excepting the mopping up operation necessary in the northern part. On the Island of Ithaka (east of Kefallonia) mopping up operation under way. South of Coreia, an enemy ammunition depot destroyed, 50 bandits shot to death."

And the report is signed by Heusinger, who we will note has signed the remainder of the particular reports in this exhibit.

Next on page 124 of the English, page 94 of the German, is the daily report of OKH for the 30th of September, 1943. Again we are only interested in the portion of the report which deals with the activities of the various army units in the Balkans. Under "Serbia":

"The center of band activity continues to be in Southwest Serbia particularly in the area of Uzice. German and Bulgarian security Detachments were disarmed by superior DM bands who subsequently released the soldiers. During local operations, 27DM suspects were arrested and 38 bandits caught carrying weapons. 10 reprisal shootings."

Your Honors will recall that the defendant Geitner was Chief of Staff in Serbia at this time to the Military Commander Southeast and simultaneously Military Commander in Serbia, General Felmy.

Next on page 125 of the English, page 95 of the German, the OKH General Report for the 5th of October 1943, under "Balkans" - "Islands":

"Combat activity on Coo stopped on 4 October, 1315 hours; by evening a total of 600 English and 2500 Italians was captured. Enemy losses have not yet been reported. Own losses; 15 dead, 17 wounded.

"The Italian Commandant of the Island was shot to death. Advance elements of own transport ships have arrived in Piraeus on their way back. Mopping up has started of those elements of the Island Occupation Troops which have fled into the Mountains."

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Continuing with the same report, on page 126 of the English, page 96 of the German, there is a portion which deals with the activities of the 22nd Mountain Corps which at this time was operating in the Western or Pyraeus section of Greece and was commanded by the defendant Lanz:

"Operation 'Spaghetti': Eastern combat group has forced enemy to evacuate Tepelea (50 kilometers southeast Valona) western combat group has taken Kuc (20 kilometers southwest Tepeline). Weapons and equipment taken in booty.

"One battalion (100 Jaeger Division) is advancing from Valena to Tepelene. In reprisal for the murder of the Regiment Commander, a village north of Phillipines was destroyed, its inhabitants shot to death."

That, if your Honors' please, is a report of the 22nd Mountain Corps Commanded at this time by the defendant Lanz.

Continuing on page 126 of the English, 96 of the German, the OKH report for the 10th of October, the only portion of the report in which we are interested, deals with the "Balkans " under "Army Group." On page 127 of the English, 97 of the German, is a report of the activities of the 68th Infantry Corps which is a subordinate unit of the Army Group E, operating in Greece, which was commanded at this time by the defendant Felmy:

"In reprisal for band attacks, 100 hostages were seized and several villages destroyed, northeast of Githion. Aracheva (20 kilometers west Levadia) was occupied. During mopping up in area of Melos (elements of 1st Panzer Division) minor enemy resistance.

"395th Administrative area Headquarters (Salonika): Band center on the upper reaches of the Aliakmon River mopped up. Strong, wellarmed band repelled with losses. Five villages, several depots with weapons and supplies destroyed. The Italians employed in this operation have proven themselves."

And then the section of the OKH report dealing with the 2nd Panzer Army which was commanded at this time by the defendant Rendulic under the title of the "2nd Panzer Army: Albania, Montenegro:

"118th Jaeger Division: Mopping up operation against remaining elements of the "Taurinense" Division still under way. One no longer has to count on the appearance of organized Italian units in the area of Kiksic, Risan, Grahove.

"Enemy losses: 400 to 500 dead, 5037 prisoners. Reprisal measures were executed against 18 officers. Captured Material up to now: 2000 rifles, 12 light machine guns, 31 heavy machine guns, 15 trench mortars, 2 guns, 1 anti-tank gun, considerable amount of ammunition and equipment of all kinds. Own losses: 11 dead, 97 wounded, 2 missing."

I direct your Honors' attention to a comparison of the German losses with those reported suffered by the enemy.

Finally, on page 128 of the English, 98 of the German section of the OKH reports under the "2nd Panzer Army," which deals with the activities of the 69th Reserve Corps Commanded at this time by the defendant Dehner:

"100 hostages seized for fire attacks. Two villages burned down. Attacks and acts of sabotage against trains, east of Bjelovar, southeast of Vincevei and railroad station southwest of Virovitica."

Next the report of OKH for the 11th of October 1943 under the only portion of the report in which we are interested: "Balkans, Army Group E, Islands:"

"The operation against Leres and the renewed attack against Sini have been delayed.

"Crete: A mopping up operation south of Rethymen is concluded, 50 bandits shot to death, weapons captured."

And the portion of the report dealing with the activities on the Greek Mainland, the activities particularly of the 68th Army Corps Commanded at this time by the defendant Felmy:

"The mopping up operation in the Helikon Mountains is concluded.

The destruction of the ammunition and supply depot and that of the band villages had deprived the bands of their mobility for the near future. Mopping up operation in the area of Molos was continued, resulting in losses to the enemy and in booty."

And a portion of the report dealing with Serbia where at this time, your Honors will recall, defendant Geitner was Chief of Staff to the Military Command in Serbia, General Felber:

"Communist sabotage against telephone lines, attacks on Communities, live propaganda activity and murder of political enemies. 30 DM reprisal shootings to death."

Finally on page 130 of the English, page 100 of the German, the OKH report for the 18th of October 1943, again we are primarily concerned in the portion of the report dealing with events in Serbia:

"Decreasing band activity. In reprisal for attacks on German border police patrols in the area of Administrative Subarea Headquarters 610 (Sabac) 100 D.M. hostages were shot to death and in Belgrade 150 Communist hostages were shot to death."

The report is signed, as are all the other reports, by Heusinger.

Turning next to page 131 of the English, page 102 of the German, Document [NOKW-951](#) which becomes prosecution Exhibit 334, these are extracts from the War Diary of the 21st Mountain Army Corps for the period from the 1st of November to the 30th of November, 1943 during which time the defendant Leyser was commander of the 21st Mountain Army Corps. Under the section of the report which deals with the activities of the 100th Infantry Division --

DR. GROSSE)(Counsel for defendant Leyser): The prosecutor is mistaken. The defendant von Leyser was at that time not Commander of the Corps which is mentioned here -- Army Corps which is mentioned here.

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MR. FENSTERMACHER: Your Honors, I'll prove that in the very next document book.

PRESIDING JUDGE BURKE: You may proceed.

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MR. FENSTERMACHER: The question of the report which dealt with the 100 Infantry Division:

"3 of the Communist ring leaders from Elbasan shot to death. All others arrested already marching to Struga. Reprisal measures are being taken against the two Italian colonels."

"(1 and 11a of the 9th Italian Army) captured near '505'" That, if your Honors please, refers to Count III of the Indictment, under paragraph 12.

"Conference of Commanding General with Oberfuehrer Schaefer Major Sattler and Captain Hausding regarding commitment and tasks of the SD. The SD will be at the disposal of the Government at the latter's request and on the other hand it will serve Corps Headquarters as a "feeler", however, it will not participate actively in the combatting of bands. Complete agreement is achieved in all questions, good cooperation is assured."

The activities of the SDG become important later on in this case, if your Honors please.

Now, on page 132 of the English, 102 of the German, continuing with the extracts of the War Diary of the 21st Army Mountain Corps:

"The Ia/ Corps Headquarters discusses with the Commander of the 522nd Grenadier Regiment, the execution of the large scale raid in Gross-Razzia in Durazzo and Shijak (operation "Hafenfahrt") intended for 20 November. All arrested Communists are to be sent to Concentration Camp Semlin, all

other Italians to be collected in a work camp so as to be available later for labor for the fortification construction staff."

Beginning on page 133 of the English, page 103 of the German, the document which your Honors find there has already been introduced in evidence as Exhibit 318. We ask your Honors to strike it from your document book, and also from the index at the beginning of Document Book 13.

Continuing now on page 136 of the English, page 106 of the German, Document No, [NOKW 052](#), which becomes Prosecution Exhibit 335. This is a Court No V, Case No. VII.

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daily report of the 2nd Panzer Army dated 26 November 1943, under the 297th Jaeger Division. Your Honors will recall the 2nd Panzer Army at this time was commanded by the defendant, Rendulic:

"During mopping up of the territory northwest of Dedar 16 communists shot to death, 30 Italians taken prisoner. Reprisal measures taken against 6 Italian officers."

Under the portion of the report dealing with the 69th Reserve Corps, at this time the defendant Dehner, the activities of the subordinate unit of the 69th Reserve Corps:

"187th Reserve Division: In the area of Derventa surprise attack by a company of the 6th Mounted Cossack Regiment on 400 bandits in Italian uniforms."

On the last document in Document Book 13, page 137 of the English, 107 of the German, Document [NOKW 293](#), which is offered as Prosecution Exhibit 336---

DR. LATERNER: Mr. President, may I have a look at this document before it is to be read.

Your Honors, I object to the presentation of this document.

The document bears, first of all, no heading. Second, there is no date; third there is no signature. Thus, I cannot ascertain who made this compilation, and who is responsible for it, and who signs for it. There are all three of the things missing which make up a document. I therefore object to its introduction.

MR. FENSTERMACHER: If your Honors please, this is a captured document and it is now in exactly the same condition in which it was found. Here is a certificate of the Washington Research Analyst who found it, who states this, that he is forwarding to us from Washington 264 page report by Captain Kaiserlich of the German Army and Administrator of occupied territories divided into the sections in Croatia, Bulgaria, Slovakia, Roumania, Italy, Finland and Hungary.

Of the portion of the report which has been forwarded to us, we have used only the section dealing with Croatia. That is the document which is Court No. V, Case No. VII.

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in question here now.

PRESIDING JUDGE BURKE: For reasons heretofore assigned by the Tribunal the document will be admitted in evidence for whatever weight, if any, the Tribunal deems it may be worthy.

You may proceed.

MR. FENSTERMACHER: The heading of this report is Croatia, and it will tell exactly what is happening in Croatia from the time of the German occupation of that country until the evacuation of German troops from it, in 1944.

Your Honors will recall that the period in which we are primarily interested at this time is the period during which the defendant Rendulic was Commander of German Troops in Croatia, and as Commander-in-Chief of the 2nd Panzer Army:

"Directly after the beginning of the German campaign against Yugoslavia (6 April 41) Croatia was proclaimed as an independent state (10 April 41) and as such was recognized by Germany already on 15 April 41.

"The basis of the German military cooperation with Croatia was Croatia's joining the Three Power Pact (15 June 41) and the Anti-Comintern Pact (25 November 41). On 2 July 41 Croatia entered the war actively against the Soviet Union; on 14 December 41, against the Allies.

"Already in 1941 the German Military Attache in Zagreb was appointed German General in Croatia for the unified concentration and representation of the interests of the German Armed Forces in Croatia. This office was later renamed 'German Plenipotentiary General in Croatia.'

"He was subordinated, without prejudice to his relationship of subordination as Military Attache, above all to the Chief of the High Command of the Armed Forces.

"The development of the situation however made it necessary at the end of 1942 to join all the German forces and offices in the Balkans in a unified manner under one person.

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Accordingly, the Plenipotentiary General in Zagreb was also subordinated to the Commander in Chief South-East, created by Fuehrer Order 47 of 28 December 42 (from the former Armed Forces Commander, S.E.). (again without prejudice to his position as Military Attache)."

"The German Plenipotentiary General had the position of a Commanding General and executed the tasks and exercised the authorities of a Wehrkreis Commander with regard to all units and offices of the German Armed Forces in the Croatian area.

"The Plenipotentiary General had the following tasks:

(a) To represent the interests of the German Armed Forces to the Croatian government and the Croatian Army Staff and to make valid the requirements for the conduct of the war according to the instructions of the Commander in Chief South-East; with the Croatian Government. This applied especially, also to German proposals for the subordination of Croatian units and formations under the command of the commander of the German Troops in Croatia.

(see below).

"(b) The Plenipotentiary General had further to guarantee Army Staff with the Croatian the smooth and successful accomplishment of the operational tasks of the Croatian Armed Forces. In the parts of the country occupied by German troops (there was first of all also an Italian zone of occupation, the whole Adriatic Coast) as well as in the area in which German troops operated (bandit combat) appertained especially thereto:

The distribution of the Croatian troops irrespective of the operation and the troop disposition within the operational territory.

"(c) Furthermore the German Plenipotentiary General had used his influence with the Croatian government, so, that the measures necessary for the pacification of the country in the territory of administration agreed with the interests of the conduct of war and the tasks transferred to the German occupational troops. The Plenipotentiary General had to place basic demands of this sort, in agreement with the German ambassador whose cooperation he also had to demand, in important military-political and administrative technical affairs.

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"(d) Furthermore the Plenipotentiary General directed the new arrangement of the Croatian Armed Forces, representing and according to the orders of the Commander in Chief South East (up till then a special German inspector was installed).

"The Transport Base Hq., at Zagreb, the Croatian Intelligence Office, the Signals Officer of the German Wehrmacht, the War Economy Officer, and the Chief Administrative Office of the Wehrmacht in Croatia were incorporated and disciplinarily subordinated to the Plenipotentiary General for unified observation of the German military interests, without prejudice to their technical subordination. Administrative sub area Headquarters (725) and the Army Reconnaissance Service Group, as well as the German Liaison Staff with the 2nd Italian Army (Supersloda Command) were further subordinated to him.

"The German troops deployed in Croatia were not subordinated to the German Plenipotentiary General. They were subordinated rather to the:

'Commander of the German troops in Croatia', who was likewise subordinated to the Commander in Chief South East. The Plenipotentiary General and the Commander of the German troops were instructed to cooperate closely.

"The German Navy and Air Force maintained their own offices in Croatia. Like, the German Army, they endeavoured to set up of Croatian units, as well as to recruit Croatian forces for their own units. The Croatian soldier was known from the first World War from the time of the then K.K.

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Austrian-Hungarian Army especially for his ability and endurance. The German expectations built up in this war were not fulfilled.

That was not founded on human material, but had political causes.

(a) In the formation of the Croatian state extensive consideration had to be taken for the Italian points of view.

(b) In the establishing of borders for the new Croatia, the borders of nationality were not taken into consideration. Instead of restricting Croatia to the part of Yugoslavia overwhelmingly settled with Croatian population, further parts of the Serbian territory, especially Syrmia, were incorporated into the new Croatia. Through this, not only conflicts of nationality resulted, but religious conflicts especially resulted, which were arbitrated also vehemently in the Balkans. The overwhelming Roman Catholic Croats carried on a sharp battle against the Pravoslavs. Between both groups stood the Mohammedans, especially numerous in Bosnia.

German military offices especially the Commander in Chief South East, the Plenipotentiary General in Zagreb, and the Commanding General in Serbia, attempted repeatedly to justify the settling of the border in a solution more just to the Serbian interests. That was, however, refused by the Fuehrer. Except for the Croatian government, the German Ambassador in Zagreb (SA Obergeruppenfuehrer Kasche) was the most vehement opponent to another solution.

(c) Instead of building up Croatia with the Farmers' Party (Dr. Matschek) predominating in the country, a dictatorship was drawn up with the emigrant group from Italy, of Dr. Ante Pavelitch, which had probably only an estimated five percent of followers in the country. The Farmers' Party was not unsympathetic to the German entry.

(d) The Croatian population which after 1919, after its incorporation into Yugoslavia, had carried on a fervent national struggle against Belgrade, had conducted a battle of somewhat passive resistance in the Yugoslav Army. By this, some of the previous Croatian soldierly virtues were killed off.

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After the creation of the "Military Commander, South East", according to the Fuehrer Order 48 of 26 July 43 (see the work "The Army and the Occupied Territories") the German Plenipotentiary General was subordinated to the Military Commander, South East, since the Commander in Chief, South East, was to be made completely free for his coming combat missions.

MR. FENSTERMACHER: And, if Your Honors will note in the chart, you will see how we have indicated that subordination.

"So far as executive power was to be exercised in Croatia, in the territories occupied by German troops, because of the failure of the Croatian government to act, it was now exercised for the Military Commander, South East, by the Commander of the German troops in Croatia.

An "affirmative attitude of all German offices toward the Croatian state" was once more demanded by order of the Fuehrer through the Order of the High Command of the Armed Forces of 7 September 43, concerning the point of view of all responsible German Military offices in the Balkans and referred accordingly to the fact that concerning this, only the Ustachi regime of the Poglavnik (Dr. Pavelitch) would come into question. But in the meantime, however, the other political establishments in Croatia

were no longer prepared to cooperate with Germany. They had either decided in favour of the Bolshevik tendency (TITO) or for the Allies.

The idea of a German military administration in Croatia for pacification of the country was discarded by the German political leadership in consideration of the Ustachi regime.

(In contrast to the attitude of the German ambassador in Zagreb (Kasche) the Political Special Plenipotentiary of the Reich for the Balkans (Dr. Neubacher) agreed especially also in Croatia with the demands of the responsible German commanders in the Balkans after a revision of the German political course. He, however, was not successful.

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MR. FENSTERMACHER: And that, if Your Honors please, completes the presentation of the documents in Document Book No. 13. Mr. Rapp will continue with the presentation of the documents in Document Book No. 14.

DR. SAUTER: Your Honor, Dr. Sauter for the defendants Lanz and von Geitner. I think it is a matter of principle how far a document like the previous one can be admitted. The Tribunal has ruled that this document is admissible; however, I'd like to point out that we of the defense have, so far, not heard of the date this document, who it is addressed to, and, above all, where it originates. From the index I can see -- the index which is on the first page of the Document Book 13 -- that in the last number there it says it's a report of Captain Cartillieri, that is page 3 of the index. Irrespective of whether this document which has just been read has a special meaning or is of special importance or not, in my opinion it is the certain duty of the Prosecution to tell us who the author of this is. The Prosecution must know that, for the index shows that a certain Captain Cartillieri is allegedly the author of this document. And I am of the opinion that in the future, as well as concerning this document, it is necessary that the Prosecution tell the Tribunal, as well as the defense, who is the author of such a document. This is a question which will probably come up again in other similar reports which probably will be more important concerning other documents, and, therefore it has to be clarified somehow.

MR. FENSTERMACHER: If Your Honor please, I think the Prosecution has already given to the defense and to the Tribunal all the information which it has concerning this document. We received it from Washington with a certificate of a research analyst in Washington, stating that it was part of a 260-page report by Captain Cartillieri of the German Army on the administration of the occupied territories. That is all the information we of the Prosecution have on it.

PRESIDING JUDGE BURKE: I think the ruling heretofore made by the Tribunal in respect to this type of document will still hold good in the present instance.

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I think it is obvious to Dr. Sauter, and it must be to the Prosecution, that the acceptance of the document in evidence was accompanied by the statement that such weight would be given it, if any, as the circumstances seem to require.

DR. SAUTER: Then, as defense counsel, I can assume from this attitude of the Tribunal, that in the future the defense also will have the right to put in its evidence some kind of reports which do not show clearly, and without the defense having to show, when this report was made, by whom, and for what purpose, because whatever the Prosecution claims as its right, the same rights go for the defense. I, therefore, assume that in the future, we will also have the right to put in such reports as evidence, and that the Tribunal will accept these in the same way, and under the same circumstances.

PRESIDING JUDGE BURKE: It would be a little difficult, Dr. Sauter, at this time, to answer in advance a ruling covering the type of evidence that the defense desires to submit. I am certain that at the time it is offered, such ruling that the Tribunal will make will be one that is just and fair and equitable under the circumstances.

DR. SAUTER: I thank you.

PRESIDING JUDGE BURKE: You may proceed, Mr. Rapp.

MR. RAPP: If the Tribunal pleases, the Prosecution is now presenting Document Book No. 14. This Document Book, Your Honors, will deal with the period, August 1943 to December 1943, inclusive. It will primarily emphasize the military picture in Croatia at that time. But there will be several documents pertaining to the picture in Greece. The defendants involved in relation to this evidence are the Defendants Weichs, Foertsch, Rendulic, Leyser and Lanz. Your Honors, our first document, which you will find on Page 1, also on page 1 of the German Document Book, is Document No. [NOKW-1391](#). It will become Prosecution's Exhibit No. 337. There is before us a document from the Air Liaison Officer, dated on the 25th of August 1943, addressed to the Commander of German Troops in Croatia.

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And on Page 2, Your Honors, this being a TWX telegraphic message, you will find the statement, "There are communists in black uniforms newly arrived from Skender Vakuf." And then it gives various priorities and numbers affixed to the TWX. Your Honors, if you turn to Page 3, also page 3 of the German Document Book, we will find a document dated 31 August 1943, which is Document No. [NOKW-1423](#), Prosecution's Exhibit No. 338. This, again, Your Honors, are various telegraphic messages sent to the Headquarters of the 15th Mountain Corps, and at the bottom of the page it states that "In Trilica 55 kilometers South of Vakuf, 20 pack-animals and about 50 men some of whom in gray uniform." And then, Your Honors, on August 29, 1943 another TWX on Page 4 of your Document Book, also defense counsel's Document Book Page 4, we find this Daily Report stating, "Own reconnaissance established that the band reported on 28 Aug. in Oberak (5 kilometers North of Ulog) was not the group Vlada Segrt but it is assumed that it was the Herzegovinian Brigade." Your Honors, if you now turn to Page 6 of your Document Book, [NOKW-076](#), which becomes Prosecution's Exhibit No. 339. Defense counsel will find this on their Page 5. This, Your Honors, is once again a teletype message sent on the 17th of September, 1943 and it is addressed to the German General Plenipotentiary in Croatia, General Glais - Horstenau, and it is sent by the Operations officer of General Rendulic, who at that time commanded the 2nd Panzer Army.

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You are requested for information as to what measures are being taken in order to prevent the further dissolution of the Croatian Wehrmacht. The 2nd Panzer Army believes the best means would be reprisal measures against family members of the "Traitors to their Country" to stop further desertion of the Croatian Units and the subsequent dissolution of the Croatian Wehrmacht.

2nd Panzer Army Ia And then various illegible signatures certifying to its being a true copy.

On page 7, Your Honor, there is a report from the 1st Mountain Brigade about the subject of treason and desertion of Major Bradac Milan. It is dated the 17th of September, 1943. This unit belonged to one of the non-German units fighting with the German armed forces in the Southeast Area. It is addressed to the Group West, for information: Minister of the Armed Power.

On 14.9.1943 at about 2200 hours the Commander of the III Battalion of the 7th Regiment Infantry, Major Bradac Milan ordered the Company Commander of the 3rd Company of the IIIrd Battalion of the Vth Mountain Regiment Lieutenant Rukavina to march with his Company in the direction of Kriz Since Kriz and the train coming from Zagreb were being attacked.

Lieutenant Rukavina accepted the order and when he marched out of Popovaca he went to see Sergeant Sol and said to him that this seemed suspicious to him, that they were betrayed and that caution seemed indicated.

For this reason Lieutenant R. did not march in the direction ordered but changed the direction.

After the 10th Company had marched off, at about 0030 hours loud firing could be heard from the direction which the Lieutenant had been ordered to take. But this fire was only staged by the partisans in agreement with Major Bradac. Thereupon Major Bradac ordered the 9th Company from Popovaca to go immediately to the assistance of the 10th Company.

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When the men had assembled in front of the Company Office partisans came from all sides. About 300. Company Commander then told his people: "Now other times have come, for two years now we have been fighting for nothing".

Then Major Bradac ordered the collection of all arms and equipment and had them loaded on to vehicles, which was also done. And then he marched off with the partisans in the direction of Garic with the 9th Company which had been taken prisoner in this way and with detachments of the Machine Gun Company.

When the Domobranes realized that they had been cheated and betrayed, some of them cried in despair, others again seized the first opportunity to flee with their arms, so that up to now 10 men with 1 light machine gun and 9 rifles have taken to flight.

There were a few who resolved to kill Major Bradac but they were unsuccessful because of the great caution and protection by the partisans.

According to statements collected up to now more than 100 men refused to join the partisans.

In Garici Major Bradac made a speech to the Domobranes asking all of them to remain with him but he did not succeed.

From the above it is clear that Major Bradac as a Commander of the III/5 Mountain Regiment had prepared and executed with forethought the betrayal of the units of the Battalion from Popovaca which were subordinate to him.

He ordered the 10th Company from Popovaca to go in the direction of Ludina-Kriz where an ambush of 3 partisan battalions had been established. Now if the Company had marched in this direction it certainly would have been annihilated.

This Company was sent into the ambush only because of the fears of the Commander that his intentions would be frustrated and that is why the Company was to be annihilated.

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DR. LATERNSE: Your Honor, I can not understand what the document is supposed to deal with this trial. It is purely a Croatian matter and I don't know what we have to do with such a document. I, therefore, object to its introduction.

MR. RAPP: If the Tribunal pleases, the purpose of this document, Your Honor, is closely connected with the previous documents I have read to you into the record showing how the Commander-in-Chief of the II Panzer Army intended to punish deserters of the so-called Croatian volunteer army fighting with the Germans.

DR. LATERNSE: Your Honor, something is brought into a connection here which can't be put into connection. It is an order of the Panzer Mountain Army which has been read whereby it had been recommended that it would be the best means to make reprisals against relations of deserters. But that this recommendation of the Panzer AOKII, can have any connection with the document which has just been read, does not show clearly at all because the report which has been read is likewise of the 17th of September, so that an order of the AOK-II given on the 17th of September or rather a recommendation cannot have any effect on that same date in Kutina. That is purely a Croatian matter which has nothing to do with this trial.

PRESIDING JUDGE BURKE: Toward what defendant or defendants are you directing the offer of this alleged proof?

MR. RAPP: To the defendant Rendulic, Your Honor.

Your Honor, the Prosecution cannot ascertain if such occurrences have happened prior to the issuance of the order by the then Commanding General, of the II Panzer Army, defendant Rendulic. We would like to ask the Tribunal to accept this document into evidence and give it such weight as the Tribunal may feel it right to give, if any.

PRESIDING JUDGE BURKE: For the time being, the motion of Dr. Laternser will be granted with the Understanding that later, if the prosecution may present some type of more formal, and legally recognized proof, it will be admitted but until that time the motion will be granted.

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MR. RAPP: The next document, Your Honor, will be Document NOKW880 which will become Prosecution Exhibit 339 – and the previous prosecution Exhibit being 339 is deleted. Is that agreeable to Your Honors?

PRESIDING JUDGE BURKE: That is agreeable with the Tribunal.

MR. RAPP: Your Honors, I just have been advised that only a portion of this document which previously was introduced as evidence, 339, has not been accepted. Is that correct, Your Honor?

PRESIDING JUDGE BURKE: The whole exhibit was included within the scope of the ruling of the Tribunal.

MR. RAPP: Very well, Your Honor. Your Honor, [NOKW-880](#) will now become Prosecution Exhibit 339. This is a document dated 3 August 1943, an excerpt from a War Diary of the 1st Mountain Division which at that time was a part of the XXIIInd Mountain Corps, commanded at that time by the Defendant Lanz. It states:

Paragraph 4) Carrying out security:

Suspicious male civilians are to be shot if they carry arms; otherwise, they are to be arrested and transported to Joannina.

For the Division HQs The Second General Staff Officer (signed) Brannerer Major General, General Staff Corps.

Distribution, and finally the official seal of the Division.

On page 11, Your Honors, this document continues. This is page 8 and 9 of the German document book, and it says, under paragraph 6:

Security of the convoy by means of a civilian truck occupied by hostages:

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In front of the security truck, a civilian truck occupied by hostages is to go every day, which will force anti-mine blockades to explode and will accordingly warn the security trucks in time.

And this is signed "Hageneinder".

And at the bottom of page 11, which is page 9 of the German document book, Your Honor, we find a subject pertaining to the quarterly ration report and it again comes from the 1st Mountain Division and it states, on the prisoner-of-war affairs: "All together, 2400 PW's and hostages were held in custody by the Field Gendarmerie in its jail and collecting points within the Division area and evacuated from there to the rear."

That is signed for the Division Headquarters for the Second General Staff Officer. This, Your Honor, concludes [NOKW-880](#), Prosecution Exhibit 339.

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Your Honors turn to page 13; this will become Prosecution Exhibit 340, NOKW 509

DR. FROSE: Before the documents being read may I please look at it.

PRESIDING JUDGE BURKE: Will you repeat please.

DR. FROSE: May it please your Honor, may I look at the photostat before the document is to be read?

PRESIDING JUDGE BURKE: I am sure counsel will afford you the courtesy.

MR. RAPP: Very well.

DR. FROSE: (Attorney for the defendant Dehner) May it please your Honor, I will have to object to the introduction of this document. The document shows a heading, "General Command 69th Reserve Corps", but no address; it does not show to whom this order is addressed. It shows no signature, but starts immediately with several enclosures. In the further course of the document, in the German version, there is a name turned out which is signed, the Chief of Staff for the 69th Reserve Corps as Nebenbach. There was never an officer "Nebenbach" in the 69th Reserve Corps, I have to contact the authenticity of this document and I have to object to its introduction.

PRESIDING JUDGE BURKE: For the information will you please state the exact page of the English document and the location of the name referred to.

MR RAPP: Your Honor, Defense Counsel is referring to page 13, NOKW 509, Page 14.

DR. FROSE: Page 14 is the end of the communication of the 69th Reserve Corps. It has no signature in the English oh page 14.

PRESIDING JUDGE BURKE: The signature is illegible, is it not?

DR. FROSE: In the German text that is not so.

PRESIDING JUDGE BURKE: In the English text I find the following:

"Certified to be a true copy, Corps Headquarters, dated 2.12.43, signature illegible, Captain."

DR. FROSE: I beg your pardon, your Honor, that is the signature for the enclosure to the alleged order of the 69th Reserve Corps, and not to the main part of the communication, page 13.

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PRESIDING JUDGE BURKE: For the reasons already assigned by the Tribunal with respect to this type of offered testimony it will be received.

MR. RAPP: Your Honors, on page 13, we have a letter from the High Command of the Wehrmacht, Fuhrrer Headquarters, dated 18.8.43. It makes reference to the Chief of Staff of the High Command of the Wehrmacht, WFST/Organization II, No. 02958/43 secret dated 8.7.43.

PRESIDING JUDGE BURKE: Will you permit us to interrupt. Will you be kind enough to hand to the Tribunal the document in question? Thank you.

MR. RAPP: You are very welcome, your Honor. The document states:

"In order to clarify any doubts in connection with the order pertaining to the treatment of prisoners taken during the combatting of bands in the East and Southeast the following directives for the execution of No. 4 of this order are issued in agreement with Reichsfuhrer SS and Chief of the German Police:

"1) All members of bands surrendering or captured in combat wearing enemy uniform or civilian clothing are to be treated as prisoners of war. It is within the discretion of the Hq's authority or the local troop leader in accordance with a given situation to treat as prisoners of war also, those persons found in the immediate combat area against whom no combat action can be proven but who are considered as the accomplices of bands.

"2) Excepted from the treatment as prisoners of war are: members of bands - regardless of how they are dressed - who report with or without arms to a German or allied unit outside of combat action. They are to be treated as deserters.

"b. Members of bands captured in a German or allied uniform (not deserters). After thorough interrogation they are to be shot.

"3) Commanders having the rank of at least that of divisional commander are empowered in cases of particularly malicious procedure on the part of bandits or their accomplices to issue precautionary directives not to take any prisoners or, respectively, that prisoners and the population captured in the combat area may be shot.

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Without adequate orders, local commanders will act accordingly on their own responsibility. The Chief of the High Command of the Wehrmacht signed Keitel "Addendum High Commander Southeast Figure 4 mentioned above reads as follows:

4.) Male prisoners from 16 to 55 taken during combatting of bands in the operational area, the Army area, the East Kommissariat, the Generalgouvernement and the Balkans are to be considered prisoners of war in the future. The same applies for these men in the newly conquered territories in the East. They are to be transferred to prisoner of War camps and from there to be sent for labor employment into the Reich.

Certified to be a true copy Corps HQ.

dated 2.12.43.

(signature illegible)

Captain" Your Honors the next page, page 15, we will find a letter from the then Commander in Chief of the 2nd Panzer Army, the defendant Rendulic issued from the 15 of September 1943 at his Army Headquarters.

The letter is:

"Intelligence Offices(III) Registration No. 39/43 secret.

Subject: Combatting of bands, reprisal and evacuation measures.

I. Band activity within the area of the 2nd Panzer Army is growing everywhere to a serious threat endangering, in particular, the entire supply where the troops lack the necessary *severity* toward each individual bandit.

II. Hence I order to the troops subordinate to me

1) All operations against collective bands or against individual bandits are to be executed with ruthless severity.

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The unit employed in band combat is not to be satisfied merely to chase away the bands but it must attempt again and again to exterminate bands or at least parts of them. Of course the plan of the operation is to take this request into account.

2) "The severity of the fights against the cunning enemy often makes it impossible to bring in prisoners without endangering one's own men. The precautionary directive under No. 3 of the OKW order below not to take prisoners will frequently become necessary against the bands in the Serbo-Croatian area. Should the individual bandits nevertheless be captured alive by our own troops they are to be treated in accordance with the attached order of the OKW/WFSt/Operation (N) No. 3408/43 secret, dated 18.8.43.

3) "On the other hand another medium to reduce the bands is applicable, having proven its value of the Eastern Front: propaganda to induce desertion. This propaganda has to be carried into the homes of the population, (women and parents of the bandits who are in danger of losing their houses, or who may become hostages, if the bandit does not desert in time). The bandit is to be given an opportunity to desert; outside of combat action, with the assurance of good treatment and the description of the foolishness of band combat by leaflet and by the propaganda of confidential agents (V-Mann).

"A well organized reception organization and careful counter intelligence measures a necessary for that. The numbers of deserters will increase when people start talking about the good treatment and food the deserters receive.

"Bandits deserting only during battle cannot count on any favors. The divisions are to report the number of deserters of the preceding month or the first of each month. They are also to inform the Corps HQs of executed or intended measures to increase the number of deserters. On the 8th of each month the latter will submit a collective report to the Army Ic.

"4) In territories permeated by bands in which attacks are to be expected and also in the areas where attacks have occurred the arrest of hostages from all classes of the population is a successful means of intimidation.

"As hostages are to be considered primarily:

- a) The dependants of members of the band
- b) persons guilty of having assisted bands
- c) Other suspicious persons The Population of the territory concerned is to be informed of the arrest of hostages and to be told that the hostages will be shot at the first attack which occurs.

The threat is to be put into effect immediately if the attack is executed.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

PRESIDING JUDGE BURKE: You may proceed, Mr. Rapp.

MR. RAPP: Your Honors, prior to the recess we were on page 17 of your document book and we are now approaching paragraph 5 of this document.

"Attacks on German members of the Wehrmacht and damages to warimportant installations are to be answered in every case by the shooting or hanging of hostages and the destruction of surrounding villages which latter is to take place, if possible, after the arrest of the male population inform the German authorities if bandits collect so as to avoid reprisal measures.

"Unless in individual cases different orders are issued, the rule for reprisal measures is;

1 German killed 50 hostages 1 German wounded 25 hostages."

Your Honors, in the original document we have also the words, "shot or hanged" after 1 German wounded and "25 hostages"; and then it says "shot or hanged." I would kindly ask the Tribunal to enter this on your document book and I will also hand the document to the court interpreter for proper authentication, if that is agreeable to the Tribunal.

PRESIDING JUDGE BURKE: That may be done.

INTERPRETER: The translation from the original German is as follows: "Unless in individual cases different orders are issued, the rule for reprisal measures is:

1 German killed 50 hostages 1 German wounded 25 hostages shot or hanged."

PRESIDING JUDGE BURKE: Is it agreed that that represents the translation of the German text? The correction may be made.

MR. RAPP: "Kidnapping of a German will be considered equal to killing a German unless the kidnapped person does not return within a definite period. According to the severity of the attack a hundred hostages may be hanged or shot for each attack against war essential installations.

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The reprisal measures are to be executed if the culprit is not caught within 40 hours.

"Where possible, reprisal measures in Croatia are to be executed by Croatian police under the supervision of executive bodies of the Secret Field Police of the Field Gendarmerie, or the SD, but in no case is it permissible that a delaying of measures by the Croatian authorities creates a disadvantage to or imperils German soldiers. In urgent cases the responsible leader has to act independently. The execution of reprisal measures with the reasons therefore is to be made known to the population by leaflets.

"The Divisional Commanders or independent Regimental Commanders are to issue orders for the arrest of hostages and for reprisal measures. These commanders decide whether the reprisal measures are to be executed at the scene of the action or in prison camps. Arbitrary excesses of subordinate authorities and of individual soldiers are to be prohibited. The arrest of hostages and the execution of reprisal measures is to be contained from time to time in the Daily Report of the 2nd Panzer Army.

"Male inhabitants aged from 15 to 60 years are to be evacuated from those band infected areas which are particularly important for the conduct of the war. At first they are to be collected in work camps under guard. The Army will order further employment for labor. The evacuations are to be executed by surprise action in order to avoid a previous flight of the population.

Areas to be evacuated are: the country neighboring on important heights of passes and roads of passes sectors along railroad tracks which are particularly in danger, etc.

"Intentions to execute evacuations are to be reported by the Corps Headquarters to the 2nd Panzer Army Ia and 2nd Panzer Army OQU., 1 copy each."

Signed: "illegible signature" and then "Signature General of the Infantry. Certifying the correctness of the copy: Corps Headquarters dated 2.12.43. (Signature illegible) Captain. Distribution: PP."

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Your Honors, on the next page, page 19, page 10 of the German document book, we find a letter from the "Corps Headquarters 69th Reserve Corps, Operations Officer No. 1078/43/1074 secret II.A. "dated 23rd of September 1943, at a time when the defendant Geitner commanded the 69th Special Purpose Corps.

This letter implements the letter which the defendant Geitner received from the defendant Rendulic which was previously read into the record. The reference is: "The Commander in Chief of the 2nd Panzer Army Intelligence Officer III, Registration No. 38/43, secret, dated 15.1.43; To Corps Headquarters 69th Reserve Corps, Ia No. 1078/43/1074 dated 19.9.1943."

"To supplement the order previously issued by the Commander in Chief of the 2nd Panzer Army, the following has been ordered.

"1 to 3) Propaganda to induce desertion.

"a) Suggestions for leaflets are to be submitted to the Corps HQ's by the division before 5.10.43. Soldiers of all grades (newspaper men and publicity experts, teachers, professors, etc) are to be interested in suggesting these drafts. The best leaflets will be printed by the Corps HQ's and will be dropped over the band territory in the German and Serbo-Croatian languages. A punctual report on the 1st of each month is to be observed.

"b) The Corps HQ's will apply to the Army for monetary rewards in return for timely reports of intended attacks and for information on the hiding places of the bandits. These monetary rewards are to be paid. If these attacks are frustrated and if bandits are found in the hiding places. Monetary rewards also are to be paid for turning in of arms, ammunition and explosives. Special suggestions for leaflets concerning these monetary rewards are to be submitted to the Corps HQ's.

"II. to 4, 5 and 6 Hostages.

"a) Divisions are requested to report the number and location of hostages in their custody or in the custody of the units before the 1.10.43. They will submit lists showing name, age, sex, profession and place of resistance.

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In taking hostages close cooperation with the German and Croatian police? with the SD and the Croatian authorities is requested in order to avoid affecting circles of the population which have nothing to do with the bandits. The wishes of the Croatian authorities to arrest certain persons as hostages are to be granted as long as no particular reasons exist to the contrary.

"a) The divisions are requested to report before the 5.10.43 which territorial sectors are being evacuated, together with a time table of evacuation. At the same time it is requested that a report be made in which work camps the male inhabitants between 15 and 60 are collected, together with the number.

"b) Reports concerning the taking of hostages and the execution of reprisal measures are to be contained in the Daily Reports from time to time."

And then there are some handwritten illegible notes: "War Diary No. 1 (?) 69th Reserve Corps? 46521/4."

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Your Honors, if you will kindly turn to page 21 of your document book 15 of defense counsel, we will find another letter from the 69th Reserve Corps at that time under the command of the defendant Dehner dated 6 October 1943:

"Subject: Combatting of bands, reprisal and evacuation measures."

Then there are references:

"1) Corps HQ's LXIX Reserve Corps Ia No. 1078/1074/43 secret II Ang.

2) 187 Res. Div. Ia/E Az. 5 General No. 7613/43 secret, dated 27.9.43

3) 173 Res. Div. Ia No. 930/43 secret dated 29.9.1943."

These are units within the 69th special purpose corps.

"I. Regarding installation of reprisal camps at evacuation camps we refer to Figure 4.) of the order "The Commander in Chief of the 2nd Panzer Army.

The Army has issued orders that captured members of bands, hostages and evacuees are not to be transferred until further notice.

II. The Army requests an exact report of the territories to be evacuated with a time-table of evacuation attached. Only males from 15 to 60 are to be evacuated but no old men, women and children, as the 187th Reserve Division supposes. This will do away with objections the 187th Reserve Division has voiced regarding the erection of camps. As a result of the evacuation many buildings in the villages on the railroad tracks will be made free, or they could easily be emptied by consolidating old men, women and children in billets. Without much effort and additional construction the evacuees and the hostages are to be billeted in these buildings.

Of course the camps of the evacuees are to be kept separate from those of the hostages – since the first mentioned are to be considered free workers. As ordered previously only such persons as are politically suspect, or whose relatives are proved to have joined the bands or those who cannot or do not wish to give any information as to where their relatives are, are to be taken as hostages.

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Croatian soldiers to whom a German cadre is assigned may be used for guards. A German officer or non-commissioned officer must always be the camp commander. Officers having been promoted from non-commissioned officers will be particularly suitable as commanders.

The Communities are to supply rations for the evacuees until other rules are prescribed. Corresponding tribute is to be exacted from the communities.

Until further notice the rations of the hostages are to correspond to other prisoners of war.

III. Evacuees and hostages are to be employed in hard labor for clearing the sector (prohibited zone of 300 meters each on both sides of the main roads). And order will be issued regarding wages for the evacuees.

IV. The 187th and 173rd Reserve Divisions are requested to report immediately from which villages on the railroad – except those villages reported previously by the 187th Reserve Division – the male population from 15 to 60 years of age is to be evacuated and at what time.

For the Corps HQ's Chief of the General Staff signature illegible Then the distribution list:

187th Res.Div.

173rd Res.Div.

In the Building:

Qu. (simultaneously IVa) Ia (draft) War Diary If your Honors will now turn to page 24, we will find a document which was sent by a regiment within, or a part of the 187th Reserve Division, which was in turn again a part of the Special Purpose Corps, commanded by the Defendant, Dehner.

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We would like to call your Honors attention to the fact that this document is possibly one of the very few documents that has come into the hands of the prosecution staff, in which the number of hostages executed is less than the numbers of soldiers killed on the German side, and we wish to point out that we are putting this document in nevertheless.

This document is to the 187th Reserve Division. Reference -- I believe this is on defense counsels' page 24, (page 24 of the English):

Reference: Commander in Chief of the 2nd Panzer Army, Intelligence Officer As reprisal measures for the attacks on railroads executed on 8.10.

1943 near Paulovac, 17.10.1943 near Vukosavljevica and 19.10.43 near Severin and Paulovac during which 12 German soldiers, 9 German gendarmes, 1 Croatian gendarme, 1 member of the Croatian legion, 5 members of the Croatian armed forces and 2 members of the Ustacha were killed and during which 12 members of the Gendarmerie were wounded and from which 10 members of the Ustascha still are missing, 25 bandits and followers of bandits were shot to death by order of the area command by the Croatian Gespanschaftpolizei on 19.10.1943. The population has been informed of the execution of the reprisal measure, by means of leaflets which contained all the reasons for it. Since the urgency of the case did not permit time to ask for authority post factem agreement is requested.

Signature For the correctness of the copy Dr. Gernstein, Captain Your Honors, turning now to page 26, I believe page 20 of the German Document book, we will find a report on the training of the troops, the attitude and morale of the division, the preparation of troops, and various references to a Cossak-Division which fought in that area:

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....The long lasting preparation had alerted the bands and had given away our aim. Therefore band troops were able to retreat unhindered towards the South across the Save. The carefully planned and ordered operation Herbst II became void.

2.) Degree of training of the troops employed. The police company particular the one from Djakovo is extremely inferior. It is poorly trained, or not at all, and poorly disciplined. The fully trained Domobranes (all instructors) were distributed as riflemen and quite useful. The young recruits of the regiment were extraordinary. Even though they had not come to battle they proved themselves to be all right despite the short term of training (two weeks basic training). They were disciplined, their

appearance was striking, they were attentive as guards, they kept very good fire discipline. The Ustaschal Company had not received any training at all.

3.) Attitude and morale of the population. The population was extremely obliging and glad to cook the rations for the soldiers. Since no field kitchens were available civilians brought the food to the soldiers at their posts. No friendliness to bands was noted. The population open heartedly notice the tremendous difference between the German soldiers and the cossacks. Demands for help and protection against the Cossacks were not infrequent.

The Cossacks behaved like the Huns. Their behavior toward the population led to the conclusion that the influence of the German leaders and sub-leaders was not very great. The Cossacks confiscated anything they could find: vehicles, bicycles, horses, cows, oxen, pigs, chickens, geese, hay, oats and straw. This was regular pillaging without asking any questions and without any compensation or receipt.

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They procured for themselves special rations and everywhere enforced a surrender of alcoholic supplies. In a state of intoxication they annoyed the women, regardless of age, forced their way into their apartments at night, threw civilians out of their beds, and with force and threat abused many women. Later reports stated that among these were even girls from 12 to 15 years of age. Not infrequently a woman was abused by several cossacks throughout the whole night. It became known that in Gradiste alone 11 women had to have medical treatment. Complaining women asked for the removal of the Cossacks. In its own sector the regiment had employed patrols and had known how to stop excesses on the part of the cossacks. In almost every case the complaints could not be checked because different Cossack units passed through constantly. The population could not be helped.

4.) Passwords. Notwithstanding orders, different passwords had been issued to the German units and to Cossacks, so that wild shooting developed at one time on the East blockade. The Cossacks mostly did not know any password. Finally one had to be satisfied, after an agreement that the Cossack identify himself, if stopped, merely with the word "Cossack". The passwords are much too difficult to enunciate. It is impossible for either Croats or Cossacks to remember them (for instance Friedrichshagen, Lausanne, etc.). If possible, simple one or two syllable words should be selected in order to make allowance for the lack of intelligence of these soldiers.

5.) Field kitchens. Field kitchens must be taken along if the commitment lasts longer than 2 days. It is going too far to ask a soldiers to subsist on cold rations for almost 10 days. The usual consequences are that he practically attempts to bed (warm milk, soup, etc.).

6.) Means of communication. The broadcasting sets are very old and require a through overhaul after each employment. At this time 6 Dora sets are out of use due to this.

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A new supply of broadcasting sets is required since one can usually work only by radio during an operation."

Your Honors, we find in Paragraph 7:

"Special incidents.

19.10.: 2 bandits arrested in Andrijasevci shot while trying to escape.

20.10.: Battalion Meinicke takes 2 prisoners which were transferred to the SD Vinkovci.

21.10.: I/130 arrest 9 deserting Domobranes in Babinagreda. Handed over to Vinkovci.

22.10.: Because of cowardness in the face of the enemy 2 Croatian auxiliary policemen were arrested and handed over to the unit leader.

23.10.: Domobrane Josip Berinc of the 1st Company/II/Syrm.Brig. was found intoxicated while on duty as guard in Gradiste. He resisted arrest using his gun and said that he would join the bandits because it is better there. He was given over to the E.K.3. Vinkovci.

2 drunks cossacks threw hand grenades at their own troops and shot off their rifles. The Cossacks were arrested and given to Cossack Regiment No. 5 in Zupania.

25.10.: Captain Meinicke arrested a Croatian unit leader for cowardness in the face of the enemy.

IV. Losses.

a) Own: 1 non-commissioned officer wounded.

b) Bands: 3 dead, 8 prisoners.

c) Deserters: 15 Domobranes were brought in.

Then on the next page is "captured materials." We don't have to go into all of the details.

Your Honors, it is pointed out that during this time a Cossack Divi vision in this area was fighting under the over-all command of the defendant Dehner.

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Here again we find a document addressed to the 69th Reserve Corps at that time under the command of the defendant, Dehner, from the 2nd Panzer Army. The date is the 19 December 1943, defense counsel on page 28, I believe:

Evacuation measures outside of the area the 1st Croatian Mountain Brigade may be continued. However, they are to be checked once more according to the following points of view:

1) Reprisal and evacuation measures are to achieve best possible effect in combatting of bands.

2) For this purpose it is useful not to evacuate villages adjacent to the railroad line but to use the inhabitants as far as possible to help with the security.

3) For this purpose definite sectors of the tract should be allocated to individual villages. Appropriate reprisal measures are to be executed where attacks occur which the population did not stop or regarding

the preparation of which nothing had been reported. These reprisal measures include arrest of hostages, partial evacuations of the population, burning down of individual houses.

4) Bandit nests near the railroad tracks are to be evacuated entirely and to be destroyed.

Signed 2nd Panzer Army, Ia

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MR. RAPP: If Your Honors will turn now to page 32 of this Document Book, defense counsel I believe page 16, we find a report addressed to the 187th Reserve Division which fought in Defendant Dehner's corps at that time. It is called, "Subject:

Operation "Herbst II" (which is operation Augumn) and "Wildsau" (which is operation Boar".

Reference: Discussion with the Cossack mounted regiment.

To the 187th Reserve Division:

Operation Herbst II ended with the order of the Division to the Commanding Officer of the Reserve Grenadier Regiment 45 to transfer all Battalions to Colonel Schulze and to take over the command of the blockade and to strengthen the blockade as far as possible.

The purpose of the blockade is clear and does not require any clarification. Parts of the 5th Don Cossack Mounted Regiment came from an easterly direction on 22.10 about 1600 o'clock and went into bivouac.

MR. RAPP: Your Honors, then we find the order of battle of this outfit, and it is continued.

Having suffered casualties while units were marching to Cerna the regiment immediately made contact with the commanding officer of the regiment. On this occasion it came out that the Cossacks not only were ignorant of the road block East Vinkovci - Zupanja but that they were surprised to find German troops there. The Regimental Commander informed the leader of the Cossacks (Adj) of the operation Herbst II and the events up to now and himself asked for a short orientation regarding the situation of the Cossack Division. That the Cossack Division - in particular the 5th Don Cossack Mounted Regiment - was ignorant of the existence of a blockade line, now having an inverse front toward the East - results from the fact that the regiment went into bivouac in Stitar and Cerna, in order to prepare for an attack in this area after a rest day. Asked why they could not get ready for combat just as well in Gradiste and Zupanje since the country did not contain any enemy, it was explained that they were following orders.

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They were also ignorant of the battle around Brcko as well as the existence of the Group Colonel Schulze and of the newly established southern blockade of the regiment in the area of Brcko-Bosnjaci. The order of battle as ordered also proves that the existence of these German forces down there was not taken into consideration.

The German Regimental adjutant of the Cossacks was informed of the situation by the regiment (the pertinent radio message dated 22.10 from Colonel Schulze to the division has been monitored) and gratefully accepted the information.

On the 24.10 at 1600 o'clock the 5th Don Cossack Regiment made ready for an attack in the area of Stitar on both sides of the Gradiste in a Southeast direction with artillery positions close to the southern edge of Gradiste.

MR. RAPP: Then, we have some geographical subdivision of the various lines different units were to hold. And now we come to the last paragraph of this page, which illustrates the purpose of this document:

The behavior of the Cossacks: The Cossacks - to say it mildly are degenerating into a public calamity. The population is scared and has sufficient reasons to be. The Cossacks are actually "pillaging". They take away without compensation horses and vehicles, hay, oats and straw, cows, pigs and bicycles, and care little for the complaining population. Frequently the population avoids the Cossacks with alarm because it has received information of assaults, which are said to have occurred.

(handwritten)

For the files.

Then it continues:

The population reacts pleasantly to the behavior of the German troops and by implication connects the Cossacks with Bolshevism.

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Information received states that the officers attached to the Cossack Regiment are almost powerless. The men do many things without the knowledge of the officers. There are Russian officers here too!

According to the statement of a commanding officer the thought was expressed that Russian peculiarities must be considered to a very large extent where this detachment is concerned.

The regiment has found it difficult these two days to quiet the population. Wherever possible, assistance was given but it was a hopeless enterprise. Manes and tails of the horses were cut off so that they would become immediately unrecognizable. Even if horses and vehicles are recognized they are not being returned or no compensation is being given.

The regiment doubts that in this respect the behavior of the Cossacks toward the population can be improved.

signed: Ruckser D/II Staff Headquarters dated 28.10.1943

MR. RAPP: If Your Honors turn now to page 35 we find that this report from the Regiment was sent to the 187th Division, which, in turn, endorsed this report to higher headquarters, this being the 69th Reserve Corps. It did come, in other words, from the Regiment which issued the original copy, to the attention of the Corps. If Your Honors turn now to page 36 we find a teletype message - on page 22 of

the German Document Book – we find a TWX addressed to the Fliegerfuehrer, the Air Commander, Croatia Ia, Zagreb. It says in Paragraph 1:

Heavy enemy concentrations in the villages of Potocci Vojakovci, V. Poganac (3, 5 and 14 N. Krizevci.) Sizeable food, ammunition and medical installations in V. Poganac. The population of the 3 villages supports the communist bands.

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Corps requests destruction of the villages by sizeable air force operation (Stuka; the German Dive-Bomb version).

Kapela and Rakitnitci (9 N. and 12 NW of Bjelovar) main assembly places of 3 communists brigades who are seemingly preparing large scale attack on Bjelovar.

MR. RAPP: On page 37, "Corps requests strong air force operation against these villages." And that then is signed by the "Air Liaison Officer, LXIX Reserve Corps, Korth, 1st Lieutenant."

DR. FROESE: Dr. Froese for the defendant Dehner. Might I please look at the teletype which has just been read. From the German text there's no date. Also, from the original one can see when it was sent, and I can't see why it is brought forward in this connection, whether it is a teletype with an order or whether it is a fact from this period. I must object to the introduction of this.

MR. RAPP: That, as has been pointed out previously to the Tribunal, this particular document like many others, was found in Washington within the files of the various corps, division, and army headquarters we had screened for that purpose. We feel that since this particular instrument was included in these documents, not through us but by the German Army, we felt that it should be introduced as part of the record at this time.

PRESIDING JUDGE BURKE: For the same reasons heretofore assigned by the Tribunal, and with the same limitations, the document will be received.

MR. RAPP: If Your Honors turn now to page 38, which is page 23 of the German Document Book, we will have before us a rather bloody account of the excesses of the Cossacks, which were part of the 69th Special Purpose Corps, at that time under the command of Defendant Dehner, who was subordinate to General Glaise-Horstenau. That is page 38 of the English Document Book.

PRESIDING JUDGE BURKE: You may proceed.

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MR. RAPP: It is called "Excesses of Cossacks, 20 November 1943", and the heading is subdivided in columns, which on the top from left to right read: "No," – "Facts of Case" – "Reported by" – "1st Cossack Div. requests investigation on" – and then "Action taken by 1st Cossack Division." I now cite:

"No. 1; Facts of Case: Pillaging in Divosch; Reported by: District of Vuka; 1st Cossack Div. requests investigation on: 19.10. 43 Ia; Action taken by 1st Cossack Division: 1st Cossack Division Facts of Case: Hanging of the German; Reported by: District of Vuka; 1st Cossack Div. requests investigation on: No.

1651/2458/43; Action taken by 1st Cossack Division: dated 22.10.42 number – Facts of Case: Deputy Mayor Kuhn; Reported by: No. 1246/43; 1st Cossack Div. requests investigation on: Secret and No. 1652/2459/43; Action taken by 1st Cossack Division: 1345/43 secret" and then we come to Confiscation of Cattle in Mandjelos (district Mitrovica); Reported by: Secret 14/11/43; 1st Cossack Div. request investigation on: Secret." And then we go to the right column and we find "Concerning Mayor Kuhn: care has been taken that similar incidents will not occur; concerning requisitioning of Cattle. 1st Cossack Div. Ib dated 30.10.43: issuance of pertinent orders of the day. Kuban-Mounted Regiment has been requested to report regarding confiscation of vehicles and horses." And, Your Honors, the second incident was "Confiscation of horses and mistreatment of farmers in Hrvatski Karlovci." And it was reported by the "German Plenipotentiary in Croatia Zagreb dated 23.10.43". And we find no entry for the "1st Cossack Div. requests investigation on" and no "Action taken by 1st Cossack Division." The third is "Raping of women and girls and pillaging in Oriovac (20 W. Brod.)" And there we find, "Teletype II. Croat. Corps HWs. No. 1141 dated 26.10.43." 1st Cossack Div. requests investigation on: "Teletype dated 27.10.43, Ia No. 1790/2784/43, secret. Teletype dated 30.10.43, Ia No. 1853/2936/43 secret." Action taken by 1st Cossack Division:

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"Teletype 1st Cos. Div. dated 31.10. No. 1469/43 secret: The divisional court martial dispatched local court on 19.10. 8 Cossacks shot to death for looting and raping between 25th and 28th of October."

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On the next page, Your Honor, page 23 of the German document book, we find entry number four, the facts where thefts and rapes in Podvinje, district of Brod, were reported by the 187th Reserve Division, and the 1st Cossack Division requested an investigation, and it says:

"Action taken by 1st Cossack Division: Investigation by Kreisgerichtsrat Mueller of the 1st Cossack Division" -- that is Judge Advocate -- "enclosed with 1st Cossack Division Brigade," dated so and so, "secret, dated 6.11.43. Report of the investigation to 2nd Panzer Army, 1.10.11.

"5. Confiscation of horses and vehicles. Shooting to death of a 70 year old man in Sibirj on 26.10.43.

"6. Rape of 16 women and girls in Mlinici (district of Brod).

"7. Confiscation of 11 pigs in the village of Grabarje.

"8. Looting and burning of the apartment of 1st Lieutenant Bosanac in Novo Topolje (claim for damages).

"9. Confiscation of vine and brandy in Brodskl Varos on 30.10.43."

I think Your Honors have 13.10.45 in the books but it should undoubtedly be 1943.

"10. Murder and looting in Babina Greda on 26.10.43."

We find in the document pertaining to the incidents between entry number five and entry eight any action that has been taken. Also for nine.

Then paragraph ten:

"Murder and looting in Babina Greda on 26.10.43.

"11. Theft and threats in Podvinje on 7.11.43.

"12. Looting and rape in Gromacnic."

Reporting by the II Croatian Headquarters and an investigation was ordered.

"13. Looting and murder in Andrijevc (13 Cossacks shot to death)."

1st Cossack Division. Copy went to Corps Headquarters.

"14. Looting and assault in Andrijevc. Complaint of Oberfaehnrich Pindaric.

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"15. Looting, rape and murder in Lacacac (district of Mitrovica).

"16. Acts of assault by the Cossacks in Gradiste."

The next page, Your Honors, page 41:

"17. Confiscation of 300 horses, 500 sheep, 400 head of cattle, and 200 pigs from the villages of Ljuba, Grgurevei, Mandelos, and Schuljan."

This was reported by the District of Buka. The 1st Cossack Division requested the investigation and the action taken was:

"Comment of the 1st Cossack Division dated 7.11.43; captured cattle partly from bandit villages request information from which villages loot has been taken illegally in order to recompense with Reich monies.

"18. Complaint of master forester Ebenhoeh, 2nd Panzer Army."

The 1st Cossack Division reported:

"Events in Ilok partly invented, partly intentionally exaggerated with intent to discriminate against the 1st Cossack Division.

"19. Arrests of Croatians by Cossacks."

And finally: "Excesses of the Cossacks in the community of Morovca."

If Your Honors turn to page 42, page 25 of the German document book, we find items:

"21. Excesses of Cossacks in the community of Privlaka, District of Vuka.

"22. Arrest without cause of Ustasha follower Marijan Stivic and family Stivic." And the Cossack Division said, "No arrests, only drafted for transportation work.

"23. Complaint of the postmaster of the Croatian post office Osijek.

"24. Confiscation of horses of Domobrane Parasilona Marko" and "Excesses of the Cossacks in Kamenica."

DR. FROEHSE: Dr. Froehse for the defendant Leyser. Your Honor, I would like to point out page 38 of the English, No. 3. I would like also to point out that orders were given and also executed. The prosecution didn't read this part in column four but that says that eight Cossacks were shot to death for looting, etc. I think it is important that this also should be read into the record

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MR. RAPP: Your Honor, the entry in paragraph three on page 38 of your document book I will now read again into the record. "Action taken by 1st Cossack Division. Teletype 1st Cossack Division, dated 31.10, No. 1469/43 secret. The divisional court martial dispatched local court on 29.10. Eight Cossacks shot to death for looting and raping between 25 and 28 of October."

PRESIDING JUDGE BURKE: It is my impression that it had previously been read.

MR. RAPP: That is correct, your Honor.

PRESIDING JUDGE BURKE: Very well.

DR. FROEHSE: I am sorry.

MR. RAPP: Your Honor, the next page, page 43 in your document book, which is page 26 of the German document book, is a letter from the 69th Reserve Corps, at that time commanded by the defendant Dehner, to the XVth Mountain Corps, stationed in Banja Luka, at that time commanded by the defendant Leyser, and it states:

"Reference: 187 Res. Div. Ia/E No. 9852/45 Secret dated 19.

11.1943.

To XV Mountain Corps Banja Lu ka For information 187 Reserve Division German Railroad Security Staff Croatia Inspector of the Railroad Security Croatia The constantly repeated attacks on the railroad line Zagreb Jasenovac seem to make it desirable to evacuate all villages close to the line and if necessary to destroy them so as these villages cannot be garrisoned with railroad security troops and in particular with the 1st Cossack Division.

The Corps Hq's requests information as to the intentions in this respect since the German Railroad Security Staff Croatia which is subordinate to the Corps Hq's, has been entrusted with the security of this line.

For the Corps Hq's Chief of the General Staff" And then there is an illegible signature.

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"Copy, Top Secret." Then something handwritten 25.11.43.

Then if your Honors turn now to page 44, this is nothing but a tactical operational page still part of the same document. You will find this on page 26 of your document book, defense counsel, and now we are

turning to page 45. If the Tribunal permits me, I would like to ask defense counsel at this time whether or not they have this particular page. When I checked the document book last, at least in the copy I had, the German copy, this particular page was missing in the German document book.

Dr. Laternser, is that missing? Of course, you wouldn't know if you had no page. It is this particular page.

If your Honors permit, while defense counsel is checking whether or not this page has been furnished to them, we suggest that if defense counsel does not have this copy, we will furnish them a German copy of this particular page.

PRESIDING JUDGE BURKE: You are referring now to page 45 of the document-

MR. RAPP: I am referring now to page 45, your Honor.

PRESIDING JUDGE BURKE: Of document book 14.

MR. RAPP: Of document book 14, [NOKW-509](#), which is Prosecution Exhibit 340.

PRESIDING JUDGE BURKE: Are you prepared, Dr. Laternser, to state whether you have it in your book?

DR. LATERNSE: I haven't found it yet.

PRESIDING JUDGE BURKE: You may pass to the next matter that you have in order, until it has been determined whether they have it or not.

MR. RAPP: Very well, your Honor. Well we will then turn to page 46, your Honor, which is page 27 of defense counsel's document book and this particular document is a copy of a letter of the Plenipotentiary of the Croatian State Government, who was attached with the 69th Reserve Corps, and it is the "Ustasha Colonel P.T.B. Vieskoslav Serveatzky," and his subject is "Draft of labor and hostages in agreement with the author ities and with the Ustashal movement."

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Then there is handwritten and it says: "To the Headquarters of the 69th Reserve Corps in the Field."

"Answered by Ia on 4.12.43: Affair had been submitted to the Army so that relief can be had via the German Plenipotentiary General Zagreb."

"The Ustasha district leader of Karlovici has reported to me that entirely unobjectionable Croats had been compulsory drafted among others from the city and its environment for construction work at the Vienac (Fruska Gora). There they were submitted to inhuman treatment. They were insulted, beaten, billeted in penal barracks for almost a month under the worse conditions without compensation and with insufficient rations. They had to work without a rest day. German non-commissioned officers and soldiers, often times drunk, insulted them as "Partisans."

Several of these pitiful creatures had escaped from the Herzegowina province and other threatened territories with their families in order to save their bare lives and to make a living by honest work. The sons of some of them have been fighting in our Ustasha Units for 2 years.

At the occasion of my inspection trip I personally interrogated some mistreated Croats. The above report is supported by 7 written statements.

It is requested that:

1.) The case mentioned above be investigated and the guilty ones called to account."

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2.) These unobjectionable Croats be dismissed whose names are submitted as quickly as possible to the commander of the units employed at the construction there by the Ustasha district leader.

3.) All subordinate HQ's receive an order to the effect that the drafting of labor, hostages, or other persons to be interned is to be undertaken exclusively in agreement with the administrative authorities and the Ustasha district and local leaders, in order to avoid similar incidents which upset the entire Croatian population, which are regrettable and impede the absolutely necessary close cooperation of the civilian population.

The commander of the unit employed at the construction at the Vienac (Fruska Mountains) is said to be Lieutenant Colonel Appell, or Apel and his officer is said to be Obersturmbannführer Konrad. The unit is said to have APO number 26967-A.

It is said that the contractor Wolf has instigated the mistreatment of the workers by the German non-commissioned officers and soldiers.

Ready for the Poglavnik and country! H e i l H i t l e r ! Ustasha Colonel P.T.B. Vjek. Servatzy:

Signed signature.

Certified to be a true copy! Corps HQ. dated 6.12.1943 (Illegible signature) Captain.

And then it is certified to be a true copy, Corps Headquarters, 6.12.43, and an illegible signature "Captain."

If Your Honors will now permit I would like that you turn please to page 51. I believe that as to pages 48, 29 and 50 I am advised that a similar situation as previously exists, where through some miracle defense counsel did not receive the German pages of the document.

THE PRESIDENT: While we don't believe in miracles at this time, we are willing it should follow the same ruling.

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MR. RAPP: On page 51, this will be [NOKW 1137](#), and this will become Prosecution Exhibit 341 - Defense Counsel will find this on page 29.

This, Your Honor, is a document which emanates from the 7th SS Mountain Division, the so-called Prinz Eugen Mountain Division, and is dated 1 October 1943. This mountain division, your Honor, shown at that time as part of the 5th SS Mountain Corps, and the 5th SS Mountain Corps was subject and under command of the then Commander of the 2nd Panzer Army, the defendant Rendulic. It is a teletype message, and it is dated 1 October 1943, and it says:

"Railway line Ragusa - Metkovic interrupted.

Own losses: None Enemy losses: 19 partisans shot.

Bootes: 1 75 mm (°) battery with ammunition of this one gun with breechblock, equipment, clothing and medical equipment. Signed SS Division Prinz Eugen, Ib."

"1. In front of the right wing of the division no enemy resistance to-day. Group Peterson has taken up the assembly position as ordered, after eliminating flanking enemy resistance from the West slopes of the Moser Mountains.

2. SS Division "Prinz Eugen" with attached 92nd motorized Infantry Regiment will take Split on 27. September 1943.

Page 2 of this particular document, page 52 of the Document book. "The unit safeguards itself by immediate arrest of hostages. The slightest resistance is to be broken with ruthless terror." And then there is illegible handwriting and handwritten: 6318 Stamp: 4 Oct 1943 - Radio message.

And it says at the bottom:

"In Prozor on 2 September the district superintendent of Prozor as well as his driver were publicly hanged. Connection with bands clearly established"If your Honors will turn to page 53 we find a document dated 14 August 1943 and it states:

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"with Participation Southeast of Mostar versus band (insurgent) villages Pitkubas and Suzian completed. Both villages, except for houses of reliable inhabitants, destroyed.

This was sent to the Commander of the German armed Forces in Croatia, and information to 373rd Infantry Division. The sender was SS Division Daily Report of 13 August 1943.

This, Your Honors, will conclude Document 1137.

THE PRESIDENT: You may proceed.

MR. RAPP: Very well, Your Honor.

If the Tribunal, please, will you now turn to page 54, page 33 of Defense Counsel's book, and we will now have Prosecution Exhibit 342. This, your Honor, is an affidavit given by the Defendant Leyser, which we are now offering as evidence;

AFFIDAVIT:

I, Ernst Hans-Ulrich von Levser, being duly sworn say and depose:

On 18 November 1889 I was born as the fourth child of the then 1st Lieutenant Hans von Leyser and of his wife Emillie nee von Wurmb in Steglitz-Berlin.

I joined the Cadet Corps in Oranienburg near Diez a.d. Lahn in fall 1900; Easter 1906 I attended the Main Cadet Institute in Gross-Lichterfelde where I graduated as Officer candidate Easter 1906.

Subsequently - up to March 1909 - I was in the Selekt (Kriegsschule) (Military Academy) of the main cadet Institute where I graduated as an officer.

On 24.3.1909 I was commissioned Lieutenant in the 5th Guard Infantry Regiment. As such I went to the front as platoon leader in August 1914. Without any serious wound or illness I took part in the entire war at the front with my regiment until September 1918. I was platoon leader, battalion adjutant, company commander, regimental adjutant and battalion commander.

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In June 1915 I was promoted 1st Lieutenant and in June 1918 I was promoted to Captain. In September 1918 I became brigade adjutant of 1st Guard Reserve Brigade. In November 1918 I became battalion commander in the 1st Guard Reserve Regiment. In January 1919 I went to the Baltic as Brigade Adjutant. In summer 1919 the German troops had to withdraw from the Baltic. In the other Reichsheer I was then company commander with the 115 Infantry Regiment in Stettin, Prenzlau and Spandau. When the army was reduced to 100,000 men I had to resign toward the end of 1920. Thereupon I transferred to the Prussian Police as Captain and leader of a unit of 100 men. As such I was in Muehlheim (Ruhr) and Essen until 1926. After taking an examination in Eiche near Potsdam I was promoted to Major in April 1927, and was transferred as teacher and trainer to the Police school in Kiel. In the fall of 1932 I went to Bochum-Horne as deputy Unit Commander, later as Deputy Unit Commander to Muenster/Westfalen and Iserlohn. In 1935 I was promoted to Lieutenant Colonel and was attached to the staff of the Police Regiment in Duesseldorf.

At the time of my transfer into the Army I was taken over, in accordance with my own application as Lieutenant Colonel on the staff of the 77th Infantry Regiment. In 1936 I became commander of the Panzer-Jaeger-Battalion 2 in Stettin. I was promoted Colonel in 1937. In 1938 I was Colonel and commander of the Panzer-Jaeger-Truppen XIV at first in Leipzig with Group Headquarters IV and later in Magdeburg with the XIV Infantry Corps.

At the beginning of the Second World War in September 1939 I became commander of replacement Infantry Regiment Number 6 in Bielefeld and in October 1939 Commander of Infantry Regiment 169. As such I participated in the French Campaign in 1940. I was promoted Generalmajor (Brigadier General) in February 1941. I was appointed Commander of the 269 Division in March 1941. I led this division in the Russian campaign up to before Leningrad. In October 1942 - as Generalleutnant (Major General) I was charged with leading the XXVI Army Corps at Lake Ladoga. I was appointed in December 1942 General of Infantry as the Commanding General of this corps.

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From the end of October 1943 until July 1944 I was a commanding general of the XV Mountain Corps in Croatia and in August 1944 Commanding General of the XXXI Mountain Corps in Albania."

This, your Honor, should be 21st Mountain Group, I believe. "In April 1945 until the Armistice, due to illness, I went to Gastein for the cure. Since, then I have been an American Prisoner of War; in Gastein, Augsburg, Neu-Ulm hospital, Neu-Ulm and Garmisch.

War decorations I have received:

World War I: Iron Cross 1st and 2nd Class.

The Hohenzollern house order with swords.

Austrian War Merit Cross.

World War II: May 1940, Clasp for the Iron Cross 2nd class.

June 1940, Clasp for the Iron Cross 1st class.

September 1941, Knights Cross of the Iron Cross.

March 1943. German Cross in Gold.

Party member from fall 1932 to 1935.

In April 1927 I married Klara Gleisner daughter of the business man Max Gleisner and his wife Anna nee Witt in Hamburg. In January 1928, my son Hans-Polykarp was born in Kiel.

On 28 September 1944 an enemy bomber attack on Magdeburg completely destroyed my residence there. My son was heavily wounded and my wife was killed.

At the present time my son is attending school in Hamburg where he lives with my widowed mother-in-law who has also been totally bombed out.

I have read the statement above, consisting of 3 pages in German language, and I declare that to the best of my knowledge and belief it is the entire truth. I had the opportunity to make changes and corrections in the above statements. I have made this statement voluntarily without any promise of reward and I was neither threatened nor compelled to do so. Nuernberg, Germany, dated 12 March 1947 (Signed) Ernst Leyser If your Honors permit I would like to hand this document up to the Court at this time so that you may readily identify his signature.

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THE PRESIDENT: If it is agreeable to the other members of the Tribunal we will discontinue at this place, and you may hand it up in the morning

MR. RAPP: Very well, your Honor.

THE MARSHAL: The Tribunal will recess until 0930 tomorrow morning.

(Thereupon the Court recessed)

Official Transcript of Military Tribunal V, Case VII, in the matter of the United States of America vs. Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 1 August 1947, 0930, Justice Wennerstrum, presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the court.

May it please Your Honors, all defendants are present in the Courtroom.

PRESIDENT WENNERSTRUM: You may proceed, Mr. Rapp.

MR. RAPP: Your Honors will recall that prior to our recess yesterday afternoon, we were discussing Document [NOKW 877](#), which was Prosecution Exhibit 342, which Your Honors will find on Pages 54, 55 and 56 of Document Book 14. German defense counsel, I refer to pages 33 and 34 respectively.

We had already read this document into the record, and I asked the courts permission to hand this document up to the Court for identification of the signature of the defendant Leyser. I now would ask the court's permission to do so.

PRESIDENT WENNERSTRUM: You may hand it up.

MR. RAPP: Your Honors, we will proceed now to [NOKW 720](#), page 57 of the English document book, pages 35 and 36, respectively, of the German document book. This, Your Honors, will become Prosecution Exhibit No. 343.

This document, Your Honors, consists first of a teletype message dated the first of November -- 2nd of November, 1943, and it is a daily report. It is from the 15th Mountain Corps, and it states:

1) "Area Bosnia Krupa:

Passenger Train Bilvac - bos Novi 1.11.915 hours near Blatna hit a mine despite previous reconnaissance of tracks and ridges South of the Una.

Mine was released by train wire which was stretched across the Una. Presumably track will be usable again 2.11 evening. The Engineer Company of the 2nd Croatian Jaeger Brigade also employed in cleaning up work. 5 soldiers, 10 civilians dead, 4 soldiers, 4 civilians wounded, 3 cars completely destroyed.

Reprisal measures:

Houses directly North of the Una into which the wire led burned down.

Houses empty."

Your Honors, turning to the next page, we will find the service record of the defendant, Ernst von Leyser, and various comments, the superior officers of the defendant Leyser made at that time. It starts out with name:

1- Name: von Leyser, Ernst 2- Birthday:

18.11.89 3- Entered on Active Duty:

24.3.09 4- Birthplace:

Prussian (Berlin-Steglitz) 5- Rank:

Gen. D. Inf. (Lt. Gen.)

6- Seniority: 1.12.42(8) 7- Religion:

Protestant 8- Married:

23.4.27 9- Sons:

Hans Polykarp, 4.1.28 10- Languages:

None We find then his employment in the German Army from September 1, 1939 on:

"1.9.1939 Commanding Officer, Infantry Replacement Regiment No. 6.

25.10.1939 Commanding Officer, Infantry Regiment 169 15.

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3.1941 Commanding Officer, Infantry Division 1.9.1942 OKH Fuehrer Reserve (XI) 1.11.

1942 Acting Commanding officer, XXVI Infantry Corps 1.12.

1942 Commanding General XXVI th Infantry Corps 10.

8.1943 OKH Fuehrer Reserve 10.

10.1943 Commanding General XV Infantry Corps 20.

7.1944 Commanding General XXI Mountain Corps 19.

4.1945 Fuehrer Reserve OKH" His decorations are:

Clasp to the Iron Cross, second class, which he obtained on 17 May, 1940; Clasp to the Iron Cross, First Class, which he obtained on the 18 June 1940, the Knight's Cross which he obtained on 18 September 1941, and the East Medal the 26 July, 1942.

At the bottom you will find various military instruction courses which the defendant attended.

If Your Honors will turn to your next page, you will find comments of his superior offices at that time.

On the 15 of February, 1941, his commanding officer had this to say:

"Elegant appearance, soldier through and through. Brief, decisive and energetic in character, socially adroit, tenacious and efficient, fills his position well. Suitable as divisional commander."

On the 10th August, 1941, the former Field Marshal von Mannstein said this about him: "Fresh active personality. Has proven himself fully before the enemy. Leads division well, with initiative and energy."

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On the 13 August, 1941, former Colonel General Von Reinhard had this to say about his: "He produced exceptional success with his division. By his personal freshness, applicability, energy and not last by his fearlessness, he pulled his excellent unit through immense difficulties to highest achievements. He has showed himself capable as tactical leader of coping with all situations. Definite thoughtful with a pronounced clear conception of what could be achieved and what was practical, he was a support to me which I could firmly count. In the face of other difficult problems also, he did not know any "ifs and buts". He has filled his position as Commander of the division very well. I consider him equally well suited for the command of a Panzer Division or of a motorized Infantry Division since he has that particular freshness and his pliability which is needed, in particular, in commanding mobile troops. As former Panzer Jaeger Officer, he had other wide experience in motorization and tactical measures."

16. August 41 General Hopner: "I agree. General von Leyser led his division very well and had it firmly in hand. He personally sets an excellent example because of his freshness and smartness.": "I agree."

On the 5th April 1942, the following comment was made:

"A Divisional Commander who combines common sense and clear tactical perception with great resoluteness and willingness to accept responsibility. Ruthless employment spurs the unit to maximum achievement. The division was led in an exemplary and certain manner at the focal points. F.s.g.a.

Commanding General of an Army Corps."

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MR. RAPP: If Your Honors turn to Page 60, then Colonel General Lindemann on the 16th of April 1942 said:

"I thoroughly agree. The division was excellently led in mobile warfare as well as in heavy defensive fighting. Commanding general.

MR. RAPP: On the 25th of April 1942 the former Fieldmarshal von Kuchler said: I agree. In heavy Winter fighting outstanding. Precise and thoughtful in his decisions. Energetic. Hard and able to withstand crisis.

Then, on the 3.8.42, it was said: He has proven himself continuously. Fully suitable as Commanding General.

12.9.42: He has continued to prove himself fully.

1.3.43: Very intent on independence and glad to accept responsibility. He has a particularly clear tactical judgment and a healthy view toward the overall picture. In difficult situations also, he commands

energetically and quietly. He puts particular value on the preservation of extreme discipline. Average. Leave in present position.

19.3.43 v. Kuchler: I agree. He has also shown himself in difficult situations as a considerate and energetic leader of troops. It remains to be seen whether he is suitable.

19.8.43 Lindemann: Like 1.3.43 over sensitive. Intent on recognition. Somewhat rude in behaviour. Commanding General.

5.9.43 Kuchler: Well Proven as Commanding General.

"1/3/44 Rendulic" - the defendant Rendulic who at that time commanded the 2nd Panzer Army, of which the Defendant Leyser's corps was a part, said about him; "Distinguished, very temperamental personality. N.S." We believe this to be National Socialist. "Circumspect and energetic leader. His piercing temperament sometimes influences the calmness of decision. Glad to accept responsibility. Somewhat sensitive. The over-sensitiveness mentioned in previous estimates could not be confirmed.

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Average. Leave in position." And then the former Field Marshal, and now Defendant von Weichs, who was at that time Commander in Chief Southeast, said, "I agreed." And then, if your Honors turn to the next Page, you will find a schedule of dates on which the Defendant Leyser was promoted through the various ranks as an officer in the German Army. Your Honors, we turn now to page 62. We are still concerned with the same document, and then we find here a teletype message from the 373rd Infantry Division, addressed to Corps Headquarters XVth Mountain Corps, at that time commanded by Defendant Leyser, and under the Daily Report of the 6th of November 1943 it states (that is Page 37 and 38 of the German defense counsel's book): "Area Box/Krupa/Dopp/during special operation to Ivanjska /OT A VE 4/11/Klauf/2 North Blatna 1 man and four women arrested and 12 houses burned down as reprisal measures for railroad dynamiting 1/11 population had fled." Your Honors turn to Page 63, defense counsel's document book, Page 39, we will find again a message to the 15th Mountain Corps, from the 373rd Division, and this time it is dated the 8th of November, and it states:

Area of Lapac:

Operation II /3841 in the Kamesnsko Area 7.11 carried out according to plan. Bands seemingly have withdrawn, only weak enemy near point 1259, who retreated. Barracks, shelters, supplies of hay and straw burned down. Two men and two women arrested as band suspects. Twenty head of cattle and 18 smaller animals captured.

MR. RAPP: This Your Honors, concludes this particular exhibit. And, if you please, well turn now to Page 65 of your Document Book, defense counsel's book Page 46. We have [NOKW-733](#). This, Your Honors, will be prosecution's Exhibit No. 344. This is an order dated the 10th of October 1943 of the 373rd Croatian Legion Division, and this particular division at that time was fighting as part of the 15th Corps, commanded by the Defendant Leyser.

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It says:

Subject: Railroad and Road Security.

.....

- 1.) Any natural growth or any artificial cover offering protection (single houses, walls, fences, etc.) is to be removed from within these closed areas. The population is to be employed for such work.!
- 2.) The closed areas created in such a manner are to be indicated publicly, immediately (by proclamations and posters) and to be shut off by "closed area" signs.
- 3.) After this publication any unauthorized person found in any closed area is to be fired on without warning.....
- 5.) Villages and individual houses within the closed area are to be evacuated unless covered by our own units.
- 6.) The population of villages situated along the road of traffic is to be employed for rapid transmission of communications regarding band attacks impending or in progress. Each village will be assigned an area of responsibility. In the fixing of the area of responsibility and in the transmission of communications the Croatian authorities are to be included (Mayor, Croatian Gendarmerie and Police as well as the Secret Field Police, the SD, etc.)
- 7.) For the purpose of retaliation in cases of railroad and telephone sabotage, each German Headquarters authority, down to the regimental staff, is to install within its area of command a hostage camp. Bandits captured or hostages arrested (if possible members of bands or persons suspected of being enemies of the State) are to be divided according to their origin from the individual districts in such a manner that reprisal measures will directly affect the area in which the sabotage occurred.

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Exchange of such persons or their origin from certain districts will be determined by agreement between the different units.

Special attention is called to order 373. (Croatian) Infantry Division, Ic No. 3583/43 Secret dated 29.9.43."

MR. RAPP: Your Honors, the following statement appearing in the English Document Book before you, on Page 66, is missing in the German translation. If this is agreeable to the Tribunal I shall now hand the original document, as far as it pertains to this paragraph, to the official Court Interpreter and have the translation read into the record so that defense counsel can insert that part into the document book.

(Mr. Rapp referred to the following passage: "Beginning immediately the reprisal measure carried out in retaliation for railroad sabotage or for an attack on supply columns is to be reported in every case.")

THE PRESIDENT: You may handle it in that manner. May I suggest to the Interpreters that they read this paragraph slowly so that defense counsel and others who may be interested may write it into their German Document Books.

MR. SCHARF (English-German Interpreter): (Reading the German)

MR. RAPP: I believe, Your Honor, that some of the defense counsel were not able to keep up. Would it be alright if the Interpreter would repeat this please?

THE PRESIDENT: May I suggest, then, that this portion of the document be read again, indicating where it should be inserted in the German Document Book.

MR. RAPP: It would be on Page 47 of the German Document Book.

THE PRESIDENT: Are the German counsel ready?

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DR. FRITSCH: Dr. Fritsch for the Defendant Rendulic speaking. Your Honor, if I may suggest to you, it is not necessary for us to put this into writing because we have it in the record. It is enough for us just to make a note in the document itself.

THE PRESIDENT: All right, if that satisfies the counsel.

MR. RAPP: Your Honors, if you turn to Page 67, please, defense counsel to Page 47, you will then find that this document was signed by order of Fischer, Generalmajor, which is Brigadier General in the American Army. If Your Honors turn now to Page 68 you will find the Service Record of this particular individual, Theodor Fischer, who, at that time, commanded the 373rd Croatian Legion Division. We are introducing this particular document because it was a part of the whole document, and we did not feel that we could rip the document, as such, apart, but I do not believe that it will be necessary to read, at this time, the record of the Former General Fischer into the record because it has no direct bearing on our case at this time. If Your Honors permit, we are now turning to NOKW-1058. You will find this document on Page 70 of your Document Book, and Page 50 of the German defense counsel's Document Book. This will become Prosecution's Exhibit No. 345. This, Your Honors, is again a collection of various teletype messages sent by the 369th Division to the 15th Corps, and giving the situation and strength of enemy units at that time operating in this area. It states under 369th Infantry Division, the date was the 13th of October 1943: "Area Travnik-Zenica --- According to statements of residents bandits assembling near Orahovica (5 West Nemila) Area (8 Southeast Travnik) 200 Bandits."

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On the next page, your Honor, page 71, page 50 and 51 respectively of the German document book, we find another message contained in the same TWX and it says:

"Area Rama: According to statements of confidential agents and of gendarmerie 11.10. Two bandits brigades from KUPRES to SOLAKOVA KULA enemy groups area 5/11 kilometers West IVAN SATTEL About 7,000 Italians alleged to be with bandits in area RAMA."

On the next page, your Honors, and this is also in the next of the same page of the German document book, we find still more information from this TWX and it states:

"250 Chetniks occupied JABUKA Gorge during the night of 13.10.. 500 Chetniks 1,5 kilometer North of RENOVICA and 300 Chetniks 1 kilometer North of RENOVICA

3) During raid in Zenica 42 persons arrested and turned over to the SD. 1 looter shot to death.

4) Studencica (9 North of Rama) set a fire since on 10.10 and 12.10 our own JagdKommandos had been fired on."

This, Your Honors, completes Document [NOKW-1058](#), prosecution Exhibit 345.

Your Honors, we turn now to [NOKW-143](#) which will be offered as prosecution Exhibit 346. This is a daily report of the LXIX Reserve Special Corps, commanded by the defendant Dehner at that time to the II Panzer Army and it pertains to the arrest of a Croatian Captain who deserted to the partisans.

The 187th Reserve Division reports: "18.10. Arrest of a woman teacher in Kapela (9 Northwest of Bjelovar) as a hostage, whose husband, a Croatian Captain, deserted to the bandits and wanted to cause soldiers of his company to desert."

Your Honors, turn now to page 74, page 53 of the German defense counsels' book, the prosecution submits now [NOKW-791](#) which will become prosecution Exhibit 347. This is an order of the 373rd Croatian Infantry Division which fought within the XVth Corps and pertains to the security for railway communication and highway lines.

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The order reads as follows: "Staff headquarters 19.10.43. Subject: Railroad and Road Security."

"Supplementing the order mentioned in reference above, attention is called to the following:

1.) In creating closed areas attention must be paid that the unit assigns new shelters in territory secure from bands to the civilian population which must leave the closed area. For this purpose the help and advice of the competent Croatian Administrative Authorities is to be requested. In cases where the Croatian authorities resist cooperating with advice and help in the evacuation, report is to be made to the division.

"The population is to be given opportunity to take their moveable possessions with them to their new shelters. Before they are being evacuated, they are to be informed that it is not a matter of a penalty measure but of a necessary security measure.

"It is to be avoided under all circumstances that part of the population goes over to the bandits because of the evacuation.

2.) The road Bos. Novi - Bihac, running along side the railroad lines to be secured and the road Bihac - Lapac - Crecac, are contained within this closed area. Because of the necessary provisioning of the civilian population the civilian traffic on these roads cannot be prohibited. For this reason road traffic is to be supervised severely. As many check points as possible, which are to change their control points

continuously, are to make sure that unauthorized persons are not permitted to be on the roads within the closed area. The use of the streets is to be permitted only to local residents who are known to be unobjectionable. Any civilian wishing to use these roads must have a short term special pass issued by a German-Croatia Military authority.

"Along the roads 'Closed Roads' signs are to be installed which point out that leaving the streets is permitted only on specially marked points. Special passes are to be issued only to persons having in their possession the identification card prescribed by law for Croatian territory.

"Whoever does not have an identification card and the special pass is to be arrested and – if he belongs to a band – is to be shot to death or if he is suspected of belonging to bands – to be sent to a hostage camp.

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"The civilian population must be informed of these severe restrictions. The Division will inform the Croatian civilian authority.

3. The hostages camps ordered by paragraph 7 of the order mentioned in reference above are to be erected not only by the German Headquarters Authority but also by the Croatian Military Authority.

"Captured bandits and hostages seized are to be put separately into these hostage camps.

"The division is to be informed by name of incoming bandits and hostages. The report must show further: sex, place of birth, date of birth and residence.

"In regard to seizure of hostages attention is called to the circle of persons pursuant to order Ic secret 2 Enclosure.

(Signed in draft)

Certified True Copy Fischer Signature illeg.

Major General Mojor (Brigadier General) Distribution:

Your Honors will recall that this particular division commanded by General Fischer fought as a part of the XVth Mountain Corps at that time.

Your Honors, turn now to page 77, defense counsel to page 55 please. We are now offering [NOKW-1117](#), prosecution Exhibit 348. There again, your Honors, we have a number of German teletype reports which were addressed to the XVth Army Corps which at that time was under the command of the defendant Leyser. It was transmitted by the advance command post of Lueters and it says:

"East SARAJEVO Light Infantry Reserve Regiment 1 (JAEGER RESERVE REGT) drove the Cetniks back toward East. Houses fortified for defense and several hide-outs burned down. 7 enemy dead counted. 1st Company 6th Croatian Mountain Regiment dispersed during a weak night attack without any noteworthy resistance. With that almost the entire 6th Regiment dissolved now. East of SOKOLAC supposedly.

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"fighting between Cetniks and Communists. Enemy concentrations near LASVA and KARANJ recognizable. There Cetniks and Communists are united. Northwest of SARAJEVO surprise attacks on truck column, railway stations, and railway.

27 Cetniks will be hanged in retaliation.

Command Post Gen. Lueters (?)" Your Honors, on page 78, page 55 and 56 respectively of the German document book, we find the end of this particular message which was attached to the one which I have just previously read into the record.

If you turn now to page 79 or page 57 of the German document book, we will find part of this message I just have referred to. Your Honors, the first two lines, which is marked on top of this page as page 4, do not appear in the German document book. I will now, with your Honors' permission, hand this to the interpreter who merely will read the translation into the record if this is agreeable to your Honors.

THE PRESIDENT: It is acceptable and you may have it presented to the interpreter. If the interpreters will please indicate the place in the German document book where the insertion should be made and then pause a moment so that they may find it before they commence reading, it will perhaps be helpful to counsel.

(The interpreter read the document in German).

MR. RAPP: Your Honors, I believe this appears in the German document book. It is the previous paragraph I have pointed out to your Honor what the interpreter was to translate. I was just following this in the German language, and I notice that they were putting into the record the wrong paragraph. It is on page 4 of the original and I believe in German it should start out "In Vergeltung." I believe so.

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MR. RAPP: Thank you, that is all.

PRESIDING JUDGE MENNERSTRUM: Did the German Counsel get the insertion? They have indicated that they have.

MR. RAPP: Very well, your Honor.

PRESIDING JUDGE MENNERSTRUM: You may proceed.

MR. RAPP: Your Honor now we offer [NOKW-944](#). You find it on page 80 of your Honors' document book and page 78 of German Defense counsel book. This the Prosecution offers as Exhibit 349. Your Honors, this is an order of the 369th Croatian Infantry Division issued on the 25th of October 1943 and it is a basic order as it refers to the treatment of captured bandits, disposal of their uniforms, arrest of hostages, hostage ratio to be used, etc. etc. We have before us, in the original, the 59th copy of this order. There were 60 copies issued altogether.

Department Ic No. 54/43 Top Secret.

Subject: Combatting bands, measures of reprisal and evacuation.

1. The increased activity of the bands demands severity and resolution in combatting them even with respect to every individual man.

11. Therefore, I order:

1.) All operations against organized groups of bands and single bandits are to be carried out with ruthless severity. The troop that is combatting the bands is not to stop at a mere dispersion of the bands, but must try to eradicate the bands, or at least part of them.

The plan of the operation must, of course, be made according to the above demand.

2.) The malicious combat manner of the bandits and their helpers in the Serbo-Croatian area often compels us to forbid the taking of prisoners in order to avoid unnecessary hazard to the troops. Such a providential instruction can be given out by the Commanders of regiments and Commanders equal in rank.

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Without these orders the local leaders will act accordingly on their own responsibility.

3.) If, nevertheless, single bandits get into the hands of our troops alive, they are to be treated in the following way:

a.) Male members of bands capable of work who surrendered in combat in enemy uniform or in civilian dress can be treated as prisoners of war or kept back as hostages.

b.) All members of bands(irrespective of sex) found in German uniform or in the uniform of an Allied Army (malicious manner of combat, contrary to international law) are to be shot. They are to be carefully interrogated previously. A copy of the interrogation is to be sent to the Ic Department of the Division. The clothes are to be sent to the Clothing center of the Division (D.V.A.). Prisoners, however, who can make important statements are to be sent to the Ic Department of the Division.

4.)Members of bands, of whatever age or sex, who surrendered outside of combat actions, with or without arms, in whatever dress, to a German or Allied troop, are to be treated as enemy deserters. Bandits who desert during combat need not count on advantages. That means that they are to be treated as under Paragraph 3.). After a short interrogation by the troop for the purpose of our own information the members of bands counting as enemy deserters are to be sent to Ic Department of the Division.

5.) The propaganda of desertion is to be carried into the population by all means as up to now. Women and parents of members of bands who are still in liberty must be warned at every occasion, that they must count with the destruction of their houses or the arrest of hostages if their bandit does not surrender in time.

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The same reprisals are to be threatened as are used towards those of the Division who are on leave. Corresponding leaflets will be sent separately to the troop units.

The propaganda of desertion, moreover, is to be encouraged by allowing to the deserters in every instance the good treatment and food that was assured them. The number of deserters is to be listed in the Daily Report.

6.) The taking of hostages is of special importance as a preventive measure of protection. It is to be carried out on orders of a Commander with the disciplinary authority of a regimental commander at least.

All classes of society are to be used. Selection is to be made in the first place from the following groups of persons:

Relatives of members of bands, Persons who are guilty of aiding and abetting the bands, Other suspicious persons.

The arrest of hostages is to be made known, to the population in the areas in question. Attention is to be drawn to the fact, that the hostages will be shot to death as soon as an attempt occurs. The publication has to be made in writing in accordance with the enclosed sample. For the posting of this publication the mayors and Croatian Gendarmerie posts are to be employed. A copy of the publication is to be sent to the department of the Division.

In further raids on members of the Wehrmacht or damages caused on installation necessary for the war will be answered by shooting to death or hanging of hostages as well as destroying of the surrounding villages. Before the villages are destroyed the population capable of bearing arms is to be arrested as far as possible. Only then will the population denounce concentrations of bands to the German authorities, so as to be safe against reprisal measures.

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As measure of reprisal there can be shot to death, or hanged:

For 1 German killed - up to 50 Hostages For 1 German wounded - up to 25 hostages.

Your Honors will recall that this relates to the Rendulic order which was read previously into the record and the order was issued on the 15th of September 1943 and was offered as Prosecution Exhibit No. 340 and here we find that this order permeated all the way down to the Division DVA which was part of the 15th Corps at that time.

"The kidnapping of a German is equivalent to a killing, if the victim does not return within a given period.

"In carrying out the measures of reprisal the Croatian Police and the Gendarmerie are to be employed extensively.

"Measures of reprisal will be carried out on orders of at least a commander of a regiment or of a commander of equal rank.

"The arrest of hostages carried out as measures of reprisal is to be included in the Daily report.

Previous orders in regard to measures of reprisal and hostages are annulled and are to be destroyed."

Next turn to page 83 of the English and page 60 of the German Document Book:

"In order to purge infected areas the evacuation of all male inhabitants from 15 to 60 years of age may be necessary. The corresponding petitions are to be made through Ia and Ib Departments of the Division. The evacuation must be carried out with lightning speed so as to prevent a premature flight of the population. The arrested are to be conducted to the labor employment offices."

Then we find below a distribution according to draft and a suggestion on how the posters to notify the population of the pending killings of hostages should be made up.

JUDGE CARTER: Isn't it a fact, Mr. Rapp, that the Rendulic order was made on September 12 and not the 15th?

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MR. RAPP: I believe that it was.

JUDGE CARTER: Isn't that the order issued three days before the Keitel order which was on the 15th?

MR. RAPP: No, your Honor, this particular order, this is Exhibit 340, dated 15 of September and pertains to the ratio of hostages which the defendant Rendulic felt was adequate for execution purposes in retaliation for losses suffered by the German Wehrmacht. It is on page 15 of the English Document Book. I believe, your Honor, there is another Rendulic order of the date quoted by your Honor but pertaining to the reprisals against Italians, also issued by the defendant Rendulic.

PRESIDING JUDGE WENNERSTRUM: You may proceed.

MR. RAPP: Thank you, your Honor. Your Honors please turn now to page 84 which is page 61 of German Defense Counsel's Book and we are offering [NOKW 079](#), Prosecution Exhibit No. [350](#). This is a collection of daily reports of the 69th Reserve Corps and the XV and XXI Mountain Corps respectively to the 2nd Panzer Army. It states, in the middle of the page -- it first starts out:

11. Croatian Corps ---- As reprisal measures for the attack on the railroad base Southeast of Gracanica (20 kilometers Southeast of Doboj) (see Daily Report 13.10) 1 village was burned down and 100 bandits shot to death.

Then below daily report XV Mountain Army Corps dated 14.10.1943:

"11. Croatian Corps: Reprisal measures (see Daily report of yesterday) village of Petrovica burned down. 100 shot to death.

"Sender: 1st Lieutenant Ziegner, 1050 hours. Received: 1st Lieutenant Schulz/ Corporal Schmitz."

On the next page Your Honor there is a daily report dated the 14 of October by the 69th Reserve Corps, received from the 187th Reserve Division:

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"187th Reserve Division:

"In Koritna (20 kilometers northwest of Vinkovici) a total of 74 hostages arrested."

Then the various identifications of the document when it was sent and when it arrived. At the bottom of this page, 85, we find again:

"187th Reserve Division : In Koritna (20 kilometers northwest of Vinkovci) 2 bandits arrested, 1 hanged on the spot. Levying of hostages."

The next page, your Honor, page 86 of the English Document Book and page 63 of the German Document Book:

"118th Jaeger Division: In the area 10 Northeast of Grahove, an enemy combat group was attacked and destroyed in a concentrate attack from the Northeast and West by Reconnaissance Section 118 and 1./738. Individual combat actions still under way. III./750 drove enemy from ridge 1177 (6 North of Podhan), then turned West--"

A little below that we find enemy losses:

"Order issued for shooting of officers. Presumably the figure will be considerably larger. Loss of enemy lives; not ascertainable."

Then, signed by 1st Lieutenant Schulz and Corporal Riemer.

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Your Honors, turning now to page 87, please, pages 63 and 64 of the German Document book, respectively, we find again 187th Reserve Division, and it reports that:

"5.10 near Ivankovo 2 Communists wanted for a long time were arrested wearing German uniforms and carrying arms and written matter. 1 of them was a Volksdeutscher. Both Communists were hanged in Ivankovo. On 5.10. 43 the Wehrmacht telephone connection near Ivankovo was interrupted by Communists. Hanging of inhabitants of the village in case of recurrence was threatened."

And then under "d)":

"In Pivnica according to confidential report assembly of the XII Communist Brigade of about 2000 men said to have been ordered to attack Virovitica."

The next page, Your Honor, page 86, page 64 of the German Document Book, under "f)" we find:

"f) Taking of hostages in Andrijecci as reprisal measure for mines laid during the night from the 4th to the 5th of Oct."

And then a little bit below we find another reference saying:

"In reprisal for the attack reported in the morning report of 9.10 made on 9.10 at 0130 hours on the freight train on main railroad line 12 Southeast Vinkovci 20 bandit suspects from the locality of the incident executed at the place of the crime."

This, Your Honors concludes Prosecution Exhibit 350.

Your Honors, if you turn now, please to page 89 of your Document Book, and page 65 of the German Document Book, you will find [NOKW-1010](#). This will be Exhibit 351.

If Your Honors, please, we believe that this particular order, which we are about to introduce into evidence and which was signed on the covering letter by the defendant Foertsch, will prove one of the most important basic orders we have to concern ourselves with here in our case in chief. This order highlights and points out for us the order of battle, the relationship of all units stationed in this area during that time, and we believe that this order proves the connection of the various defendants commanding their respective units, and how they are all interlocked and tied together to the top man at that time.

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For all intents and purposes this order possibly involves the command of every one of the defendants in the docks, either by insinuation, by name, by mentioning the unit he commands, or in a way that order of battle will enter this case. The order is called:

"Commander-in-Chief Southeast -155 (High Command Army Group F) War Diary Ia/Id - No. 1067/43 Top Secret Headquarters 30.

10.43 I enclosure, stapled 8 Copies 3 Copy file H2 No. 26 "To Distribution:

Enclosed find draft of the basic order regarding the Command authority in the Southeast area.

Naval group Headquarters South and Luftwaffe Headquarters Southeast are requested to examine it, and to return it before 10.11.43.

Before 5.11.43 the following is to be submitted:"

I believe we can skip this very unimportant paragraph, and then it is signed:

"For the Commander-in-Chief Southeast (High Command Army Group F) The Chief of General Staff (signed) Foertsch "Distribution:

Naval Group Headquarters South Luftwaffe Headquarters Southeast Commander-in-Chief Southeast O.Qu.General of Transportation Southeast

Ic General of Engineers" And then it names on the right hand side of the sheet the copies they are to receive.

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Then the next page we find:

"Army Group Senior Signals Officer 7th copy I d (E - Draft) 8th " (stamp) "Commander-in-Chief Southeast (High Command Army Group F) Received 31 Oct.

1943 No. 657 Section Q-1 Section Also read by:

(illeg. init.) J" And underneath it says:

"(handwritten) "Qu 2 with the request to add paragraph 2 and to contribute to enclosure 6. (illeg. signature)" And the date, "31. 10".

On page 91, and page 66 of the German Document Book, we find:

"Enclosure to Commander-in-Chief Southeast (High Command Army Group F) Ia/Id- No. 1067/43 Top Secret dated 30.

10.1943 "Command authority in the Southeast area.

Organization:

Operational Channels of command.

Territorial Channels of command.

Execution stipulations regarding coastal defense.

Special Areas and concluding stipulations."

And then we have a, "Table of Enclosures" "Service instruction for the Military Commander Southeast.

Service instruction for the German General-Plenipotentiary in Croatia.

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"Service instruction for the German General-Plenipotentiary in Albania, Simultaneously for the Administrative Sub-area headquarters in Montenegro.

"Service instruction for the German Military Attache in Sofia.

"Fuehrer Directive No. 40 "Supply Transportation "Political Problems and Counter Intelligence.

"Engineering and Fortifications.

"Signal Enclosure To Commander-in-Chief Southeast" On your next page, Your Honor, page 92, which I believe is pages 66 and 67 of the German Document Book:

(page 1 of original cont'd)

(High Command Army Group F)

Ia/Id - No. 1067/43 Top Secret dated 30.

10.1943" "Command authority in the Southeast area.

I.

"(Operational Channels of Command) "1.) The Commander-in-Chief Southeast (Commander-in-Chief of Army Group F) is charged with the conduct of the war in the entire German Area of operations in the Southeast."

At that time, Your Honors, the defendant Weich was Commander and Chief, Army Group F, and was Commander-in-Chief Southeast.

"The Commander-in-Chief Southeast is directly subordinate to the Fuhrrer.

"2.) The following are subordinate to the Commander-in-Chief Southeast (High Command Army Group F):

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a) Army Group E

b) 2nd Panzer Army" (At that time commanded by defendant Rendulic).

"c) The German General-Plenipotentiary in Croatia with regard to his powers which go beyond his territorial duties and his duties as attache (service instruction enclosure 2) "d) The German Military Attache in Sofia with regard to his powers which go beyond his duties as attache (service instruction enclosure 4) "e) The Military Commander Southeast regarding all questions of the security of the country."

Your Honor will recall that the Military Commander Southeast was the former General Hans Felber, and his Chief of staff is present here in the dock in the person of defendant Geitner.

"3.) The main task of the Commander-in-Chief Southeast is the defense of the Southeast area against Anglo-American landing attempts from the sea or from the air.

The following assignments are made:

a) To the 2nd Panzer Army: - The defense of the area Croatia, Montenegro and Albania, in particular, the East Coast of the Adriatic.

"b) To Army Group E: - The defense of Greece including the Peloponnesus, the anterior Ionic Islands of Corfu, Cephalonia and Zante, of the Fortress of Crete, of the Island of Rhodes and of the following Aegean Islands: Skarpanto, Milos, Cos, Leros, Samos, Chios, Mytilene and Lemnos.

"4.) In addition the Commander-in-Chief Southeast is responsible for the security in the interior of the country as well as for the combatting of bands and for counter-intelligence measures against sabotage.

"In all questions regarding the security of the country:

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"a) The Military Commander Southeast in his capacity as Military Commander Serbia is directly subordinate to the Commander-in-Chief Southeast.

"b) The Military Commander Greece is subordinate to the Commanding Officer of Army Group E.

"c) The German General-Plenipotentiary in Albania and Administrative Sub-Area Headquarters Montenegro as well, if the occasion arises, the German Commanding General-Plenipotentiary in Croatia are subordinate to the Commander-in-Chief of the 2nd Panzer Army. All security units are subordinate to the Commander-in-Chief of the territory in which they are stationed. The Commander-in-Chief makes decisions regarding their commitment and their conditions of subordination."

If you will permit Your Honors, the part we just read under para.b) "The Military Commander Greece is subordinate to the Commanding Officer of Army Group E," at that time the defendant Speidel was the Military Commander in Greece.

"The Commander-in-Chief is authorized to charge the Military Commanders with certain security duties and for this purpose to Court No. V, Case No. VII.

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"subordinate the required security units to them.

"The conduct of the war at sea in the Southeast area is carried out by Navy Group Headquarters South. For this purpose the Commanding Admiral Aegean for the area of the Aegean and of the Ionic Sea, and for the area of the Adriatic Sea the Commanding Admiral Adriatic are subordinate to Navy Group Headquarters South.

"In questions of coastal defense the Commanding Admiral Aegean is subordinate to the Commander-in-Chief of Army Group E, the Commanding Admiral Adriatic Subordinate to the Commander-in-Chief of the 2nd Panzer Army by virtue of Fuehrer directive No. 40.

"The conduct of the war in the air in the Southeast and in the Eastern Mediterranean area, as well as preparation and leadership of aerial defense is the duty of the Luftwaffe Headquarters Southeast in accordance with detailed directives of the Commander-in-Chief of the Luftwaffe. By virtue of the Fuehrer directive No. 40 Luftwaffe Headquarters Southeast is subordinate to the Commander-in-Chief Southeast with regard to the preparation and carrying out of coastal defense.

"Subordinate to the Luftwaffe Headquarters Southeast are; the 10th Fliegerkorps for the area Greece; the 'Fliegerfuehrer Albania', for the area Albania-Montenegro and the 'Fliegerfuehrer Croatia' for the area Croatia and Serbia.

"(Territorial Channels of Command) "1.) The Military Commander Southeast exercises the territorial authority and the executive power in the Southeast area.

In this respect he is subordinate to the Chief of the Wehrmacht High Command.

"Subordinate to him are:

"The Military Commander Greece". That is the defendant, Speidel.

"The German General-Plenipotentiary in Croatia". His name you will find, your Honors, on the map, in Croatia, Glaise-Horstenau.

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"The German General-Plenipotentiary in Albania and the Administrative Sub-area Headquarters Montenegro", Gullman and Keiper, "only by special order if the interior situation of Albania permits a transfer of the executive power.

"2.) The Commander-in-Chief Southeast issues directives to the Military Commander Southeast as far as affairs of troop leadership are concerned. He is authorized to intervene, as far as this is necessary, in essential questions in the interests of his tasks.

"The Commander-in-Chief Southeast has delegated these powers to the Commander-in-Chief of Army Group E as concerns the Military Commander Greece, to the Commander-in-Chief of the 2nd Panzer Army as concerns the Military Commander Serbia as concerns the Commanding General-Plenipotentiary in Albania (Military Commander Albania-Montenegro) and as concerns the Commanding General-Plenipotentiary in Croatia. "Orders issued by virtue of this directive are to be reported to the Commander-in-Chief Southeast as they occur.

(Service instruction for Military Commander Southeast, Enclosure 1.)

3.) Service instruction of the German General-Plenipotentiary in Croatia, see enclosure 2."

Then if Your Honors will turn to the next page:

"4.) Service instruction of the German General-Plenipotentiary in Albania, simultaneously for Administrative Sub-area Headquarters Montenegro, see enclosure 3.

"5.) The uniform treatment of questions of foreign policy of the southeast area is the responsibility of the 'Special Plenipotentiary of the Foreign Office for the Southeast Area'. He receives his directives from the Reich Foreign Minister and is instructed to inform the military authorities (Commander-in-Chief Southeast, Military Commander Southeast) concerning these directives as far "as they concern military leadership or administration, as well as to inform them regarding foreign--political intentions and measures1 "III "(Execution stipulations regarding Coastal Defense) "1.) The responsibility in the sense of the Fuehrer Directive No. 40, III paragraph 1.) for the preparation of and carrying out of the defense of the coastal territories in the Southeast area against landing attacks of the enemy powers rests with the "Commander-in-Chief Southeast "It is the task of the Commander-in-Chief Southeast to secure the required close and complete co-operation of all branches of the Wehrmacht including the Allies.

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"2.) Authoritative for this are in General:

a) Fuehrer Directive No. 40 (Enclosure 5)

b) "Orders for the defense of the Southeast area."

c) Supplement regarding experiences in coastal defense (OKW/WFST/Op. No. 02914/42 secret dated 23.9.1942)

d) "Individual orders for coastal defense" issued by the Commander-in-Chief Southeast.

e) Supplement regarding defense of parachutists and airborne troops dated 10.5.1943.

"3.) Within the framework of the preparation and the carrying out of the defense of the coasts, the Commander-in-Chief Southeast has command authority as concerns Headquarter authorities of the branches of the Wehrmacht, as concerns civilian offices installed there, as well as concerns units and organizations outside of the Wehrmacht which are present in its area.

"The Commander-in-Chief of Army Group E and the Commander-in-Chief of the 2nd Panzer Army have the same authority within their area.

"4.) Navy:

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"According to the directives issued by the Commander-in-Chief Southeast for the preparation and for the conduct of the war, the following tasks devolve on the Commanding Admiral Aegean."

Then if your Honors will look at the middle, at the bottom of the page, we find:

"Agreement of the High Command of Army Group E or of the High Command of the 2nd Panzer Army is required with regard to the disposition of the Army Coast Artillery.

"The Commanding Admiral Aegean (Adriatic) is responsible for the fulfillment of tasks set to him by the Commander-in-Chief of Army Group E (Commander-in-Chief of the 2nd Panzer Army) to the latter. He is responsible to the Naval Group Command South for the technically correct execution of the measures taken.

"Accordingly in the preparation and the execution of the defense at and around the coasts naval leadership authorities subordinate to the Commanding Admirals (Naval Commanders, etc.) have the same rights and duties with respect to sector commanders, etc."

Turning now to paragraph 3 for the duties of the Luftwaffe, and this is on page 73 of defense counsel's book:

"Luftwaffe!

"For the duties of the Luftwaffe Command Southeast in regard to execution and preparation of aerial defense see "Orders for the defense of the Southeast Area".

"If the danger threatens -- for instance in case of a surprise enemy landing -- all Luftwaffe units (without the flying units) are subordinate directly to the Commander-in-Chief of Army Group E and of the 2nd Panzer Army in the areas concerned.

"6.) Exchange of information of all forces participating in the defense of the Southeast Area is of particular importance in the fulfillment of the mutual tasks.

"Commander-in-Chief Southeast will audit directly the reconnaissance circle of the Luftwaffe and the Navy.

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"Naval Group Command South, independently of the above, will submit to the Commander-in-Chief Southeast all important information which has a direct connection with the affairs of the Commander-in-Chief Southeast. The Commander-in-Chief Southeast himself will apply the same procedure.

"Luftwaffe Command Southeast sends all news and enemy information from this area continuously to the Commander-in-Chief Southeast.

"Enemy information and reports are exchanged directly between "a) Luftwaffe Command Southeast after its transfer X Air Corps with the High Command Army Group E. The cooperation of the High Command Army Group E with the 10th Air Corps intended at present will not be interfered with thereby.

"b) The Commanding Admiral Aegean with High Command Army Group E.

"c) Fliegerfuehrer Croatia or Field Air District Command XXX respectively with 2nd Panzer Army.

"d) Commanding Admiral Adriatic with 2nd Panzer Army.

"Within their own areas the High Command Army Group E and 2nd Panzer Army will regulate exchange of news and information according to their own judgment.

"To secure a standard reception of all news broadcasts in the Mediterranean circle which are heard by the command authorities, summarized short announcements of the results of "Reconnaissance Mediterranean", edited by the Commander-in-Chief Southeast, will be broadcast additionally.

"News and information above and beyond the area of the High Command Army Group E or the 2nd Panzer Army will be transmitted to them from case to case by the Commander-in-Chief Southeast.

"Continuous personal contacts of the counter intelligence officers (Ic) is deemed advisable.

IV (Special areas and concluding stipulations) We can skip this sub-section 1. Sub section 2 says:

"This order is to be passed on to subordinate authorities only in excerpts and then only insofar as absolutely necessary.

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The secrecy classification of the enclosures is indicated on them.

"3) The order "Commander-in-Chief Southeast (High Command Army Group E) Ia-No. 025/43 top secret Chefsache dated 15.2.1943" is hereby rescinded and is to be destroyed."

PRESIDENT:WENNERSTRUM: We will take our morning recess.

(Recess was taken).

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THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session; there will be order in the Court.

THE PRESIDENT: You may proceed.

MR. RAPP: With your Honors' permission I would like to hand up to you, to the bench, the document I have just put into the record, for the purpose of identifying the signature of the Defendant Foertsch on the covering sheet. (Document viewed by the Tribunal.)

THE PRESIDENT: You may proceed.

MR. RAPP: Your Honors, if you now turn please to Page 101 of your Document Book, and if defense counsel turns to Page 75 of their Document Book, you will find Document No. [NOKW-807](#). The Prosecution is offering this document in Exhibit to be marked No. 353. This document, dated the 6th of November 1943, shows a Daily Report of the 373rd Croatian Division, to the 15th Mountain Corps, at that time, commanded by the Defendant Leyser. It says: "Transmitted: Day: 5 November, Time 2300, Sender, Daily Report for 6 November 1943, Handwritten: 182 4.) Area Bos. Krupa: During special operations towards Jvanjska-Otave 4 November (2 km North of Blatna) 1 man and 4 women arrested. 12 houses burned down as reprisal measure for blowing up railway 1 November. Population has fled." Signed "373rd (Croatian) Infantry Division, Section Ia, Handwritten: initials." The next document, Your Honors, you will find on Page 103 of your Document Book.

THE PRESIDENT: Pardon me, sir. My Document Book has Pages 103 and 104 missing, unless there's some... I find them over about four or five pages on, so....

MR. RAPP: You did find them, Your Honor?

THE PRESIDENT: Yes, sir; they were out of order.

MR RAPP: Defense counsel will find this document on Page 76. This, Your Honors, is Document No. [NOKW-786](#). It is offered as Prosecution's Exhibit No. 353. It is a report dated the 19th of November 1943, again sent by the 373rd Croatian Infantry Division to the Headquarters of the 15th Mountain Corps, and is again a Daily Report in the nature of a TWX message, and it states:

Page 1,341

"In the area east of the supply road, north of Nebeljusi, the reconnaissance encountered an enemy patrol. 1 bandit was shot.

.....

II.) 2 men of the SS-Nordland unit escaped from captivity (II. Banja Brigade 7. Division) and deserted when Cazin was attacked. Hereby confirmation of 7. Division and its Brigade."

MR. RAPP: And then on page 104 we find the final signature:

"373 (Croatian) Infantry Division, Ia, (initial illegible)."

On Page 104, Your Honors, we are offering Document No. [NOKW-808](#). This is German defense counsel's book, Page 77 and Page 79. This will be marked as Prosecution's Exhibit No. 354. Once again we have the 373rd Croatian Infantry Division, addressed to the Corps Headquarters of the 15th Mountain Corps, still, at that time, commanded by the Defendant Leyser, and it states under Roman II:

"II B) Details:

Area Banja Luka – Kotor Varos – Prnjavor:

Contradictory reports have come in from the area East of Banja Luka. After a temporary threat to the road Banja Luka–Bosn. Gradiska the enemy, V and XII Croatian Brigade withdrew to the South (Kotor Varos) and East (Cecave, 44 East Southeast Banja Luka). According to later reports, the enemy again thrust ahead toward the Northeast in the direction of Prnjavor which is said to have been taken by Cetniks on 14.11. Only unconfirmed individual reports are available regarding the IX Croatian Brigade (South Kotor Varos), which has been newly reported in the divisional area and the XIV Brigade. Obviously these Brigades limit themselves to compulsory recruitment in the territory occupied by them.

Area Prijedor – Bosn. Drupa:

New strong forces of bandits have re-assembled around Prijedor: in the South and Southwest: IV, VI, VIII, XI and XIII, Croatian Brigade. In the North: V. Kozara and an unconfirmed Brigade which are planning an attack on Prijedor, after the weakening of the German occupation and after the expected withdrawal of the Panzers.

Page 1,342

The XI Croatian Brigade which withdrew to the North (Bosn. Dubica) and the Northwest in the beginning of November arrived again Southwest of Prijedor on the 10.11. The Brigade is said to have participated in the surprise attack on an empty train near Dragotinja (10 Northwest Prijedor) on the 11th November. The VIII Croatian Brigade, after their withdrawal by way of Prav. Jasenica (12 South Krupa), threatened the railroad stations North of Otoka and Krupa and the base of Gudovac (6 South Krupa) and parts of it were even confirmed on the other side of the Upa River near Vrelo (12.4. North Bihac).

The railroad line Bosn. Novi – Prijedor continues to be endangered to a great extent.

Area Bosn. Novi – Bihac – Cazin:

Before the attack of the bandits on Cazin the following band movements were reported:

The 8th Division moved Eastward from the area of Slunj with the II and III (Kordun) Brigade while the I branched off towards the South and is said to have withdrawn into the area Southeast of Bihac (Hrgar)."

MR. RAPP: This is Roman Numeral I.

"At the same time the Plaski-Battalion withdrew from Ljeskovac (21 West Northwest Bihac) to Mutnik (17 North Bihac) and the VIII Croatian Brigade with units via Stijena (18 Northeast Bihac) up to Vrelo (12.5 North Bihac).

The 7th Division came by forced marches from Banja via Dvor (4 North Northeast Bosn. Novi) and attacked Cazin with 3 Brigades on 14.11. Its III Brigade remained in the area Otoka as a protection toward the East.

The 13th Division which belongs to the same Corps (IV Corps) is also alleged to be marching on Cazin, according to reports of the Croatian Police. However, this could not be confirmed from there. According to latest reports the division is in the area West of Kostajnica. Cazin was temporarily occupied by the enemies but has been retaken. The enemy withdrew toward North as follows:

Page 1,343

The II Banja Brigade to Skokovi (24 North Northeast Bihac) the other Brigades (I, III and IV Banija.) via Buzim (30. Northeast Bihac) in the direction of Glina (60 North Northeast Bihac).

The units of the VIII Brigade retired in an easterly direction, There are no reports of the garrison of the Plaski-Battalion and of the Brigades of the 8th Division available at present.

.....

Only weak enemy forces were found during the destruction of the arms depot near Sarajevo (8 Southwest D. Lapac).

Cetniks report a brigade of the Primorske-Goranska-Division Northwest of road Bruvno - Udbina, 3 additional brigades of this division are alleged to be between Podlapac and Gespic.

There are no new reports of the brigade of the 19th Dalmat-Knin-Division which has penetrated from the South."

Page 1,344

On page 82 of the German boo, it continues then and says:

Co-operation with Secret Field Police, SD and Counter-Intelligence authorities continued satisfactorily. Co-operation with the Croatian police and Gendarmerie not always satisfactory.

.....

For information: Per Ia 114th Jaeger Division Then (signed) 264 Infantry Division Generalmajor (Brigadier General) 369 (Croatian) Division and some initials.

Your Honors, turn now to page 109, defense counsel's page 84. You will find Document [NOKW-700](#). This document is being offered as Prosecution Exhibit 355. This document, your Honor, is a report of the 297th Infantry Division, dated the 25th of November, 1943, to the XXIst Mountain Corps, re the execution of Communists and communist leaders. The XXIst Mountain Corps was a part of the II Panzer Army which at that time was commanded by the defendant Rendulic.

THE PRESIDENT: This is Document 355, is it not? I mean Exhibit 355?

MR. RAPP: That is correct, Exhibit 355. It states?

Secret! Enclosure 647 Corps Headquarters XXI Mountain Corps 23.

11.43 same text to 297th Infantry Division Branch I b for information to 181st Infantry Division Daily Report of 25.

11.1943

a) Unchanged

b) Operation "Edelweis":

During mopping up of area northwest of Debar 15 Communists shot to death, 30 Italians captured. Division Fuesilier Battalion (Reconnaissance Battalion) 297 shot the Communist leader Karl Uka in Pollozhan (map 1 to 50 000) (2 kilometers west of Peshkopija) on 23.

Page 1,345

11. Future intentions: mopping-up of area Debar-Peshkopija, reconstruction of the national Self Defense. Reconnaissance toward north, west and northwest with the aid of Albanian guides. Majority of Communists and Italians of the "Firenze" Division presumably in the area of Martanesh (30 kilometers west southwest Debar) and Shengjergji (40 kilometers southwest of Debar).

.....

.....

297th Infantry Division Branch Ia No. 1804/43 Secret (handwritten) And then the distribution "After release to:"

. That concludes this particular Document 700.

Your Honors, on page 110, you will please find [NOKW-049](#) which is offered as Prosecution Exhibit 356. Defense counsel will find this document on page 35. This, your Honor, is a document dated the 27th of November, 1943, a daily report of the XIX Reserve Corps, commanded then by the defendant Dehner, dated the 27th November, 1943, it states:

.....

173rd Reserve Division: As revenge for surprise attack on Police in Grgurevci, in which non-Volksdeutsche local residents took part, village burned down.

.....

187th Reserve Division:

.....

b) Tuzla area: Result of reconnaissance: Zivinice (10 Km Southwest of Tuzla) occupied by 200-300 bandits.

.....

c) Derventa area: Bandit attack (200-300 man) between Lupljanica and Pocivalka (7south and 12 Km Southwest Dervanta) beaten off by parts of II. Cossack Brigade.)

Page 1,346

If I be permitted to call your Honors' attention to the particulars in indictment under Count 2, especially sub-paragraph 9-I, the report of the 173rd Infantry Reserve Division as part of the LXIX Corps, is listed in the indictment as a particular. It reads: "I. On or about 27 November 1943, troops of the 173rd Reserve Division, under the command and jurisdiction of the LXIX Reserve Corps burned the Croatian village of Kroaci."

This, your Honor, will conclude [NOKW-049](#) which has been marked as Prosecution Exhibit 356.

If Your Honors turn now to page 111, defense counsels' book page 86, we are submitting [NOKW-048](#) and asking that it be marked as Prosecution Exhibit 357.

DR. ULLMER.- Ullmer for the defendant Dehner, deputizing for defense counsel Froese.

With regard to document No. 049. I want to object that in this case it is a daily report without signature and without confirmation.

MR. RAPP: This is the same type of document which we had talked about previously and we like to emphasize again that this document or this particular page of this document fell into our hands as is, and we submitted it to the Tribunal for whatever weight the Tribunal wishes to give to this document.

THE PRESIDENT: Overruled.

MR. RAPP: We were on page 11 of your document books, your Honors, and it was marked [NOKW-048](#), Prosecution Exhibit 357. This is a report dated the 30th of November, 1943, a report of the LXIX Reserve Corps to the II Panzer Army pertaining to the revenge measures against suspects.

I quote:

(Pencilled notes)

copy of teletype - secret - of 29.11-43II.

Page 1,347

.....

187th Reserve Division:

c)

Aerial photo showed about 500 - 1000 bandits in Cazma at 10.15 hours.

.....

Recruit transport on the journey Bjelovar - Nova- Gradiska attacked near Vrbova station (32 kms. West of Bjelovar) in the night of 26 to 27 Nov. Attack beaten off, destruction of the Vrbovaec railway station prevented. Our own losses: 3 dead, 5 wounded. Enemy losses; 6 counted dead. As reprisal measure 15 people suspected of being bandits shot.

.....

DR. ULLMER.- Ullmer for the defendant Dehner. I regret to have to make the same objection once more. But, in contrast to the previous document, I must point out this: the previous document was a daily report which after all is done informally. Here a secret order is in question. If here without authentication and without signature, a secret order is being submitted. We can at least expect it to bear a number indicating it; a secret document without a number must be looked upon as completely without any importance and for this reason I again object to the submission of this document.

THE PRESIDENT: The Tribunal accepts this exhibit as being a document obtained at the close of the war and it will receive such probative value as the Tribunal deems that it merits. It is conscious of the comments made by the counsel and as disclosed by the document but my previous statement as to the character of the exhibit is such that no further comment is necessary.

The objection will be overruled.

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MR. RAPP: If Your Honors now please turn to page 112 of your document book. Defense counsel will find this on page 87 of their document book. The Prosecution submits at this time [NOKW-075](#) which we offer as Prosecution Exhibit to be marked No. 358. This document, your Honor, is a series of reports of subordinate units to the 2nd Panzer Army pertaining to the execution of hostages, bandits, suspects and the like. The first report is the copy of a teletype of November 3 at 2400 hours and November 4 at 0530 hours and a daily report of the 69th Reserve Corps of November 4, 1943.

..... In Jamina and Racinovci (18 and 11 East Brcko) hostages seized by the I/150. In Stresinci (20 Northwest Brcko) 3 persons shot to death while attempting to escape.

.....

c) Night from 2 to the 3 of November 2400 hours band attack (400 men with 5 light machine guns) on Podgarica (22 Northwest Djajkovo). Invading bandits thrown out by counter-thrust.

.....

d) 2.11. in Novo Topolja (17 East Northeast Broad) band suspects taken along. Village burned down. While detachment was riding off it received machine gun fire.

At this time the 69th Reserve Corps was still under the Command of the defendant Dehner.

The next one is a copy of a teletype of the 2nd Brandenburg Regiment of 18.11.43 sent at 2.14 hours, Daily Report of 19.11.43.

"Enemy losses and losses of your own: None.

"3 prisoners (Italian officers) (See report of 16.11.43) shot to death. From Infantry ammunition found it has been established that enemy is using exploding and dum dum bullets."

On the next page, Your Honor, we have a report dated 31 of October 1943 from the 187th Reserve Division: It states:

..... 1500 hours, North of road Topolje (18 East Northeast Brod) 7 bandits in German uniform engaged in combat by patrol (Kuban-Cossack Mounted Regiment 3). No losses of our own, enemy losses 3 dead, 9 suspected of belonging to band shot to death.

b) Mopping up operations against Petrovic. Cossack signal battalion had contact with the enemy. Enemy losses; 2 dead, 5 prisoners, 10 hostages seized.

Then we have a report from the SS Division, Prinz Eugen, that is, the 7th SS Mountain Division, which fought as a part of the Vth SS Mountain Corps which was a part of the defendant Rendulic 2nd Panzer Army. It is dated November 3, 1943:

"Band activity in area northwest Regatin-Ploca. Our own patrols destroyed enemy occupied villages of Sipak, Perasko, Slato and shot to death 12 bandits and all inhabitants of the village. Ammunition exploded while houses were burned down."

On the next page, your Honor, page 88 of the German Document Book, it says, under "Intention":

"Mopping up of Kresove. Fighter detachments in area 10 South southeast Visoko and west and southwest Zenica. Losses: 4 wounded, 1 missing. Enemy losses: 11 dead, 3 counted wounded, 10 hostages."

Then we have a copy of a teletype message dated the 5 of November 1943, still submitted by the Vth SS Mountain Area Corps saying:

"In Sinj SS man shot to death secretly. In reprisal 24 hostages shot to death, 1 hanged."

Then at the bottom of page 114, top of German Defense Document Book 89, you find daily report LXIX Reserve Corps 6.11.43:

"Report of confidential agent: 500 to 800 bandits in area of Jamena.

"After railroad sabotage 3 East Nova Gradiska (see Daily report 5.11. paragraph 11d) the area north of the place of explosion was combed through. Bandits and people suspected of being bandits were hanged at the place of explosion."

Then another report from the XV Mountain Corps dated November 6, 1943, pertaining to the defendant Leyser:

"373rd Division: In reprisal for railroad explosion near Blatna 5 civilians arrested, 12 houses burned down."

Then "by order of the Mountain Jaeger Brigade of the Vth Mountain Jaeger Regiment 18 hostages arrested."

Then on the next page, page 116, still page 89 of the German Document Book, it says:

Details to Daily report.

Daily Report of 3.11.

Paragraph 2a)

c) Family of signal man Petric who left his post at 1800 hours will be seized as hostages if Petric does not return.

c) There is nothing incriminating here. Obviously common cause between signal man and plotters.

Paragraph 2 d).

c) 9th Company. . . . [R 12](#) Units of occupation Bos. Novi dispersed enemy. Mopping up around Ravnice and Bos. Novi necessary, North of Blatna 12 houses burned down by 373 rd Infantry Division.

The next page, your Honor, page 90 of the German Document Book, a copy of teletype LXIX Reserve Corps of November 6, 1943, sent at 2400, arrived at 0255:

"Daily report of 7.11.43: 173rd Reserve Division: In reprisal for blasting of railroad Mitrovica-Lacarak on 1.11, 19 Communists hanged on place of blasting.

"187th Reserve Division: Area Brcko: Jamena after evacuation partly burned down because it was a pronounced nest of bandits."

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If Your Honors turn now please to page 118 we have another teletype message which states:

Same text: Admiral Adriatic For information:

German General - Plenipotentiary in Croatia.

Same text: Fliegerfuehrer Croatia.

For information: Military Commander Southeast Luftgau Headquarters XXX.

XXI Mountain Corps297th Infantry Division:

1/524 near Isvor (12 west Kizevo) repelled several heavy attacks by Italian Communist bandits partly in English and partly in German uniforms. Subsequently they were taken back to Kizevo.

Then we have a report again from the XV Mountain Corps dated 18 of November 1943. And, at that time the 114 Jaeger Division was fighting as a part of the XV Mountain Corps. It states:

"Enemy concentrations in area 30 East Gracac, 4 Southeast Medak and 10 Northeast Gracac are threatening main supply roads. Railroad installations Southeast Sibenik repaired by employment of civilians by the First Railroad Engineer Training Battalion."

Your Honors our next page, that is 119 of your document book, page 91 of the German Document Book, is a report of the 187th Reserve Division stating:

"16.11. Patrol of Reserve Grenadier Regiment 130 attacked by about 300 to 400 bandits near railroad station of Velika (14 North Pozega).

"Enemy losses: Besides one prisoner not confirmed. 40 hostages seized in Velika."

Below that, your Honors, you find a daily report from the LXIX Reserve Corps dated the 15 of November 1943:

"187th Reserve Division reports: As reprisal measure for attack on passenger train 2 West Okucani, 187th Reserve Division.

Page 1,352

"13 hostages hanged.

"Corps Headquarters LXIX Reserve Corps, Ia, No. 2205/3687/43 Secret, (Page 19 of original).

The secret number of this communication I am referring to right now I believe has been omitted in the German text. The number is, if it is of any relevancy would be 22053687/43. I could also give this document to the interpreter and have him read it in the record.

PRESIDING JUDGE WENNERSTRUM: Dr. Laternser, do you wish the interpreter to read it in the record for the benefit of your associates? It is in the document book. You may proceed.

MR. RAPP: On page 120 of your document book, your Honor, and on page 92 of the German Document Book we find details to Daily Reports, Inspectorate, Railroad Security: Croatia:

"Combing in villages of Kotorsko and Komarica. 4 Communists shot in combat. 10 men of the Kotorsko population arrested as hostages.

.....

Inspector of Railroad Security Croatia.

.....

Copy teletype of 11.11, 2330 hours.

Daily Report Inspectorate of Railroad Security Croatia of 11.

11.43

1.)

c) Patrol took over first security. Reinforcement of 1 Officer and 9 men arrived later on place of accident from Neu Pasua.

Auxiliary train at scene of accident. Crane train requisitioned. Reprisal measures ordered.

I believe your Honors that the next two lines are missing in the German Document Book. If so, I will hand the court interpreter the document and have him read it from the record.

PRESIDING JUDGE WENNERSTRUM: You will please.

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MR. RAPP: May I cite for the benefit of defense counsel what particular sentence I have reference to. I have underlined in my book stating: not in the German Book. The sentence is:

"Reprisal measures ordered by the 173rd Reserve Division and will be executed by SD Ruma."

Does that appear in the German Document Book?

DR. LATERNER: Yes.

MR. RAPP: Thank you very much. That is page 92. Then your Honor, it states:

"10 November. A Croatian train loaded with supply goods, among them 23 tanks cars, hit a mine on the track onr north between Novska and Lipovliani an 10.11 1900 hours."

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On the next page, Your Honors, page 121, we find -this is page 92 of the Defense Counsel's book:

I. Shortly afterwards the place of attack was sealed off by dynamiting of tracks at 6.1 kilometer and 9.1 kilometer and the base point at 7.2 kilometer was kept under fire. The bandits looted the train, among other things they carried off flour from vehicles kept in readiness and then they set the train afire.....

The Railroad Security Sector east Vovska alerted Panzer train 65 which drove to the place of attack. The artillery of the Panzer train shot about 20 rounds on the enemy, which was withdrawing in a northwesterly direction. A personal inspection by the Inspector of the Railroad Security On 11.11 at 1100 hours did not reveal as yet that the responsible 1st Croatian Mountain Brigade in Kutina (187th Infantry Division) had undertaken anything in the way of reprisal measures.

Then a "Copu Teletype LXIX Reserve Corps of 12.11.43" II. Operation "Ferkel"

b) Subsidiary operation: During the night of 10,11 band attack by 1500 men with anti-tank guns, trench mortars and artillery against the entire front south of Brcko. Simultaneously band attack of 300 to 400 men against bridgehead east of Brcko. Enemy well led.

III. 173rd, Reserve Division.

In reprisal for railroad sabotage near Stara Pazova and for attack on patrol 40 southeast Vukovar 20 hostages hanged and 20 shot to death.

The 1st Cossack Division on the same document page reports:

During reconnaissance operation toward Puni Tovei (13 north Djakovo) 9 bandits shot to deaths.

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This, Your Honor, completes Document 075, Prosecution Exhibit 358.

Your Honors, the next document which is offered in evidence is [NOKW 1370](#). Your Honors will find this on page 123. of your Document Book, the Defense Counsels on Page 94. This document is offered

in evidence as Prosecution Exhibit 359. This is an order dated 26 November 1943 by the XV Mountain Group, pertaining to the of able bodied male population, and the operation which was carried on under the cover name "Panther". This document is partially signed by the defendant Leyser.

It starts out:

TOP SECRET (Handwritten:) Top Secret, Qu 429/43 dated 2 December 1943 Headquarters XVth Mountain Corps Ia Section, No. 984/43 Top Secret Local Quarters, 1 December 1943 6th copy of 9 copies

OPERATION ORDER FOR "OPERATION PANTHER"

1.) Enemy Units of communist bands between UNA and KORANA (about 7 – 8,000 men, partly equipped with captured Italian arms) are attacking GLINA at the present time and are constantly disrupting the railroads ZAGREB – SUNJA and SUNJA – BIHAC.

Their support, with many supply depots and hide-outs, lies mainly in the SAMARICA and in the area of PETROVA GORA.

2.) XVth Mountain Corps will destroy these bands and their supply bases. The operation will be known by the code name of "Panther".

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The next page, Your Honor, "enclosure 2 to 1st Cossack Division, Ib Section, Letter-Registry No. 2034/43; secret, dated 28 November 1943."

There is an endorsement to the 1st Cossack Division, and it states:

"1st Cossack Division, Section Ib... Medical companies are fully equipped with weapons and the equipment pertaining thereto. The second truck and the ambulance drawn by four horses is missing for each medical company."

And at the end of the page:

"Headquarters 2nd Panzer Army/O.Qu.

"3-Day Report as of 26 November: With 114th Division, 420 Military Internees at Knin Camp; with 373rd Division 16 members of bands and 9 hostages, 6 members of bands, etc."

DR. LATERNSE: Your Honors, I would like to ask for the correction of the translation in the English Document Book. On Page 123 the words used on page 94 of the German Document Book, and I quote now: "Vernichtung der Banden." These words are translated, I quote again "Destruction of the bands." This translation is not correct, for "Vernichtung" is a military term for which there should be an equivalent in the English language. I don't want to name it in order not to influence the interpreters as I have been asked not to do so.

THE PRESIDENT: If you will send it up to the interpreters they will follow the procedure heretofore taken. For the record if the interpreters will read it and give the section that they refer to in the translation it will be appreciated.

THE INTERPRETER: In the German Document Book it is on page 94, Section 3, sub-section A; in the English Document Book page 123, Section 5: "Condition of the War", sub-section A, and the translation reads:

"Destruction of the bands," which is in German "Vernichtung der Banden."

THE PRESIDENT: That is the translation that is given by the translators in this court?

THE TRANSLATOR: Yes, it is.

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THE PRESIDENT: Very well.

DR. LATERNSE: Your Honor, may I say something to that? I haven't understood the words which are now to be used for this translation.

THE PRESIDENT: The interpreter will again repeat.

DR. LATERNSE: Your Honor, I don't think it is the right translation of this military term, and I ask for a definite decision from the Chief of the Translation Division. The military term for "Vernichtung" is to destroy.

THE PRESIDENT: The request will be granted, and it will be taken up through channels.

The Tribunal will be in recess until 1:30 this afternoon.

(Thereupon at 12:15 a recess was taken until 1:30 PM)

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AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

PRESIDENT WENNERSTRUM: You may proceed.

MR. RAPP: Your Honors will recall that prior to the recess, we had discussed [NOKW 1370](#). With your Honors permission, I would like now to hand this document up to the bench for signature identification of the defendant, Leyser.

Your Honors, if you now turn, please, to page 126 of your document book, and defense counsel, I refer to pages 96 and 97 of the German document book, we now come to [NOKW 830](#), which is offered as Prosecution Exhibit 360.

I would like to call to your Honor's attention the fact that this particular document [NOKW 830](#) has already been offered by the Prosecution as Exhibit 326, Document Book 13. The purpose of introducing

this particular instrument again at this time is for the purpose of only putting page 128 of this document into the record.

If your Honors will turn to page 128 of this document, - I refer defense counsel to page 100 and 101, - we have in this document an entry dated December 3, 1943. This particular document, and this paragraph has reference to the defendant Rendulic, the defendant Weichs and the defendant Foertsch:

"2nd Panzer Army's nations intention "Panther" and orders preparation of evacuation, which is to be kept completely secret from Croatian authorities, (and further orders) suggestions for its execution to be submitted. It is believed practical to transport the population capable of bearing arms, to Germany for labor employment."

And this is signed, "The Commanding General, V. Leyser, General of Infantry" initials "Pf".

For purpose of identification, with your Honors' permission, I would like to pass on to you this document to see the signature of the defendant Leyser.

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Your Honors, turning now to page 129 of your document book, defense counsel book, pages 102 and 103, [NOKW 1258](#) is offered, which will become Prosecution Exhibit 361.

This document in the form of a teletype message is dated the 6 December 1943, and pertains to a report of the 2nd Panzer Army and 15th Mountain Corps reoperation, "Panther". It also pertains to the deportation of able population for labor in Germany. It says: "Remarks: Top Secret." "December 7, 1943", and "15th Mountain Corps Headquarters", "Panther":

"Order received from Quartermaster.

1. Agree to proposal to carry out operation "Panther".
2. After contacting the German Plenipotentiary General in Croatia about evacuation it is ordered:
 - a. According to records available, operation "Panther" will concern about 6000 persons fit for military service. Camps for the population and prisoners concerned will be at SISAK and KARLOVAC.

Will be set up and looked after by 1036.

Administrative Subarea H.Q. Guards furnished by XVth Mountain Corps.

- b. The entire male population will not be evacuated but only:
 - (1) Suspects and strangers in villages they do not belong to.
 - (2) Those arrested outside villages.
 - c. German Plenipotentiary General in Croatia has five SD Groups ready for combing villages in the rear of military operations.
3. Headquarters XVth Mountain Corps will examine whether area concerned in "Panther" operation can be kept occupied after successful operation.

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The Croatian Government could then be requested to provide administrative personnel.

4. The evacuation of the population fit for military service will be known by the code name of "SILBERSTREIFEN" (silver stripe) Panzer AOK 2 Ia No. 814/43 Top Secret Handwritten:

Certified correct:

(signature)

1710 Station GHFIX No. 0976 GOEHLICH TOP Secret to Station GHFGXW" On the next page, your Honors, page 131, 104 in the German, we have:

"Handwritten: Ia Section No. 1026/43 Top Secret dated 9 December 1943.

Handwritten: Panther Stamp:

Top Secret 7 December 371st Division 373rd Division 1st Cossak Division To XVth Mountain Corps/Ia No. 984/43 Top Secret.

1. For those to be evacuated in "Panther" operation the 1036th Administrative Sub-Area Headquarters will establish and maintain camps at SISAK and KARLOVAC. Support by 1st Cossak Division and 371st Division. Guards for SISAK as ordered, for Karlovac also from 371st Division.

2. Army has ordered: Not to evacuate entire population, but only:

a. Suspects and strangers in villages they do not belong to.

b. Those arrested outside villages.

Page 1,361

3. To comb the villages in the rear of the fighting forces there will be attached:

1st Cossak Division 2 Groups SD 371st Division 2 Groups SD 373rd Division 1 Group SD 4. The evacuation of the population fit for military service will have the code name "SILBERSTREIFEN" (silver-stripe). Reports referring to this will be sent to Quartermaster section."

It is certified correct, and then a signature.

"After dispatch copy to: 1a, 1c and War Diary".

Your Honors, turning now to page 133, we have again before us a teletype message, defense counsel book 1 -- page 105. It is a message to the 15th Mountain Corps from the 2nd Panzer Army Commanded at that time by the defendant Rendulic, and the 15th Mountain Corps commanded by the defendant Leyser:

"Commencing about 6 December XVth Mountain Corps will conduct an operation to destroy the bands around GLINA and enemy supply bases in the PETROVA, GORA and SAMARIKA. This is to deny the bands the means to supply major forces and to ensure greater security for the railway.

"AGRAM – SISAK. The operation will be designated the code name "Panther". The main forces of the 371st Infantry Division will advance from the line OGULIN – KARLOVAC towards East and a blockade line formed by 1st Cossack Division and components of the 2nd "Croatian Light Infantry Brigade.

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Duration of the operation until about 23 December 1943.

Since the area to be mopped up was always a bandit stronghold, it is intended to evacuate the entire male population fit for military service.

2). It is requested, with complete maintenance of secrecy underlined to Croatian Headquarters, to prepare the evacuation and to forward proposals for its execution to Panzer AOK2 as soon as possible.

Sending the evacuated population fit for military service to Germany for labor service is considered expedient."

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Court No. V, Case No. VII

MR. RAPP: The next page, Your Honors, is an "Operational Order for Operation 'Panther'". Defense counsel will find this on Page 107 and Page 108 of their book.

"1.) ENEMY. Communist bands between UNA and KORONA (about 7-8000 men, partly with captured Italian arms) are at the present attacking GLINA and are interfering constantly with the railway lines AGRAM-SUNJA and SUNJA-BIHAC. Their main support with many supply depots and hide-outs is above all in the SMAARICA and in the area of the PETROVA.....

"2.) XVth Mountain Corps will destroy these bands and their supply bases. The operation will be designated 'Operation Panther'.

"3.) Forces:

371st Infantry Division with two reinforced Infantry Regiments and improvised motorized advance detachments.

"1st Cossack Division with 4 Cavalry Detachments for the attack and additional forces for the blockade line.

"373rd Infantry Division: With at least 2½ reinforced battalions and Croatian forces.

"5.) Conduct of Warfare:

.....

"6.) The entire male population fit for military service between 15 and 55 years of the area being mopped up is to be evacuated and removed to the camp at SISAK.

"7.) Securing Supplies:

Supplies found must be secured extensively for own requirements.

"Allocation of transportation for this must be arranged. Only those supplies are to be destroyed which cannot be transported inasmuch as they do not consist of absolute necessities for the local population.

"Those villages situated in the vicinity of our own permanent Court No. V, Case No. VII.

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"billets are, in our own interests to be exempted from this measure.

"Enclosures: 1 map 1 Enemy Situation Report 1 Enemy Situation Map (signature) Distribution:

Divisions participating Ia, Ic, Quartermaster reserve: 3 Distribution:

1st Copy: 371st Division; enclosures: 1 map, 10 Enemy Situation Reports, 1 Enemy Situation Map 2nd Copy:

1st Cossack Division; Enclosures: 1 map, 10 Enemy Situation Reports, 1 Enemy Situation Map 3rd Copy:

373rd Division; enclosures: 1 map, 5 Enemy Situation Reports,"

MR. RAPP: And then we find various situation maps which were attached to this order for to be carried out. And on Page 137, Your Honors, on Pages 109 and 110 of the German defense counsel's book, at the top, we see that the maps are described and then it says at the bottom:

"1 Enemy Situation Map "4th Copy:

IA; enclosures: 1 map, 1 Enemy Situation Report, 1 Enemy Situation Map.

"5th Copy: Ic; Enclosures: 1 map, 1 Enemy "Situation Report, 1 Enemy Situation Map "6th Copy:

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Quartermaster; no enclosures "7th, 8th Copies:

Reserve (no enclosures) "9th Copy:

(handwritten:) Air Liaison Officer Stamp:

TOP SECRET Priority (Handwritten: initials) (Handwritten:

380 (1935) 1/43 Dispatched:

27 November 2230 TELETYPE "To Panzer AOK 2 SUBJECT:

Operation 'Panther' "1.) Headquarters XVth Mountain Corps intends to conduct an operation to destroy bandit forces a round GLINA and supply bases in the Petrovagora and Samarica.

Code Name: 'Panther'.

"4.) Corps Headquarters proposes to evacuated entire able bodied male population of the area to be mopped up, since this area was always a bandit stronghold."

On the next page you will find the various stamps and signatures authenticating this document, "Headquarters XVth Corps, Ia, dated 27 November 1943.

And then at the bottom, Paragraph 4, addressed to the 2nd Panzer Army, states:

"Corps Headquarters proposes to evacuate male population fit for military service, in the area to be mopped up, since it always was a bandit stronghold.

1 Enclosure" This concludes [NOKW-1258](#), Your Honors, the first part of this document which I have just read, which was a telegram from the 2nd Panzer Army to the 15th Mountain Corps, a copy of which was found in the German document files in Washington, bears the initials of the Defendant Rendulic in the right-hand upper corner, and furthermore, in this document on one "age, the one referring to the operational order for the execution of the operation "Panther," is signed by the Defendant Leyser.

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With Your Honors' permission I would like now to hand up this document to the bench for your inspection.

THE PRESIDENT: Where do you claim the initial of Rendulic is?

MR. RAPP: On the right-hand upper corner of the T*X. I believe it is the first page. There is an "R" and "E", or possibly an "E", starting with an "R".

THE PRESIDENT: You may proceed.

DR. FRITSCH: (Fritsch for the Defendant Rendulic.) Your Honor, the Prosecutor referred to initials on the document submitted just now as originating from the Defendant Rendulic. I must object to that; these are not the initials of the Defendant Rendulic.

MR. RAPP: I beg your pardon, Your Honor, the defense counsel has not shown the Defendant the initials which we have referred to.

DR. FRITSCH: I beg your pardon. There has been a mistake. The initial referred to by the Prosecution is not the initial originating from the Defendant Rendulic. It is not.

THE PRESIDENT: The Prosecutor merely asserted that it was their claim, or the claim of the Prosecution, that this was the initial of the Defendant Rendulic. The defense will have ample opportunity to dispute that question on the presentation of their case.

DR. FRITSCH: Thank you.

MR. RAPP: If Your Honors now turn to Page 139 please, which is German Document Book Page 111, ...

THE PRESIDENT: Pardon me, Mr. Rapp. I think it also should be stated that there has been no proof that this is the initial of the Defendant Rendulic, and it is merely your statement to that effect.

MR. RAPP: Your Honor, if you so desire, we will submit to the Tribunal a signature card of the Defendant Rendulic, and in addition to this, Your Honor, at the later time, if and when the Defendant Rendulic takes the stand and chooses to deny this to be his own initial, the Prosecution, at that time, may ask for a handwriting expert.

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JUDGE CARTER: Mr. Rapp, doesn't the Prosecution have to offer some evidence that this is his signature or his initial? You have handed up here several signatures for us to look at. Now, we don't know who wrote those signatures. We look at them, but that doesn't establish anything.

MR. RAPP: Your Honor, we have merely put into the record an allegation to this extent, and we will, at a later time in our case in chief, try to support this present allegation.

JUDGE CARTER: Well, I assume that that must follow.

MR. RAPP: Very well, Your Honor. If Your Honors will now turn to Page 139 we have before us Document No. [NOKW-022](#), which becomes Prosecution's Exhibit No. 362. This, Your Honors, is a document dated the 2nd of December 1943. It is an order of the 2nd Panzer Army for the evacuation of the able bodied male population for labor in Germany during operation "Panther." Sender, 2nd Panzer Army, Ia, initial illegible, 2.12.43, teletype to German General Plenipotentiary in Croatia for information, Corps Headquarters 15th Mountain Corps:

"1.) On or about 6.12 Corps headquarters XVth Mountain Corps will execute an operation to break up the bands around Glina and to destroy enemy supply bases in the Petrova Gora and Samarika. Thereby the bands are to be deprived of supply possibilities for larger units and increased security of the railroad Zagreb/Sisak is to be achieved.

"The enterprise has the cover name "Panther". The operations to be executed by the 371 Jaeger Div. moving in an eastward direction, units of the 1st Thekla Cossack Division, parts of the 373 Otto Croatian Division, and parts of the 2nd Croatian Jaeger Brigade which are forming a blockade chain.

"Duration of the operation to approximately 23.12.43.

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"Since the territory to be mooned up has always supported the bands, it is intended to evacuate the entire male population. "2.) It is requested to prepare the evacuation and to submit suggestions for its accomplishment as soon as possible to the 2nd Panzer Army, keeping it strictly secret as far as Croatian authorities are concerned. It is considered practical to transport the evacuated male population for labor employment.

"(signed) Kunold "2nd Panzer Army, Roman Ia "Certified true copy.

"Handwritten: 0135 hrs.

coded Benner, illegible.

German Plenipotentiary General."

If your Honors turn to page 141, we have now the last document in Document Book 14, [NOKW-074](#). It is being offered as prosecution Exhibit 363. This document is dated the 4th of December, 1943. It is a teletype message to the 2nd Panzer Army from Croatia. It states:

Reference: Your teletype No. 1a 783/43 Top Secret. Defense counsel will find this document on page 112. According to the information at hand, about 6000 people capable of bearing arms, excluding all given possibilities, are to be counted on in the "Panther" operation. Camps for the population and prisoners concerned are to be Sisak and Karlovac. Erection and care possible through 1036th Administrative Sub-Area Headquarters. Security forces not at hand. The following is suggested and requested:

- 1) Not to evacuate all the male population at hand, but A) only suspicious people and strangers within the localities. B) Those seized outside the localities. 2) To hold ready for filtration within the localities 5 special purpose groups of the SD, following the military action. This is possible.
- 3) Hold Panther area as occupied as possible, after successful action. The Croatian government could be requested after the action to guarantee administrative forces for the area.

Deportation of all those capable of bearing arms to Germany might apparently come up against strong resistance from the Croatian government. Negotiations accordingly may take place only after the end of the action, through the embassy.

Germany General Plenipotentiary in Croatia 1a No. 02439/43 Top Secret 4 Dec 43.

(rubber stamps and pencilled notes)

Top Secret Corps Headquarters XV Mountain Corps.

722/43 Top Secret with presentation 1a p

- 1). In supplement to Teletype 1a No. 955/43 Top Secret of 27 Nov 43, a sketch concerning the utilization of forces and planned execution of the operation "Panther" is presented.

The purpose of the operation is destruction of the bandit forces at Glina and destruction of the enemy supply bases in Petrova Gora and Samarica. Through cleaning-up of Samarica the possibility of provisioning larger forces is taken away from the bandits and the increased security of the Main Railway Zagreb-Sisak-Novska is assured.

On page 143, page 114 and 115 of the German document book, under "2", we find various tactical orders and in paragraph 4 it states:

- 4) The Corps Headquarters suggests that all the male population capable of bearing arms in the territory to be cleaned up, be evacuated, since this territory was always a bandit retreat.

Pm. K.

(Sgd) von Longus.

Mission only of the German General Plenipotentiary!

Labor use in Germany?

Your Honors, this concludes Document Book 14. Your Honors, if I may be permitted to make a short reference to prosecution Exhibit [NOKW-1258](#), which was offered as Exhibit 361, I believe that I called to your Honors' attention the fact that this document consisted of a teletype message of the 2nd Panzer Army and a march order for the operation "Panther" issued by the defendant Leyser.

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For the purposes of the record, your Honor, I am trying to ascertain whether or not you have also taken notice of the signature of the defendant Leyser appearing in the middle of the document besides the initials which we allege to be that of defendant Rendulic.

JUDGE BURKE: To what page do you refer in the English document book?

MR. RAPP: I beg your pardon, your Honor?

JUDGE BURKE: To what page do you refer in the English document book?

MR. RAPP: In the document book? It is page 145. There are two signatures of the defendant Leyser in the middle of this document.

THE PRESIDENT: Page 145 is not a part of Exhibit 561, is it?

MR. RAPP: One page, your Honor, is page 138.

THE PRESIDENT: You claim the signatures on that page -

MR. RAPP: On page 138 of the document took, you will find in the original that I just have handed up to you, your Honor, a signature which is appearing here saying illegible. That is on page 12 of the original document you have before you, your Honor.

THE PRESIDENT: I think you should keep in mind the comments made by Judge Carter to the fact that it is incumbent upon the prosecution to prove that this is the signature of the defendant Leyser.

MR. RAPP: Yes, your Honor, we fully realize that.

JUDGE CARTER: It seems rather peculiar that we examine all these signatures when we have never seen one that anyone says is the signature of the defendant Leyser.

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What do we compare it with? We can look at them and that is all.

MR. RAPP: Your Honors will recall that we have submitted to you previously affidavits of the defendants, signed in their own handwriting and the only purpose of showing these documents now at

this time is to make your Honors familiar with the fact that these documents are signed by individuals who we believe to be the defendants.

JUDGE CARTER: Maybe I am getting a little technical but no one has ever said that he signed that instrument. Even the affidavit.

MR. RAPP: Your Honors, the affidavit was read into the record as saying that he had read it, he had signed it, he had sworn to the truth of the contents and as such I believe your Honor was admitted into evidence.

JUDGE CARTER: We admitted it for what it was worth and until somebody establishes that it is the signature of the defendant, it isn't worth very much.

MR. RAPP: That is correct, your Honor. We will endeavor at the proper time to show proof to the court of the signatures. If I may be permitted to recall your Honors' attention to Document [NOKW-509](#), which we discussed yesterday afternoon and there were various pages missing in the German document book, the pages I am referring to in your document book, your Honor, are pages 45, 46, 47, 48, 49 and the whole document of 509. Now the prosecution has meanwhile furnished Dr. Laternser sufficient copies of pages 45, 48, and 49 to distribute these pages to defense counsels and to insert these pages into their document books. If I may be permitted, for the purpose of the record, I would like now to read these pages into the record and have defense counsels properly identify them in their document books.

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THE PRESIDENT: That will be agreeable. Will you kindly state, however, the Exhibit number and document number again?

MR. RAPP: Yes, your Honor. That was [NOKW-509](#) and that was prosecution Exhibit 340. Now I shall only read that much of the document which was not read yesterday because it was missing in the German document book. Corps Headquarters, LXIX Reserve Corps, 1a. 3166/4406/43 Secret Corps Headquarters dated 30.1.43.

JUDGE CARTER: What page are you starting on?

MR. RAPP: I am starting on page 45, your Honor.

JUDGE BURKE: I think you are in error; it is on page 26 if you are referring to Exhibit 509.

MR. RAPP: I am referring to Exhibit 509, that is correct, your Honor.

JUDGE BURKE: That Exhibit starts on page -

MR. RAPP: It is document 509, Exhibit 340.

JUDGE BURKE: Yes, document 509, Exhibit 340.

MR. RAPP: That is correct.

JUDGE BURKE: Beginning on page 26.

MR. RAPP: On page 26? Thank you, your Honor, That is Corps Headquarters, LX IX Reserve Corps 1a. No. 3166/ 4406/43 Secret. Corps Headquarters -- have the interpreters the page?

INTERPRETER: Which page in the German document?

MR. RAPP: Dr. Latenser, have you a spare page, please?

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I am reading from page 45 of the English Document Book:

TRANSLATION OF DOCUMENT No. [NOKW - 509](#)CONTINUED (page 18 of original)
SECRET Corps HQs LXIX.

Res. Corps HQ, dated 30.11. 1943 I a No. 3166/4406/43 secret.

Reference is: Reprisal measures in the Slavonic Area.

Subject: 2nd Panzer Army Ic Intelligence Officer Teletype date 24.11.43.

3 Enclosures To Panzer Army Ic Intelligence Officer Directives pertaining to reprisal and evacuation measures issued within the area of the Corps HQ's were given on the basis of the directive "2nd Panzer Army, Intelligence Officer (III) No. 38/43 secret dated 5.9. 1943."

According to this directive divisional and independent regimental commanders are competent for ordering and execution of reprisal and evacuation measures as is reaffirmed expressly by the directive "2nd Panzer Army, Intelligence Officer (III) No. 306/43 dated 44.11.1943."

The Corps HQs has ordered that the arrests of hostages within its area can be made only in agreement with Creation Administrator and police authorities respectively Ustasha units. Enclosed are copies of the pertinent orders dated 23.9., 16.10 and 20.11.1943.

In connection with the evacuation measures within the area of the 187th Reserve Division, which were started and later stopped, you are referred to Corps HQs LXIX.Res.Corps I a No. 375/586/43 top secret dated 8.11.1943, which was sent to the 2nd Panzer Array Ia and O. Qu on the 9.11.1943.

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Having repeatedly pointed out orally to the commanding officers, the necessity of special consideration toward Volksdeutsche and Croatians the Corps HQs believes that blunders will be limited in the future. They will not be completely avoidable in the overall situation.

signed - DEHNER If your Honors please, turn now to page 48 of your document book.

We will read into the record this page which was previously missing in the German translation:

TRANSLATION DOCUMENT No. [NOKW - 509](#)CONTINUED.

Corps HQs LXIX. Reserve Corps Corps Hq., dated 6.12.1943 I a No. 3255/4607/43 secret.

(handwritten) SUBJECT:

Mopping-up operations in the Fruska Gora on 27.11.43 under the Leadership of the Deputy Commanding Officer of the 173rd Division.

To the

SS Police Section Leader Esseg SS-Oberfuehrer and Colonel of Police in S A M M E R N - F R A N K E N E G G. The 173rd Reserve Division reports that after the close of the operation against the village of Lezimir, and after the divisional troops had marched off, the remainder of the population, which had been driven together in the town hall of Lezimir and which consisted of old men, women and children had been shot to death in the church by the SD by your order.

I myself was in Lezimir on the 27.11.43 and saw the old people and children, who seemed completely harmless to me. I should like you to tell me why you gave this order to shoot these people to death, in particular of what these people shot to death were suspected.

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I further request information whether the SD actually shot these people to death inside the church.

Since I must make a comment to the report of the 173rd Reserve Division before passing on the report to the 2nd Panzer Army I should appreciate a speedy answer (initial) (signed) DEHNER
TRANSLATION OF DOCUMENT No. [NOKW - 509](#) CONTINUED.

37 (handwritten) K.T.B.

The next page your Honor, is page 49:

Unclassified Text of Radio Message from Operational Staff Brauner 6.12.43.

(handwritten) arrived 7.12.1943 14.

22 (initial illegible) To the LXIX.

Res. Corps:

The 3rd Croatian Jaeger-Brigade reports:

Behavior of Cossacks toward Domobranes.

Croat. I. Batl. / Jaeger-Regt. 8 dated 3.12.43 Domobranes from districts of TUZLA, GRACANICA, DOBOJ, DERVENTA BOSN, and BROD complain that their wives and sisters were raped by the Cossacks and that the people attempting to interfere were murdered with the excuse that they were communists. There is a great deal of disgust among the Domobranes. Furthermore, the houses of the Domobranes are being looted. The Domobranes are in the mood to escape home and to defend themselves by force of arms.

signed: F R I T Z. Colonel.

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The above report is submitted for further action since the 2nd Cossack Brigade is subordinate to the LXIX Reserve Corps.

187 Res. Div. Ia No. 10259/43 secret.

Your Honors, Mr. Denney will now present document book XV.

MR. DENNEY: First, may it please your Honor we have some inserts to the exhibit for identification which is at the close of Document Book I. This is to be added to Exhibit 38a for identification. It lists the charges against the defendants offered with reference to Exhibit 4b in evidence. I have handed 24 copies to counsel for the defendants, copies to the Secretary-General, interpreters and the translators, and that goes to the end of Book I, and that is, as your Honors will recall, Exhibit 4b in evidence which was originally marked for identification.

PRESIDING JUDGE WENNERSTRUM: Which page number will that receive?

MR. DENNEY: Page 138 your Honor, of Book I. Then I have the similar chart for Book XI which will be pages 80 and 81 in Book XI and the exhibit number will be 284a for identification.

PRESIDING JUDGE WENNERSTRUM: Mr. Denney, may I take the liberty of asking again for the page number of the insert to Book I.

MR. DENNEY: Book I your Honor?

PRESIDING JUDGE WENNERSTRUM: Which you referred to first?

MR. DENNEY: Yes, Your Honor. Page 138, Document Book I; it is the fourth page of Prosecution Exhibit 38a for identification, 138 English Document Book I, being the fourth page of Prosecution Exhibit 58a for identification.

PRESIDING JUDGE WENNERSTRUM: Now, if you will also give us the information concerning this sheet that you have handed us concerning Document Book XI and with this suggestion may I say if you will circulate them first and then refer to the page number and identification mark so that we can put it down.

MR. DENNEY: Very well, if Your Honor please.

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MR. DENNEY: Very well, if Your Honor, please.

THE PRESIDENT: If you will kindly refer to the Exhibit and page number again.

MR. DENNEY: 285-A, as in Able for identification; page 80 and 81 of the Document Book No. 11.

Continuing now with the same period in which Messrs. Fenstermacher and Rapp have been concerned for the past two books, we now start with Document Book 15. The first document which we offer is [NOKW 1136](#), which is page 1 of the German and page 1 of the English of Book 15, and which is offered as Prosecution Document 164 in evidence. These are some reports from the 1st Cossack Division, which yesterday was concerned, if Your Honors will recall, under the 69th Corps. We have as

yet seen no transfer of them to the 15th Corps. However, these reports are directed to the 15th Corps from the Division.

This first series of reports we have are all in teletype. The first one is dated 28 December 1943:

I. During the night a female bandit detachment / strength approx. 30 entirely destroyed bridge / southeast of Glina road bridge 4 Km West of Glina was blown during the night / still passable for pedestrians / reinforced raid from Sunja on Stremen without success / enemy retired over save / 71 male inhabitants eligible for service were arrested / a harvesting detachment was attacked by partisans in the Bijelnik district / 22 horses and 12 vehicles were lost / 1 bandit was shot / // 1/cossak division 1A Daily report// The second report is dated the 16th. These work backwards, Your Honor, please. It is again directed to the 15th Mountain Corps, and again the 1st Cossak Divsn.

Page 1,379

Division / has combed out the areas Bacuga - Blinja Komogovina - Jabuvac - with units / all villages are evacuated / there are no more installations / villages and fortified shelters in forward areas were destroyed / paragraph /1/cossak/division/ IA The next report is for December 8, the same addresses, the 15th Mountain Corps, which at that time was commanded by defendant Leyser:

II. Telephone communication center for / quote / Banja / quote / blown up railroad near point / 101 repaired / during reprisal measures 36 civilian suspects were arrested as hostages / /1/ cossak/ division/

Then the report which was reported on the 7th December: at 0855:

12 Km northwest of Sisak empty train struck mine on water bridge / and it gives the map coordinance, bridge destroyed / restoration probably by noon on 8/ 12/ local safety ensured by units of regional defense company / company / of Croatian / railroad / guard / Battalion/VI // reprisal measures will be carried out on 8/12/. That is tomorrow, the 8th December, "By I/ R/ R /1 From Potrinja to Sela and Greda/ //

Own losses on 7/ 12/ amounted to 9 dead/// among them 1 German and 1 Cossak / officer/ /// 24 wounded among them 1 German and 1 Cossak / officer and 2 missing / 4 prisoners were taken/ //intentions for 8/ 12/ holding of the blockade line ///reenforced reconnaissance in Glika ---- Potrinja area /// reprisal action against Greda /

Then turning to page 6 in both the German and English Document Books, [NOKW 1399](#), which is offered as Prosecution Exhibit 365 in evidence.

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These are Daily Reports from the 15th Mountain Corps commanded by the defendant Leyser, to the 2nd Panzer Army, which is the unit at this time commanded by the defendant Rendulic, dated 17 December 1943 one of the subordinate units to the 15th Mountain Corps, also in Croatia:

Temporary blasting of railroad. "Then comes the location." Blocked until 17 December by the removal of 400 meters of railway lines. In both cases hostages were taken and the nearest houses burned down as reprisal.

And then one of the 16th of December for the 2nd Panzer Army again a supplementary report to the report of the 15th:

114th Jaeger Division: Again one of the subordinate units to the 15th Mountain Corps. Enemy in front of "Ziethen" continues to defend toughly the approaches to Kupres and Glemoc with the 1st Proletarian and 9th Division along line: 4 kilometers northeast, and more indication of their position. The destruction of Kupres confirmed by aerial reconnaissance; 49 counted enemy dead: 18 prisoners; 16 deserters.

I would like to call your attention to the use of that term "deserters" in passing, and we shall see it as we go further. And in reference to the term deserters;

"a part of them with pack animals and weapons. Parts of the 19th Division Grahove threw a Cetnik group 14 kilometers north northeast of Knin to the south (50 enemy dead according to statements of prisoners.) Area around Strmica and north of Plavno (14 kilometers north northwest of Knin) occupied by bands. These advances present a threat to Knin and to the supply road near Zrmanja Vrelo. During reconnaissance of the booty camp northeast of Ervenik (see Daily Report 12 December) a middle sized band was attacked (10 enemy dead, 15 prisoners). Rest in Velebit.

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The entire ammunition of different kinds (9 tons) blownup on account of lack of transportation space; 3 places northeast of Ervenik, which were friendly towards the bands destroyed; at the same time numerous detonations in the houses.

And again this as the prior one and as all the rest of these just has typed "15th Mountain Corps". However, the signature over to the left of the gentleman named "Pfafferott" with whom we have had some familiarity before, appears on these documents, and it is his signature.

And again on the 11 December:

373rd (Croatian) Infantry Division West of Srb medium sized band thrown to the west by own operation.

Communist local committee near Udbina silenced by Cetniks. Strong band (II Brigade 8th Division) withdraws from east of Slunj across the Korana to the south. 5 kilometers northwest of Bos. Novi own reconnaissance shot at by machine gun and trench mortars; after reinforcement the terrain was mopped up. The railway line of Bos. Novi was blasted three times. Reprisal measures started.

South of Prijedo the enemy (600 with 4 machine guns, 4 trench mortars and 1 light gun) thrown back to the south by own operation.

And then another reference to the enemy believed thrown back.

Then if Your Honors will note a note to "Security Service (SD), and "Infantry Division", with an illegible initial thereafter, and again signed the 15th Mountain Corps, and there is an illegible signature to the left.

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Then the report for the 9th. I should like to call Your Honors attention here to the fact that there is an information copy going to the V SS Mountain Corps, which was a collateral unit. The V SS Mountain Corps was at this time also subordinated to the commander of the II. Panzer Army Commander Rendulic. It is interesting to know that the report in addition to going to a higher division goes laterally.

Again the 1st Cossack Division:

1st Cossak Division Movement of medium sized bands from 10 kilometers southwest to 12 kilometers northwest of Glina (well known assembly area of bands). Enemy supply column had losses by own artillery fire 7 kilometers northwest of Glina.

Enemy garrison south and southeast of Glina unchanged. Weak band raided Cossack patrol 6 kilometers southwest of Petrinja. 22 dead, 3 prisoners, 12 deserters. (Again we have the use of the term deserters.) 36 hostages arrested for destruction of line northwest of Sisak.

Booty: South of Fojnic Italian ammunition dump." And again, "XV Mountain Corps".

Turning to Page 9 in the German and page 9 of the English copy, [NOKW 728](#), which is offered as Prosecution Exhibit 366 in evidence. The first part of this is a teletype, completely in teletype, and the second half on a teletype blank, but is completely in handwriting, and I pass it up for Your Honors to inspect. This is dated December 17, 1943. It is from the 373rd Infantry Division, and it is the report for that day. This infantry division, of course, is the same as the 373rd Croatian Division to its superior headquarters, 15th Mountain Corps, which at that time was commanded by the defendant Leyser.

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On page 9 of the German and page 10 of the English:

Reconnaissance from Bos. Novi to the southwest in area north of Una without enemy. Line blown up 6 kilometers south of Bos. Novi was repaired in a short time. (That is the one they spoke of in the other report) The line open again to traffic on 16 December. 2 hostages were taken 2 houses were burned down in reprisal.

And then for the Area Prijedor:

During the night from 15 to 16 December 400 meters of railway tracks removed by bandits near Dragotinja. The line will again be open to traffic on 17 December. Reinforcement of night patrols was ordered. Nearby houses were burned down in reprisal.

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This concludes that part of the report, and then turning to the handwritten part which starts on 11 of the German and 11 of the English, this is for 18 December 1943, again to the 15th Mountain Corps, and again from the 373 Infantry Division:

"Intermediate report Panther, the areas ordered to be combed through were combed according to plans.

Ambush near D A H I C I (Leskovac):

1 Italian captured. 3 bandits shot, 3 wounded (Observed) Leskovac and Ravlovica are burning.

Operation against 40 bandits without success. A bandit who made a false report was shot to death.

Large transit traffic of bands Vrnograd toward the west.

Husko Contact with the enemy near Masvina. 5 prisoners captured. Some cattle and hay was seized.

Intention: For the next day - Reconnaissance, mopping up and placing of ambushes."

There is a certification and an illegible signature.

Then on page 13 of both texts, Document [NOKW 1331](#), which is offered as Prosecution Exhibit [367](#) in evidence. These are reports from the 15th Corps to the 2nd Panzer Army, and the units are still commanded by the same individuals, the defendants Leyser and Rendulic.

These again are all typewritten except for the signatures of "Pfaffert" which again appears on the left on some of the reports, and there are one or two illegible signatures. The first one, 2nd Panzer Army, 2 November. The handwritten note up here, "1940" should be "0940". Perhaps Dr. Fritsch would like to come up and look at it. Would you like to come up here and look at it so that I can correct one of the copies?

It is a daily report for the 2 November, and on page 13 of the English, --- of the German, and 14 of the English:

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"373rd Division:

Train Bihac - Bos. Novi near Blatna (5 kilometers northeast of Otoka) ran on a mine in spite of previous reconnaissance. 5 soldiers, 10 civilians dead, 4 soldiers and 4 civilians wounded, 3 cars completely destroyed. Houses from which the mine was detonated by means of a wire were burned down.

Reconnaissance in the rest of the area without special events."

It is from Corps Headquarters, XV Mountain Corps."

The signature which appears over at the left is that of, "Pfaffert", and in the copy which has been offered in evidence for your Honors' information, apparently it has been improperly placed on here, - at least it is not on the copy, and we withdraw the words, "very urgent" which appear out on the margin at the left.

Then for the 6th of November, -- and here the report goes to the 2nd Panzer Army, the Fliegerfuhrer Croatia, German General Plenipotentiary in Croatia, IIIrd SS Panzer Corps, --- this unit is down here

just for a short time, but this is another SS corps in the area, -- and the V SS Mountain Corps, with which we have had some familiarity before.

Again from the 373rd Division:

"Brezovac was taken by parts of the 373rd Reconnaissance Detachment in spite of weak enemy resistance from Mazin.

26 civilians band suspects (Communist committee) were arrested.

As reprisal measure for the blasting of the railroad near Blatna 5 civilians were arrested and 12 houses were burned down."

Again typed, "Corps Headquarters XV Mountain Corps", and the signature to the left, "Pfefferott".

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For the 9th of November, to the 2nd Panzer Army, again copies to the Fliegerfuehrer Croatia, the German General-Plenipotentiary in Croatia, III SS Panzer Corps, V SS Mountain Corps:

"Supplement to the Daily Report of 9 November 1943", for the 114th Division, one of the divisions subordinate to the XV Mountain Corps, at this time commanded by the defendant Leyser:

The combat group Muenchhausen made a surprise thrust in to the area 25 kilometers east of Banga Luka. By means of strategm 2 band leaders taken care of, good effect of fire on bands fleeing en masse. Enemy losses estimated at a minimum of 100, own losses none."

It is typed, "XV Mountain Corps, Corps Headquarters" and to the left there is an illegible signature, and on the English it is: "Satisfactorily taken care of" in handwriting, and the signature which is illegible, I believe that is left off the German. However , perhaps Dr. Fritsch will see whether or not it is there.

The next communication is for the 5 December 1943 --

DR. FRITSCH: I also am unable to read the name, but there is a handwritten note here, which is indistinct.

MR. DENNEY: I cannot either, your Honors.

DR. FRITSCH: Neither can I; I do not know either what it is supposed to say.

MR. DENNEY: Then in the daily report, of 5 December, which appears at the bottom of page 15 of the German, it is where the addresses appear, and it is on 16 of the English. The addresses carry over to the 16th page in the German they are the same we have seen before, so far as the Corps Headquarters are concerned, less the III SS Panzer Corps, but here again are the units and the 3 divisions, the 1st Cossack, the 373rd Infantry and 371st.

Then for the 114th Infantry Division:

"114th Division:

The heights 5 kilometers south of Ervenik, northwest of Knin and Mokro Polje strongly occupied by the enemy. Enemy movements continue in the area 11 southeast of Gracac. In the area Osredci". Then it gives the location -- "band patrols dispersed. 6 enemy dead, 1 prisoner. Attempt by night on bridge Medak" -then it gives the location, "prevented by Ustascha. 6 bandits dead, 5 prisoners, 4 boxes of explosives, Own fighter Detachment and Cetniks 8 kilometers southeast of Velika threw medium band towards the east, 15 enemy dead, 15 prisoners, 1 deserter" ---- again employing the use of the term "deserter" --- "1 own wounded. In the area Muz rather weak resistance broken. 14 bandits shot to death according to martial law. Total enemy losses 44 dead, 23 prisoners, 1 deserter. Own losses, 1 wounded , 6 Cetniks wounded. Booty: 3 trucks, 2 motor buses, 4 automobiles, 1 boxed motor bike (all not drivable as parts have been withdrawn".

And this again has at the end. of it, typed, "XV Mountain Corps," and there is an illegible signature over at the left.

Then on page 17 of the English and German, again directed to the 2nd Panzer Army, again coming from XV Corps, -- and this, of course is to be noted in addition, because of the fact that here the XV Corps is reporting the first Cossack Division on up to the 2nd Panzer Army, --- so it is at least to be reasonably assumed that at some time prior to this, they were transferred from the 69th Corps to the XV Mountain Corps. As I said, we do not have the order, but we have seen earlier several instances of this Cossack Division reporting itself to the XV Mountain Corps, -

Unless there be some allegation that it was a mistake, while here we see for the purposes of these reports, the XV Mountain Corps reporting on up to the 2nd Panzer Army, with reference to the 1st Cossack Division:

"The obstacle line Kostajnica - Sunja - Save ordered for "Panther" occupied, up until now no contact with the enemy. At 0855 hours an empty train ran on to a mine on the bridge 12 kilometers northwest of Sisak, bridge destroyed. Probably repaired by 8 December at noon. Own losses on 7 December: 9 dead, 24 wounded, 2 missing. Enemy losses according to own determination -- 100; according to the report of confidential agent, 180 -- 200 men, 4 prisoners.

Then their intentions:

"To hold the obstacle line, to intensify reconnaissance in the area Glina -Petrinja. Reprisal operation for blasting of railroad."

Then, of course, if we turn back to the earlier report, the 1st Cossack Division, we have reporting this same information up to the XV Corps. It is on page 4 of the English, which is part of Exhibit No. 364.

Then for the 9 December, again to the 2nd Panzer Army, Fliegerfuehrer in Croatia and the German General Plenipotentiary in Croatia, Branch Office III, the SS Panzer Corps, and the V SS Mountain

Corps, and then some further indications over on the right, to the various divisions, these of course, being the divisions which were subordinated to the XV Corps.

Daily report of the 1st Cossack Division:

"Patrol skirmish in area Glina – Gora. 36 hostages taken for blasting of lines".

PRESIDENT WENNERSTRUM: We will take our afternoon recess.

...

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THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

MR. DENNEY: And again page 19 of the German and 19 of the English, for the 11th of December in the Second Panzer Army commanded by the defendant Layser with reference to the 373rd Infantry Division, a report for 11 December, still in Document [NOKW-1331](#), Prosecution Exhibit 367.

"Operation Panzer Jaeger Battalion 373 in the area west of D. Srb encountered a band which was repulsed. 13 enemy dead, (1 commissar).. " again referring to Commissars in the reports "....2 prisoners...." and again the mention of "(1 commissar)." "Booty, 10 rifles, 1 machine gun and documents. No losses of our arms. Operation of Reconnaissance Battalion 373 for reconnaissance of bridge near Vojnici, strong machine gun and trench mortar fire. Railway bridge south of Otoka rebuilt As reprisal measure houses burned down, taking of hostages ordered, Croatian Sector Commander taken to account! Operation South of Prijedor, with 2 reinforced Battalions and tanks repulsed strong enemy with heavy weapons (4 medium trench mortars, 1 light gun). 42 enemy dead, 3 own dead, 7 wounded, tank total loss (ran onto mine).

"In the night of the 9-10 December the Cetniks raided a Communist local committee in Seliste, 2 bandits shot, 2 escaped."

Again this is from the reports of the Cossack Division which are in Document 264, and the signature at the left is that of Pfaferott.

Then for the 15th, same addressee, and the same sender. For the 114th Division:

"During the capture of booty depot northeast of Ervenik on 12 December 10 enemy dead, 15 prisoners..." And again the reference to "nine tons of captured ammunitions of different kind" which were referred to in the earlier reports. "Villages friendly towards the bands in area 20 kilometers north-west of Knin burned down, occasioning numerous detonations caused by hidden ammunition. 300 head of cattle and 200 sheep and goats captured.

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Own losses: 6 dead, 10 wounded, 49 enemy dead (the number is presumably higher). According to statements of prisoners 50 alone north of Knin, 18 prisoners, 16 deserters..." and again they cite deserters. However, this is the same report as was contained earlier to the XVth Corps, in the prior exhibit.

"Booty, 1 rifle, 1 pistol, 6 horses, 2 pack animals, enemy documents, 8 cows, 54 sheep."

For the 15th of December, again to the same addressee, the 2nd Panzer Army and others, and again from the XVth Mountain Corps, for the 373rd Division, one of the subordinate units to the defendant Leyser.

.....

General line reached 16 kilometers north of Bos. Novi behind enemy withdrawing toward the north. On the left wing strong enemy resistance. The group Ristow fought off several enemy attacks from the west. Hussar Detachment is attacking a band 400 men strong in the area 20 kilometers west northwest of Cazin. On 16 December 2 dead (Germans, 1 officer), 6 wounded (1 German officer). Enemy losses: since the beginning of operation "Panther": 15 dead, 25 wounded, 41 prisoners, 6 deserters, 34 rifles, 7 machine guns, 2 trench mortars, mortar ammunition.

There again the reference to deserters.

Intention: Combing of Samarica towards the north.

In the rest of the area of the Division, during powerful reconnaissance at 0 D. Srb Skirmish with medium sized band which retreated in the mist. 4 of own wounded. Blasting of the line south of Bos, Novi repaired in short time. 2 hostages taken, 2 houses burned down. In the area Prijedor 400 meters of railway rails torn up by bandits 18 kilometers east of Bos. Novi. The line ready for traffic again on 17 December. As reprisal measure houses burned down.

And again we have the XVth Mountain Corps passing up the report of its division which was seen in the earlier document in this book.

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Then on the 21st, again to the defendant Rendulic's 2nd Panzer Army and the defendant Leyser's XVth Corps, 264th Division.

..... Medium seized band in English uniform transferred from Brac and Vis to area south of Primosten confirmed. Report about renewed assembly of band on island Uljan not confirmed.

.....

..... 371st Division:

In mopping up Samarica 2 bandits shot to death, 2 German field kitchens, 5 supply depots, 1 small field bakery, 60 tons of food supplies, alcohol, office supplies, light trench mortar ammunition captured, 1 own wounded."

And the signature over at the left hand, "Pfafferott."

And typed at the right, "XVth Mountain Corps." Then there is an enclosure to the War Diary No. K-3 which is dated 5 November 1943 and this is entitled "Subjects of Conversation Between the Commander-in-Chief of the 2nd Panzer Army and the Commanding General." And of course this is defendant Rendulic, the Commander-in-Chief of the 2nd Panzer Army and Leyser is the Commanding General of the XVth Corps, and then apparently they had a conversation at Banja Luka. There are several others listed here, but this is the only one it reviews. This is number six.

"The certain possession of Banja Luka must also be guaranteed after the Corps Staff has left. The Commander-in-Chief...." It is submitted the defendant Rendulic, ".... made a proposal to shoot immediately a rather large number (1000) of band suspects and to arrest a further 1000 hostages." And then there is a note that -- there is a reference to a conversation between the Fuehrer, who was Adolf Hitler, and the Commander-in-Chief of the 16th of September, 1943.

It is submitted there that the Commander-in-Chief again refers to the defendant Rendulic. Turning now to page 25 in the English, 25 in the German and 27 in the English, we have Document 1375 which becomes Prosecution's Exhibit 368.

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This document is typewritten and bears at the end of it typed "XVth Mountain Corps Ic" and is an enclosure to communication of 2 December 1943. It is entitled "Enemy News Sheet". The area Kordun and Banija, preliminary remarks.

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"Enemy News Sheet: Area: Kordun and Nanija.

"Preliminary Remarks: The entire area has the decided characteristics of a central chain of mountains. The Kordun is only partially covered with forests, and therefore often allows a very wide survey. The Banija is predominantly wooded. Numerous deep ravines make traffic very difficult away from the larger roads. The population is mainly pro-slavic and friendly toward the bands, and usually flees from the villages when soldiers approach, and, "II) Enemy Forces:

A band Brigade corresponds on the average in strength to a battalion," and it is submitted they are speaking of a German Battalion, "A Band Division to a Regiment." And, it is submitted, they are speaking of a German Regiment.

"The fighting power of the units has gone down considerably in the last months on account of the calling to the colors of draftees, Croatian deserters and prisoners of war, but is very high in individual units, and the next word is illegible ...

"is subordinated to the Main Staff Croatia (Commander Gosnjak, Political Commissar Bakaric," and I again direct the courts' attention to the use of that term.

"Bakaric, Chief of Staff Terzic, Chief of the Operations Department (Ia) Crescanin. Subordinated to him is the IV Corps, the Staff of which is located in Kordun, probably near Primislje."

And they give the name of the leader and again the name of the political Commissar who is attached to the staff of the IV Corps, the Enemy News Officer, and then they recite that the 7th, 8th and 13th Divisions are part of the IV Corps, and, "The 8th Division is as a rule designated as the Kordun Division, the 7th as the Banija Division.

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In the same manner, the brigades of the divisions bear the designation 'Kordun' or 'Banija-Brigade', sometimes using the number within the division, sometimes using the previous number from the time before the division was established.

"8th Division: Part of the IV Corps. As headquarters of the staff, the following places were named in November: Budacki, Dunjac, and Leskovac, 16 kilometers northwest of Cazin."

And again they give the names of the Commander and the name of the political Commissar of this Division and there again we have them referring to the political Commissar in the staff, Chief of Staff, Operations officer and then the Composition. This 8th Division has 3 Brigades and 1 Mountain Artillery Detachment, as well as I convoy Battalion (which is a battalion armed with heavy trench mortars and heavy machine guns). And, the heavy arms of the division excluding those of the brigade, according to statements of prisoners: 2 canons, 4 mountain guns, 10 anti-tank guns, 4 heavy trench mortars, 1 big Italian tank armed with 2 guns, 2 small Italian tanks.

And, they give the name of the Commander of the Artillery Detachment, and the units: 1 Brigade (of the 8th Division - IVth Croatian Brigade) also designated as 1st Kordun or as IVth Lika-Brigade.

They give area of operations, the Commander, his deputy, again the political Commissar, and also the deputy political Commissar, and the 1c and then the strength report: According to statements of prisoners: 4 battalions total strength, about 950 to 1,200 men.

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Heavy Arms: Each battalion has 3 heavy machine guns, 2 light machine guns; each company, 3 light machine guns. The heavy trench mortar and the two guns of this brigade are presumed to have been assigned to it temporarily from the division.

They give the Commander and the political Commissar of the battalion for the 1st, 2nd 3rd and 4th; and then, on the 25th, the strength of the 4th battalion was 337 men, 80 of whom were on leave at home. That refers of course to the 25th of August, and the 2nd Brigade, --- oh, before that -- the 1st battalion is said to have available a mounted platoon, and the 2nd brigade which is the Vth Croatian Kordun Brigade, and the area which they operate, their Commander, political commissar, and the composition, it has 3 battalions. The strength of the battalions on 1 November at one o'clock on the 17 November 1,200. Armament: (According to reports of confidential agents) - 4 heavy trench mortars, 7 heavy machine guns, many light machine guns. And they give the names of the three battalions which are included within the brigade, and then they give the commander and political commissar of the battalion for the 1st and 2nd Battalions; the 1st, they list some names without indicating what they are and the 2nd they list one as a political commissar. In the 3rd brigade, the XV Croatian Brigade, they

give their area and Commander; again the political commissar, their strength, estimated at 1,100 men, their armament: 4 mountain guns, 1 antiaircraft machine gun, 2 anti-tank rifles, 12 to 14 heavy machine guns, 3 to 7 heavy trench mortars. The 2 to 4 howitzers of this brigade often mentioned probably belong to the Artillery Detachment of the 8th Division. Commander and political commissar of the 3rd battalion according to out-of-date reports, and it gives the 1st, 2nd and 3rd and then lists the convoy company and gives the names of the commander and political commissar there, the units above being of course the 1st, 2nd and 3rd companies in addition to the convoy company.

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Then the Plaski Detachment, last at Leskovac, and they give its last location, the names of the commander, the political commissar, the estimated strength: 400 men (2 battalions); 1st battalion, then they give the name of the political Commissar, and their armament, allegedly, 2 heavy machine guns, 4 light machine guns, 1 trench mortar.

The 2nd battalion, which is called Terenski-battalion, gives the name of the commander, that is, 3 companies each of which have 85 men and allegedly one heavy trench mortar, 1 Italian mountain gun, 1 anti-tank gun, 1 light and 3 heavy machine guns.

The Kordun Detachment, formerly designated as 1st order of the Operations Group Una, presumably in the area southwest and south of Petrova Gora.

Commander: Karas?

Deputy: Kreca, Pero.

Strength: 3 battalions together 500 to 600 men, fighting value small, IIIrd battalion, according to list of 3 June 1943, 225 men.

In addition, confidential agents of the Branch Office mention in this area the so-called anti-5th column battalion which supposedly was used against Cetniks only. No confirmation, probably identical with the Kordun Detachment.

The total strength of the 8th Division is estimated (on 15 November) by the Croatian General Staff at 4200 men, this estimate is probably a little too high for the Division alone, counting in the mountain Detachments, too low.

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Then they go into the 7th Division, a part of the IV Corps which we spoke of earlier. It speaks of their staff, being a commander who is a professor from Uzice, and they name the political commissar who is a teacher from Borojevici. They also list the deputy political commissar who was a student from Petrinja. They list the Chief of Staff who was a former Yugoslav Major and is now a General. Chief Administrative officer, who was a 2nd class captain in the Yugoslav Army.

"The Division consists of the VIIth and VIIIth Croatian Brigades of the old 7th Division returned from Montenegro and the 2 Brigades of the deactivated Operations Group Una, And, then they cite some

places at which they had contacted this 2nd brigade of the deactivated Operations Group Una and, in addition Still a part of the 7th Division, 1 Artillery Detachment, 1 Engineer Detachment, 1 truck column and workshops.

The Engineer Detachment has available 1 ferry and 3 pontoons. The Artillery Detachment (without the heavy arms of the Brigade) has 4 Italian anti-tank guns, 1 Croatian anti-tank gun, 2 mountain guns, 3 heavy trench mortars and the 4 guns captured in Cazin. A convoy battalion of the staff is in possession of the heavy machine guns.

In addition, every brigade has at least 2 heavy trench mortars and 4 heavy machine guns.

The Brigade. is armed with 1 anti-tank gun, 4 heavy, Of the 1st brigade they list the commander, the deputy commander, and the political commissar with the note that he was replaced by someone else with a question mark after it; Chief of Staff, and then the political department, strength of 600 and 700 men and the commander of the various companies in the brigade, 1st, 2nd, 3rd, and 4th, and they list the political commissars for the 2nd and 4th.

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"The Brigade is armed with 1 anti-tank gun, 4 heavy and several light trench mortars, several heavy machine guns, 24 light machine guns, ---"

These figures all according to prisoners taken on 16 November.

Then the 2nd brigade which is the VIII Croatian Brigade also the VIII Kordun Brigade and lists commander and deputy and again we have reference to a political commissar, chief administrative officer, and then they have many listed as Joka, physician, veterinary, M.D. Babetko, who was a Czech and in the political department, 1st Battalion Commander, F Cavic, Simo, and the political commissar. Strength: 800.

They list their arms: 2 anti-tank guns, 6 heavy, 4 light trench mortars, 12 heavy, 50 light machine guns.

IIIrd Brigade, which was formerly IVth Banija Brigade, lists headquarters, commander, political commissar, strength of 900, 1st Battalion has a strength of 1,400 to 1,500 from statements of prisoners from this IVth Brigade and their armament: 2 anti-tank guns, 2 heavy trench mortars, 16 light trench mortars, 8 heavy, 60 light machine guns.

Then a little more information about this brigade:

Dispersed amongst this Brigade, there is an Einsatz Battalion of Jews from the Reich Autobahn concentration camp. This Battalion (consisting of 160 men) was formed in October under the leadership of the Yugoslav Captain of the Reserve, Aaron Kabiljo from Sarajevo. Banija Detachment composed of 3 Battalions, of which the 1st Battalion is usually situated around Zirovac, the IIInd Battalion in the district Dvor around Vrpolje, the IIIrd Battalion northwest of Kostajnica.

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The Detachment which formerly was fairly strong has, by its employment in the 7th Division become fairly weak, according to statements of prisoners of 27th September, 800 men, according to the Croatian General Staff of 15th November, 500 men.

They list the Commander:

Again the Political Commissar: and 1c: and he seems to have been a non-commissioned officer who deserted the Luftwaffe and then they list the Commanders of the 3 Battalions:

The strength of the Division has been stated by prisoners to be 5000 (assumedly too high). Newly formed: Cezin Detachment, The 28th Division presumably identical with the former 10th Slavonic Division which was put at the disposal of the Main Staff Croatia as reserve for attacks, the XVII and XXI Slavonic Brigades having a maximum strength of 3000 men) are, according to reliable sources, in the area of Sisak.

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The II zone has requested that this division be transferred to the area Turopolje. However, it must be taken into consideration that the division may also be ordered into the area of our own operation or that the 7th Division may try to join the former by withdrawing to the northwest.

Then several paragraphs on Communist Organization:

"The entire area is strictly communistically organized. In every village there is a communist committee, a kind of self administration above which there is, for purposes of appeal, a community-Odbor and a district-Odbor. This district-Odbor takes care of the tasks which are those of the Chief of District in the Croatia administration. (From captured documents from the districts Veljun and Vojnic containing detailed regulations concerning Signal service, securing the harvest, vet. Police statistics, agriculture, settlement and raw-materials, etc.)

In addition, there are the military authorities of the area behind the zone of operations (town headquarters together with partisan guards) and a kind of gendarmerie subordinated to the local headquarters of the area.

1) for Kordun in Gorni Budacki

2) for the Banija presumably in Klasnic Every person travelling in the area outside of his place of residence must have a pass issued by a military or civilian communist office.

The relay stations have been replaced by post offices and the main post offices are situated at the headquarters of the regional headquarters. Every post office has a code number and is a control office for the military bands which also have a code number.

List of post offices with their code number (B-Banija, K - Kordun):

Klasnic (26 km.south southwest of Petrinja, code no. B 1 Ravno Rasce (20 km southwest of P. " " B 2 Bacuga code no.

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B 3 Rujavac(34 km south of P.) " " B 4 Kepcija (34 km south southeast of P.) " " B 5 Dobretin (48 km south of P.) " " B 6 For Bosnia:

Zarkovac " " B 7

G. Pastusa " " B 8 Mostanica (10km southeast of P.) " " B 9 Klobucak (9 km southeast of P.) " " B 10 Mecencani (20 km southeast of P.) " " B 11

V. Gradusa (7 Km southeast of P.) " " B 12 Krcevo (24 km southeast of P.) " " B 13

G. Hrastovac " " B 14 Meminska (28 km southeast of P.) " " B 15 Utolica (37 km southeast of P.) " " B 16 Slabinja (40 km southeast of P.)for Bosnia " " B 17 Kostresi (33 km southeast of P.) " " B 18 Strmen (34 km southeast of P.)for Moslavina" " B 19 Ivanjski Bek (38 km southeast of P.) for " " B 20 Slavonia And then they list these post offices with their code numbers, the B being Banija, and the K for Kordun, and they give a list starting on this page of 20 of them with the code number preceded by the letter "b" for Banija, and on the next page they list Main Post Offices, if which there are eleven more and again they give their location with their "code" numbers and the numbers 1 to 11, and each of these preceded by "K" for Kordun.

Paragraph IV, "Communist Tactics.":

Except for the attacks of protected villages which the Communists as a rule only risk on purely Croatian headquarters and in which, after careful preparation, they use forces as strong as possible, method of fighting is limited to surprise attacks from ambushes. In the area occupied in a finger like spreading way, an excellent signal service has been established by utilizing the apparently harmless civilian population (women and children). Every enemy march column is observed from certain points of survey (not only patrols, but also so-called village guards, as a rule three to four men) and reported to the next communist unit.

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Most of the time, the ambushes are "multiple". An automatic weapon is placed ahead of the march column. On all sides, security and scouts are placed. An intensification of the "multiple" ambush by surprise attacks from several posts forms the so-called "combined" ambush. It is carried out by strong forces and aims at the extermination of the adversary. The posts occupied are chosen so that the march column may be fired on in its whole extent. A signal agreed upon beforehand is the signal to open fire; often for reasons of morale, accompanied by hurrah shouts.

Fire is usually opened by rather weak units from the flank or from the rear. The adversary who is being fired on then instinctively seeks to withdraw from the fire attack in the direction of the march and just then clashes with the most powerful units of the encirclement. A counter-attack toward the opening fire therefore can often free the troop from his grip.

During the combat, whistle signals ordered for the occasion are used, e.g. three long blasts ... to the right; one long blast, three short ones the commander of the 3rd Company.

During the attack, the adversary often sends women and children ahead, whom the kind German soldier does not shoot at. At a whistle signal, the women and children throw themselves down as soon as the band has deployed for the attack. In the frequent night attacks, the civilian population has been trained to simulate a stronger enemy by shouting and to take care of the wounded and dead.

At every attack and raid, the bands usually block the roads of approach by their reserves in order to be protected against surprises.

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Fire raids from heights on troops held up in road bands by road blocks are frequent. Bands on the march are always well protected (often women or children are sent ahead as scouts). The band withdraw from encirclement at worst by dissolving into small groups. Everywhere one must count on a large amount of ammunition and with numerous automatic weapons originating from Italian booty. When the bandits are definitely inferior, they let themselves be overrun. In these cases also one must count on raids from the rear. Our own troops must assume an entirely different attitude; they do not have to deal with an adversary fighting openly, but with a master in evasion and in insidious and treacherous combat who knows how to utilize in a masterly fashion the terrain that is very difficult to survey almost everywhere."

And then a section with reference to Details, Depots and Dumps:

"Depots and hideouts of bands are to be expected in groups of houses situated near the border of forests, so that the bandits are able to disappear quickly. Food and ammunition depots are often in caches in the ground (4 x 4 x 5 meters, lined with boards and carefully camouflaged). Such depots are to be presumed in the vicinity of every communist Local Headquarters (usually therefore also near the post offices). The following Town Headquarters have become known in (and they list them).

A telephone line leads from Brojevici via Trnovac-Klasnic - Zirovac Slunj. presumably on to the IV Corps and to the Main Staff Croatia; in part it is laid underground.

"Area for the 373rd Infantry Division:

"The ordnance shop is in Poderove", and this of course is speaking about the German unit here, "8km south southwest of Vrnograc," and of course the recital about the communists, the details in whose division, and whose section it is. "Footholds of bands in Ljubina (Northwest of Novi), Majdan, Vrpolje (5 km. from the Banija to S. Dobretin (8 km. southwest of Novi) south of height 153. Ferries and boats are weighted down with stones under water during the daytime, the ferryman, Welko ... chauffeur in Dobretin, lives in the house between heights," and then gives the location of the hills from the map coordinates.

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Peljska Kosa and the wood Tavenac, 27 km south southwest of Karlovac contain underground potatoes. The wood Kneja, 12 km west southwest of Slunj contains food supplies at the east border.

Zbieg, 8 km southwest of Slunj, (hospital in several houses).

V. Crkvina, 20 km south of Karlovac (arms and ammunition). Underground depot, hospital in the school, Grn. Skrad, 1 km. northeast of Crkvina.

Primislje, depot to be presumed.

At Gorni Budacki, 21 km. south southeast of Karlovac, depot to be presumed, regional headquarters, hospital.

In the forest Debelakosa, 1 km. east from there, barrack containing a hand grenade workshop, a bakery, a butchery, workshops, a carpenter's shop, and an ordnance workshop.

At Burci, Dunjak, Eristinja, depots to be presumed.

Depot weapons at Rijeak, 19 km. south southeast of Karlovac.

Road blocks on the road to Vukmanic, at the fork, 8 km southeast of Karlovac, also at the north border of the Babina Gora, footholds of bands are to be expected, the same Northwest of Vukmanic, at height 197, according to aerial reconnaissance, presumably enemy positions, also northwest of there at Miljusi.

Numerous road blocks on the road west of the Korana from Barilovic to Perjasice, 22 km south southwest of Karlovac (Doline country).

Area Topusko on the road 1 km southwest of (N.Vrh.) field positions (in the north the bandit villages Perna and Pecka).

West of Topusko field positions. Topusko Toplice, formerly named as headquarters of a staff.

Along the road, Slunj-Vrnograc, according to aerial reconnaissance, presumably positions at Gladno Brdo, 5 km. east of V.Kladusa.

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In the Banija allegedly numerous ground caches in the Samarica and presumably in the Prolom forest, 12 km. south of Glina.

The essential area: forest and border of the forest villages in the area Drngotine, Bojna, Zirovac. Favored staff headquarters Brestik (radio station reported there, presumably the station of the 7th Division and Mrnovac.)

At Klasnic, 12 km south southeast of Glina, weapons depot, at Dodosi, 16 kilometers south of Petrinja, sawmill and electricity works.

At Tremusnjak, 16 km. east southeast of Glina, at the end of October, salvage depot for Italian guns.

Area Cossack Division: Band footholds in Levca (Printing shop Krst - 3 km. northwest of Lovca, ordnance shop Komogovina and Brojevici 13 km northwest of Kostajnica, weapons depot and transfer point Svinjica.

The weapons transports from the Main Staff Croatia to Slavonia go from Klasnic via Trmusnjak. The crossing point into Bosnia is near Slabinje, 10 km east of Kostajnica. Meminsko and Crkveni Bok are transfer points (according to the usual statements).

In the villages north of the road Petrinja - Kostajnica, there live scattered Croatians (Severovac), however even the Croatian population cannot be considered reliable. In the Sunja-Dubica-Kostajnica triangle there is a home-defense organization composed of Pravoslavs with an anti-communist attitude. However, the good postal net just in that district aids the communist infection. It must be considered that this home-defense organization is formed under toleration of the communists so that they may be able to sluice their weapons transport all the more undisturbed across the Save through the supposedly pacified country. At present, transports are probably not possible on account of high water."

Then we have a "Insignia rank" -- we have had some evidence about this before, but here is some more.

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"At the 7th Division the officers' yellow insignia (1-3 stars with 1-3 stripes, generals 3, staff officers 2, other officers 1 stripe) have already been adopted.

Reports on the subject with regard to the 8th Division are not available."

Then we have a supplement about Ammunition depot, and other sorts of depots.

"Ammunition depot in Veljun 28 km south of Karlovac (headquarters of a district office).

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There is a food supply depot in Lovca, 13 miles west of Kostajnica; Northeast of there on the Krst, northwest of Kostajnica, there is allegedly a radio station and printing shop; northwest of Kostajnica there is an ordinance work shop and mine workshop.

The population was forced by the communist party organization to hide away the crops (underground caches). Nearly the entire population is organized by the party: the AFZ takes care of the women, the Skoj of the youth and the "Prioneers" of the children. In 1942, in the region around Zirovac, according to captured documents, the women were grouped and formed garrison companies under the leadership of men. Every village has a committee of women under whom one group works as a so-called combat group (other groups are for cultural work, work, or spy service).

Typed at the end is, XV Mountain Corps Ic On page 45 of the German text and page 44 of the English, is Document [NOKW-1425](#), which is offered as Prosecution Exhibit 369 in evidence.

This is a series of orders and reports concerning units which at this time are subordinate to the XV Mountain Corps, commanded by the defendant Leyser.

This is first a division order from the 373rd Croatian Division, dated 22 December 1943, concerns an operation south of the Save and between Prijedor and Bos. Novi:

The 383 Regiment mops up and combs the area South of the Save between Bos. Novi - Suhaca-Volar - Prijedor. The enemy encountered in this area is to be destroyed. The population capable of bearing arms

is to be arrested. Supplies and cattle are to be taken away as far as they are not guarded or they are to be destroyed in order to deprive the bandits of the basis for their provisioning. (Evacuation of the male population capable of bearing arms and of cattle along the road South of the Save to Prijedor.)

Duration of operation, about three days.

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It is signed "Aldrian" Major General and Division Commander, and in the distribution list where it says, "383rd Division", that should be "373rd Infantry Regiment". Obviously the division would not give and order to another division except under very unusual circumstances.

The 383rd is an Infantry Regiment which is one of the regiments of the Division.

Then there is a report to the Corps Headquarters, XV Mountain Corps, from a Colonel and Brigade Commander of the 373rd Croatian Infantry Division, and this is dated 25 January, 1944:

"Enclosed the Division submits a combat report of the fourth Croatian Jaeger Brigade concerning the defense of Banja Luka from 31 December 1943 to 2 January, 1944."

And that is for the Division Headquarters, the 1st General Staff Officer, and there is an illegible signature of a Lt. Colonel, General Staff Corps.

The Colonel and Brigade Commander's report, paragraph 4 - this is an enclosure to the earlier report:

"In a house across from the Brigade Headquarters, 4 civilians were shot to death, on suspicion that firing came from that house. It was established later that these people were innocent since the culprit was caught."

The signature is illegible. However, it bears the designation, "Colonel and Brigade Commander".

Then on page 51 of the German, and page 47 of the English, from the first Cossack Division to the 15th Mountain Corps -and this again has to do with the commitment of this Division from the 20 December to the 20 of January, over the year 1943-44:

Cossack Brigade (Caucasus) 2:

E n e m y S i t u a t i o n:

On the basis of confidential reports and of statements by deserters about 6000 to 8000 bandits are present in the area between the Bosni and the Vrbas.

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The enemy forces are organized into the XII Slavic Brigade, the V Kosara Brigade and the XIV Krain Brigade. Two Battalion Headquarters in Prnjavar and Stanici are known. The Brigades are alleged to have an average armament consisting of 5 heavy machine guns and 30 to 50 light machine guns in addition to 2 to 5 heavy trench mortars and numerous machine pistols.

In the area West of the Vrbas there are supposed to be about 2,000 men whose task is to seize supplies from that area and bring them to the bandits who are in action.

Then on page 8 of the original, page 48 of the English, it is under "Own Tactical Situation" for the interpreter, the paragraph starts out:

The Brigade with the 5th and 6th Regiment and the subordinated 5th Jaeger Regiment will assemble ready for action in the area, of Bos. Dubovac - Derventa - Kladari by 1 January 1944 for operation "Napfkuchen." The Brigade has the task of combing the mountains South of the Save on an extended front. The main support points of the bandits and partisan villages are to be destroyed and supplies of cattle and food stuffs to be secured. The commitments during the time covered by this report showed consolidation of the Cossacks in combat and in particular in discipline.

Wherever the troops were committed and billeted for an extended period, excesses, looting and rapes have almost ceased and the population cooperate with the Cossacks successfully in combating the bandits. However, operation like operation "Brandfackel" during which entire sections of the country had to be devastated pursuant to orders must have an unfavorable effect on the discipline of the troops toward the civilian population.

During the fighting from 21 Dec. 1943 to 20 January 1944 the Cossack Division suffered the following losses:

killed in action, 31 3 officers, 28 men Wounded 46, 1 officer, 45 men Missing - 51 men Horses killed:

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60 Enemy losses:

369 counted dead, 32 prisoners.

More than 600 deserters were "brought in."

We direct the court's attention to the use of the word "deserter".

"More than 150 suspects were arrested. According to prisoners' statements, the enemy has numerous wounded. 4 machine guns, many rifles and 18,000 rounds of ammunition were taken in booty."

It is signed, "v. Pannwitz" who was commander of the First Cossack Division.

Then there is a combat report for the 383rd Croatian Infantry Regiment for an operation called, "Ristov". On page 60 of the German, and 50 of the English - this is, incidentally, dated 5 January, 1944, paragraph numbered 2 starts out:

Mission:

To comb and to mop up the area South of the Save between Bosn. Nov. Suhaca-Velar-Prijedor; to arrest the population capable of bearing arms, to take away supplies and cattle as far as they are not guarded, in order to deprive the bandits of the basis for their provisioning. In addition, it is to enable the repair work on the railroad line of Novi-Prijedor to be continued.

If is signed "Ristow, Major".

Then one from the XV Mountain Corps, Corps Headquarters, to its various subordinate units with reference to periodic reports, with a reference to the earlier communications of Commander German Troops in Croatia, and it says:

The divisions will submit before (reciting time received by Corps Headquarters):

Details:

1.) Daily Report:

B) Form and Content:

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?The daily report should give to the Commanding General a clear picture of the preceding day in a short and brief form.

The following is to noted:

- a) the daily report is to express the personal interpretation of the Commanding Officer.
- b) Do not give an arbitrary enumeration of dally events but an overall picture citing essential details (including enemy situation.)
- c) Differentiate between facts and sumptions.
- d) The estimate of the situation and the conclusions to be drawn therefrom must be opposed by own intentions and measures taken. A basic principle: no enemy reports without indications of source and without own tactical intention or countermeasures (reprisal operations).
- e) The daily report must be built up on the report of the preceding day. Changes must be emphasized, particularly if they brought about a change in the estimate of the situation.
- f) Situations as yet not clarified and unsolved problems are to be reported subsequently in order to avoid queries. The delay or the non-execution of your own intentions is to be reported and reasons are to be given.
- g) Reports of acts of sabotage are to include the extent of the damage, the probable duration of the disturbance as well as measures carried out and intended (including reprisal measures). In the event of an interruption of railroad traffic, the daily report or if required, a subsequent report must be included.

And it tells what they have to do.

Under cc): Statement of immediate measures taken, taking into consideration reprisal measures.

2.) Estimate of the situation:

3.) Situation and billet maps:

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4.) Orders of battle:

5.) Evaluation Reports:

It has typed at the bottom, "The Commanding General" and it has, "the Chief of the General Staff", and it is signed by "Pfafferott", as Colonel, General Staff Corps, and of course, at this time, the Commanding General of the XV Mountain Corps, is the defendant Leyser.

Distribution is to all subordinate divisions, and the War Diary.

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MR. DENNEY: Then, turning to Page 82 in the German, and Page 54 in the English, we have Document No. [NOKW-1430](#), which is offered as Prosecution's Exhibit No. 370. This is a report from the 15th Mountain Corps, dated 21 January 1944, commanded then by the Defendant Leyser, to the 2nd Panzer Army, commanded by the Defendant Rendulic. The "final report concerning the operation Brandfackel":

"Several times contact with enemy with only weak groups of bands in rugged and mountainous terrain. Great differences of level were overcome. Difficulties in command because means of communication were not sufficient. Pronounced symptoms of fatigue and cases (44) (handwritten) of sickness on account of long straining of troops (Kugelblitz, Waldrausch, Napfkuchen)." And then, of course, they're referring there to other operations. "Own losses: 1 dead, 16 wounded, 2 horses dead. Enemy losses: 131 dead, 2 prisoners, 5 deserters." And again they refer to deserters. "Booty: 2 heavy 2 light machine guns, 19 rifles, 1 hunting rifle, 1 radio apparatus, 3 telephones and cable, 43 head of cattle, 4 pigs, 35 sheep, 4 horses." And I would specifically like to direct the Court's attention to this: "1 hospital with 100 beds and 2 small ammunition depots destroyed." It is from the 15th Mountain Corps, again typewritten, And then on the 13th of January, Headquarters the 2nd Panzer Army, copy to the German Plenipotentiary from the same unit, Daily Report for the 13th: "Brandfackel": "Extremely difficult terrain makes attack and liaison very hard. Reports of individual combat groups lacking. In the southern part of the Kozara contact with retreating enemy. 1 bandit hospital destroyed. Day's line of advance aimed at Kozarac - Demitrovac (10 kilometers east of Prijedor and 9 kilometers east of Dubica) reached. 2 enemy dead, 2 heavy machine guns captured. Reconnaissance and reports of inhabitants indicate allegedly strong enemy 13 kilometers south/ southeast of Dubica." And then, with reference to the Cossack Division: "Operation of own shock troops south of Gora and northwest Petrinja successful. Enemy advance guards approaching Gora pushed back. In the Area 18 kilometers south of Zagreb a village taken after short skirmish, 100 band suspects arrested." And then for the 27th, again addressed to the Headquarters of the 2nd Panzer Army, the Defendant Rendulic, and a copy here goes to the Headquarters of the 69th Corps, which, at that time, was commanded by the Defendant Dehner.

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Again, the communication is from the Corps commanded by the Defendant Leyser. Daily Report of the 27th, "Cossack Division: In attack RR 2, from Jastrebarsko toward the north, medium sized band thrown toward..., retreated to fortified positions, 5 enemy dead. Line southeast of Turopolje again

passable since 1100 hours after blasting, during night. 22 hostages hanged. Intentions: Continuation of attack north of Jastrobarsko, advance into area southeast of Lekenik." And the next one to the 2nd Panzer Army, again with the 69th Corps receiving a copy, and from the 15th Mountain Corps, Daily Report of the 28th, "Intentions: Relief in the area SFB and south of it by parts of the 1st Mountain Division, work on the railway line, arrest of hostages on both sides of the line southwest of Bos. Novi. Raid in Banja Luka." And on Page 85 of the German, Page 59 of the English, the last of this series of reports, again to the 2nd Panzer Army, and again a copy by letter to the 69th Reserve Corps, and again being sent by the 15th Mountain Corps. Daily Report of the 29th of January, for the 373rd Division, one of the subordinate units of the 15th Mountain Corps. "Movements of bands in the area Prijedor. The line Prijedor-Nevi was again blown up, the repairs were interrupted by trench mortars. In the area Rudice - Otoka 29 hostages were arrested on both sides of the railway line. In the area Ostrozac skirmish between Huska and Cetnik detachments. The line Sunja - Bihac free, 5 men deserted, probably to the Ustascha." And "gain, it is typed at the end, 15th Mountain Corps, an illegible signature, and what appears to be "Lieutenant Colonel." And then on Page 87 of the German and Page 61 of the English Document No. [NOKW-1419](#). These are various reports from the 2nd Panzer Army to the 15th Mountain Corps. The first one is dated 30 January 1944, and to the 2nd Panzer Army; for information, the Military Commander Southeast, who, at that time, was the deceased Loehr, and his Chief of Staff at that time was Geitner; and the 2nd Panzer Army is still commanded by the Defendant Rendulic. This is from the 15th Mountain Corps Headquarters, commanded by the Defendant Leyser, and the signature is typed.

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The message reads: "The search operation in the city area of Banja-Luka ordered for 28 January, without special results due to a premature spreading of information by Croatian authorities. Arrested and transferred to the SD: 32 persons. In addition 5 Domobrans without identification or leave papers." And this is certified as a true copy by Colonel Pfafferott of the General Staff Corps. And the next is a communication dated the 28th of January, from the Deputy for the Reich Fuehrer SS for Croatia, The Police Sector Commander, Banja Luka, and this is directed to the 15th Mountain Corps. And the 15th Mountain Corps was commanded by the Defendant Leyser, and here he is getting a report from an SS Standartenfuehrer. "The search operation in the city area of Banja Luka ordered for 28 January 1944--was concluded at 1300 hours without special incidents. Arrested and transferred to the SD: 20 persons without identification, 12 persons found in apartments not their own. 5 Domobrans without identification or leave papers." And, if your Honors will compare that with the communication dated 2 days later which we have just read here, you will have a Commanding General of a Corps passing on to the Commanding General of an Army a communication from a Standartenfuehrer in the SS, almost identical except for the fact that he chose to add the 20 and 12 together, getting 32 persons, instead of the figures 20 and 12. The next is dated 12 December 1943, and it is from the Corps Headquarters, 15th Mountain Corps, to the 264th Infantry Division and the 114th Jaeger Division, both units subordinate to this particular Corps. "Enclosed please find a report by Vladimir Jonic, the former representative of the Directorate of the civilian administration in Dalmatia and Commissar of Ustasha Headquarters for your information. For Corps Headquarters, Chief of General Staff (illegible initial)." And then is recited

to the 15th Mountain Corps from the German General-Plenipotentiary in Croatia, "By request of the Croatian Minister of the Armed Power, we submit enclosed a report of the directorate of the civilian administration in Dalmatia for information." And that is the forwarding copy that brought this to the attention of the Corps from the German General-Plenipotentiary in Croatia, and on the next page is an excerpt from the report.

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THE PRESIDENT: Mr. Denney, we will not be able to complete this portion that you have just referred to, nor the Document Book; and we have only a couple of minutes before adjournment time; so we shall adjourn at this time. This Tribunal will stand adjourned until Monday morning, August 4 at 0930 in the morning.

MR. DENNEY: If your Honor pleases.

THE MARSHAL: The Tribunal will be recessed until 0930 Monday morning.

(The Tribunal recessed at 1630, to resume Monday morning, August 4, 1947, at 0930.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 4 August 1947, 1000-1630, Justice Garter presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

PRES. WENNERSTRUM: Marshal will you please ascertain if all the defendants are present in the courtroom.

MARSHAL: May it please your Honors, all defendants are present in the courtroom.

The persons in the court room will be seated.

PRESIDENT WENNERSTRUM: Judge Edward F. Carter of this Tribunal will preside at today's session.

PRESIDING JUDGE CARTER: You may proceed.

MR. DENNEY: May it please your Honors, first one or two matters which will be taken up: The Prosecution is sending to Greece for some witnesses and it is expected that they will arrive here late this week and in view of that the Prosecution would appreciate, and I trust the defense counsel will have no objection, if we could have an adjournment over Friday of this week.

DR. LATERNSEER: The defense agrees with this proposal.

PRESIDING JUDGE CARTER: You expect, Mr. Denney, to have the documentary evidence in at that time?

MR. DENNEY: Not completely at that time; I think we should finish XV this morning; we ought to finish XVI, XVII, XVIII prior to that time and I believe we may have started on one witness before the end of this week.

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PRESIDING JUDGE CARTER: The Tribunal agrees that the adjournment will be permitted.

MR. DENNEY: Thank you, your Honor. Now, in connection with document [NOKW 076](#), which is the third document appearing in Book XIV, which your Honors excluded. For the record the defense counsel need not worry about it; I am not going to talk about it; I am just going to request that it be marked for identification. This was offered on the afternoon session of Thursday, July 31st, and it is my understanding that it has not been marked for identification. We propose to prepare a motion in support of an application for the admission of this document and with that in mind I would request that the document be marked 338a for identification.

PRESIDING JUDGE CARTER: Will you give me the number of the document again.

MR. DENNEY: Yes, your Honor, document NOKN 076. It is the third document appearing in the English Document Book XIV and the German Document Book XIV. It appears at page 6 of the English text and page 5 of the German text and it is requested that this be marked 338a for identification. There seems to be some doubt in the Secretary-General's mind; Major Hatfield, the document is merely being offered for identification, and is not being received and hence it is the number 338a and not "b", because "b" documents are the ones that are received in evidence. If and when it is received it is submitted that the letter be changed, but for the present it is 338a, providing the court is agreeable.

PRESIDING JUDGE CARTER: That's agreeable.

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MR. DENNEY: There has been some delay in the motion because of the fact that I haven't been able to see the transcript for that day as yet and the motion papers should be prepared sometime later this week.

Turning now to another matter. We were served on Friday- I did not see the papers until after the afternoon session on Friday,- with a motion by the defense counsel with reference to a proposed trip to Washington. The Prosecution intends to file a memorandum in opposition to this request and it is requested that we be given until tomorrow noon to file our answer and papers, in view of the fact that Friday was a partial holiday here and on Saturday and Sunday there was no secretarial help available to those of us who were preparing the memorandum. Is that agreeable with your, Dr. Laternser?

DR. LATERNSEY: Mr. President, I don't know how long the Prosecution will take in order to present its case. The Defense believes, however, it is definitely necessary that a trip of one or two deputies be made possible to Washington, and it has been concluded that we, the defense, in order to continue the case, are convinced of this because important material can be gotten from our representatives in Washington.

MR. DENNEY: Your Honor, I am not arguing the merits or lack of them, of his application, but am only asking that I be given until tomorrow noon to file the papers.

DR. LATERNSEY: The defense counsel cannot make any objection to that.

PRESIDING JUDGE CARTER: It will be granted.

MR. DENNEY: And I might say for the record with reference to Dr. Laternsey's application that the prior application with reference to the examination of one of his clients, that we have no objection, and we have filed this morning with the Secretary-General's office, that office having been closed on Saturday and Sunday when I attempted to file it at an earlier time, a statement to that effect.

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Turning now to the remaining material in Document Book 15, the exhibit which we were considering as Prosecution Exhibit No. 371, which has been received in evidence and it is Document [NOKW 1419](#). We had treated those portions of the exhibit which dealt with a communication of 30 January 1944 from the Corps Headquarters, 15th Mountain Corps, which was under the command of the defendant Leyser, to the Second Panzer Army, which was under the command of the defendant Rendulic, and the information copies going to the Military Commander Southeast, who was at that time General Loehr, and his Chief of Staff, at that time was the defendant Geitner. We also discussed the communication from SS Standartenfuhrer to General Leyser, as commander of the 15th Mountain Corps, and a communication from the German General Plenipotentiary in Croatia -Glaise-Horstrenau to the 15th Mountain Corps of the Defendant Leyser.

We now come to a report, page 91 of the German book and page 64 of the English book, starting with the section, for the interpreters, which has to do with our relationship to the German Wehrmacht.

At first, the German were met with mistrust due to enemy propaganda. There were cases where some Commanders and soldiers (surely by their own authority) have taken upon themselves certain rights which were not theirs, that is to say which are theirs in occupied enemy territory. In particular with regard to the spoils of war, there were frequently differences of opinion since the Germans, in addition to all war material, also consider as spoils of war all monies, Jewish and Italian fortunes, cigarettes, salt, matches, etc. After the Germans realized that they had extended their rights too far in regard to the spoils of war, the situation is now much clearer.

However, there is another fact which gives cause for concern.

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The German Wehrmacht undertakes mopping up operations of the area without special co-operation of our troops. In a certain sense, this makes the Germans akin to liberators, but causes resistance within the population which expresses itself in particular in mistrust toward our State. In addition, German troops out of ignorance of our situation, sometimes carry out too severe measures or reprisals against the population which bears small guilt or no guilt at all. In most cases, the partisans on the arrival of German troops, fire from just those villages from which they wish to flee and/or to which they wish to cause damage.

The peaceful population remains while the Germans, convinced that they are dealing with accomplices, burn down these villages and thus destroy all the property of the population. In order to avoid such misunderstandings, a closer co-operation with our military and civil authorities by the German troops committed seems an urgent requirement, and prior to any mopping up operation by German detachments, the necessary data should be requested from our authorities."

And it is signed Vladimir Jonic, Commissar of Ustasha Headquarters, former representative to the Directorate Civilian Administration in liberated Dalmatia.

And then under date 11 August 1944, a communication from the Chief of Civil Administration of the Independent State of Croatia and to the Commander of German Troops in Croatia, Subject: Vicici Konji -- Its burning down by German troops."

I have received a report that the village of Donji Vecici was burned down and destroyed with weapons by German troops on Aug 7th this year and that the population was driven to Kotor Varos. The reason for this procedure was allegedly that a woman of this village had fired on a German Soldier from a house. It should be considered that this village was occupied by the partisans for several months, and a partisan woman had hidden there for certain and fired on the German Soldiers, something for which the population of this village cannot be held responsible.

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As proof that the population did not feel friendly toward the partisans, the fact is cited that not a single person of this village had joined the partisans, notwithstanding an occupation of several months, their atrocities and promises.

The population was more than happy when the German troops arrived and liberated them from the atrocities and the looting. Now they experienced their greatest disappointment and their annihilation by just these German troops. Great excitement and open revolt ensued as a result of these happenings. Thus, a commission sent by the Headquarters of the German Troops in Banja Luka to establish the exact facts at the locality of the incident, in co-operation with the civilian authorities, in order to carry out the necessary measures which would prevent repetition of such, and similar cases would be in the interest not only of our authorities but also in the interest of the German troops.

To safeguard the harvest, it would be best to grant permission to the population of this village to return to their homes, where the population would erect some temporary housing.

I would appreciate your informing me whether permission will be granted the population to return to the village.

On this occasion, I again request the general to undertake such heavy punishment of the population only in cases where there is no doubt concerning the co-operation of the population with the partisans.

Because, if such cases happen repeatedly, consequences will ensue which are not in the interest of the pacification and of the suppression of the insurgents. It only would strengthen the revolt against the troops and against Governmental authorities and provide the enemy with material for propaganda against the German and Croatian Troops.

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Ready for the Homeland!

Chief of the Civilian Administration.

Benak."

Then on 16 September 1943 from Corps Headquarters XV Mountain Corps, communication by this unit to the Chief of Civil Administration with Corps headquarters XV Mountain Corps, Minister Benak, and it refers here to the earlier letter, and at this time the unit in question, the XV Mountain Corps was commanded by one Lueters, it is believed. Yes, if your Honors, please, Lt. General Rudolf Lueters, was commander until November 1943:

The inquiry which was instituted concerning measures taken against the village of Vecici and which is now completed has established the following:

The rear guard of a German Company received fire from almost every house in the Northern part of Vecici. As has been established, almost the entire population participated in this treacherous fire attack which took place after the majority of the company had passed through. The company commander reports, for instance, that a woman offered him milk. After he had gone on for about 30 meters, the woman fired after him with a machine pistol. The woman was shot to death by a German soldier. Four soldiers who were captured during the attack were found, some shot in the head, some with broken skulls.

German woolen blankets, canteens and similar equipment of German origin were found in the houses of the village. Newly dug graves were found in the barns themselves.

It has been established beyond doubt that the German troops were fired on from the village by civilians and in particular also by women.

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Thus, a reprisal operation was ordered against civilians. During the burning down of the houses, a large amount of ammunition exploded which is further proof of the participation of the population in the attack. Several inhabitants and Domobrans admitted that the detonations were audible during the

burning down of the houses. During the carrying out of reprisal measures German soldiers were fired on even from the immediate neighborhood of the Mosque.

For some time, the village of Vecici has been known to be a hide-out for bands. That during the reprisal measures houses of innocent residents were also destroyed is possible and is based on the nature of such punitive operations.

If similar cases should occur the German Wehrmacht sees itself forced to order reprisal measures. According to reports of the Grossgespanschaft the inhabitants of Vecici have returned to their village.

(signed) Lueters And on the 22d August there is a communication from the Commander in Chief, Southeast, simultaneously charged with the command of Army Group-E, he was Loehr, which is directed to Commanding General and Commander in Serbia, he was Felber, whose Chief of Staff at that time was Geitner.

It is dated ss August 1943. The subject is "Levying of collective fines," and there is a reference to an inquiry from Felber to Loehr.

"I am unable to agree to your interpretation of the law. The Hague rules of land warfare clearly differentiate between collection government taxes (Article 48) levying of other taxes (Article 49) imposition of fines on the entire population (Article 50) and compulsory contributions which are not fines (Article 51). The limitation of Article 51 which states that contributions shall be collected only under a written order and on the responsibility of an independent Commanding General refers only to compulsory contributions in the sense of Articles 48 and 49 nor to the imposition of a fine in the sense of Article 50.

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This legal interpretation also corresponds to the practical requirements. The revolts and unrest which are constantly flaring up in the Southeast area make it necessary for the local territorial office (Administrative Sub-area Headquarters or Town Headquarters) to be in a position, if necessary, to apply severest reprisal measures immediately. This also includes the imposition of fines on communities and associated communities.

Even if Article 51 should refer also to Articles 48 and 50 the requirement has been fulfilled by the Commanding General having transferred under a written order, the establishment of the penal contributions to the Commandant of Administrative Sub-area Headquarters. This does not affect the responsibility of the Commanding General toward his superior authority. Consequently, the prerequisites of Article 51 are fulfilled.

Anyway, if, in the course of combat actions, war contributions are imposed, Article 42 will be mostly applied, i.e., Article 51 will not be applied because the combat zone is not occupied territory in the sense of Article 42.

I have no objections whatsoever against the decrees of 17 July 1941 and of 1 March 1943 issued by the Commanding General and Commander Serbia nor against the proposal of the Administrative Sub-area Headquarters.

(signed) in draft Loehr.

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I propose at the close of the exhibit to read in some sections that have been referred to. However, I think it would be best, before commenting on it, that we pass on with one exception: I would like to direct the Court's attention to the use of the term "combat zone" here in the second last paragraph and it is submitted that evidence will be offered or elicited at a later time as to the meaning of the term, "Combat zone" as opposed to the "Communication zone" or the "zone of interior." This is a standard military term which is employed both in the German army and in ours.

Then, the balance of the exhibit is just the last page which has the various entries on it which follow -- there is typed: "The Commander in Chief Southeast, Simultaneously charged etc.," and there is handwritten the diary entry number and the date appears to the right and it is stamped "Secret": and then there is the distribution list, and this is in August of 1943 and it's to be noted that there is a copy sent to the Commanding General and Commander South Greece who, it is submitted, at that time was the defendant Speidel.

Then there is the certification and an additional stamp with reference to the Commander of German Troops in Croatia, which appears on page 71, and then the notation is handwriting at the bottom of 71:

"Pursuant to the report to Chief of Staff, no written order to the Divisions will be issued. Agreement of the administrative Sub-area Headquarters Zagreb and Brod is the affair of the German Plenipotentiary General."

With the Court's permission, I should like to read into the record now the sections of the Hague Convention, which is the convention relative to the laws and customs of war on land, together with it's annex; and I have here a German for the interpreters. These are all short sections. There are some 14 of them and there are numerous references in the communication to sections under this heading; specifically 42, 48, 49,50 and 51.

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Article 42 of Section III, which is part of the annex to the convention respecting the laws and customs of war on land, that annex as to the laws and customs of war on land, Hague Convention No. 4 of 18 October 1907; and, for the convenience of the Court, it is: 36 statutes 2277; Treaty Series No. 539; Malloy Treaties, Volume II, page 2269; and the German copy which the interpreters are reading from is taken from the German Library and this copy which I have here is War Department Technical Manual No. 27-251, 7 January 1947 and it is published by order of the Secretary of War, by G.C. Marshall, Chief of Staff, and bears the official designation by J.A. Ulio, Major General; and then "The Adjutant General" of the United States Army.

Article 42: "Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised."

Article 43: "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."

Article 44: "A belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defence."

Article 45: "It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power."

Article 46: "Family honour and rights, the lives of persons and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated."

Article 47: "Pillage is formally forbidden."

Article 48: "If, in the territory occupied, the occupant collects the taxes, dues and tolls imposed for the benefit of the State, he shall do so, as far as is possible in accordance with the rules of assessment and incidence in force, and shall in consequence be bound to defray the expenses of the administration or the occupied territory to the same extent as the legitimate Government was so bound."

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Article 49: "If, in addition to the taxes mentioned in the above Article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs of the army or for the administration of the territory in question."

Article 50: "No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible."

Article 51: "No contribution shall be collected except under a written order, and on the responsibility of a Commander in Chief. The collection of the said contribution shall only be effected as far as possible in accordance with the rules of assessment and incidence of the taxes in force. For every contribution a receipt shall be given to the contributors."

Article 52: "Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country. Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied. Contributions in kind shall as far as possible be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible."

Article 53: "An army of occupation can only take possession of cash, funds and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.

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All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depots of arms, and, generally, all kinds of ammunitions of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made."

"54" has to do with submarine cables and I don't think we have to worry about that.

"55: The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estates, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct."

And the last article, 56, which is also the last article of the annex: "The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings."

Turning now to page 100 in the German and 73 in the English, we offer Prosecution's document No. [NOKW-931](#) as Exhibit 372 in evidence. These are reports of the 100th Jaeger Division to the 21st Mountain Corps, dated 14 and 16 December 1943; and this corps at that time was under the 2nd Panzer Army which was commanded by the defendant Rendulic.

First is a supplemental report to the report of 12 December which had been made at an earlier time.

During area operations

(About one sentence missing – film unintelligible.)

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The next page, 74 in the English and 101 in the German, again from the 100 Jaeger Division to its parent unit the XXI Corps, the daily report 1c:

"Reprisal measures for attack on the road patrol in Elbasan; Execution shooting of 4 Communists and advancing the curfew for civilians to 1600 hours."

While there are some initials on this original, these are actual typings on telegraphic communication blanks other than the units. We have been unable to identify any of them as of this time.

Then turning to page 102 in the German, and 75 in the English, we have document [NOKW-073](#), which is offered as Prosecution Exhibit 373.

These are daily reports of the various subordinate units to the 2nd Panzer Army with reference to the retaliation measures which were made in December, although one of them refers back to a November date. The 2nd Panzer Army was at this time commanded by the defendant Rendulic.

The first report is from the 69th Corps and at this time that corps was subordinate to the 2nd Panzer Army and was commanded by the defendant Dehner.

The report for 3 December 1943, which is a supplement to an earlier daily report of 29 November, states that:

"According to the report of the Croatian State Commissar for Security of Railroad Traffic, 10 persons from the bordering communities will be hanged at the locality of the incident in reprisal for this attack against a troop transport. The State Commission also intend from now on to levy fines on the Communities concerned since, according to his interpretation this will be felt considerably more."

Then the daily report of the 16 December, the 187th Reserve Division, which at that time was subordinate to the 69th Corps, which in turn was subordinate to the 2nd Panzer Army, speaking for the area, "Tuzla":

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"According to statements of inhabitants a band group of 1500 men has retreated from the area of Crna Bjaka into the area of Krivaca and Dzinrize". In reprisal for a mine attack near Bajic, 6 hostages were hanged at the place of the attack;

Then there is a daily report of the 69th Corps for the 23rd, again citing the activity of the 187th Reserve Division, one of its subordinate units:

"Area Brcko: Attack of band group (400 men) on Stresinci near Jamena repelled partly in hand to hand combat."

"Area Virovitica-Bjelovar-Keprivnica: (December 21, 1943) Majuro occupied by band, approximately 1000 men. Armament in area southwest Bjelovar. In Bjelovar on 22 December, 25 hostages and people suspected of being bandits shot to death as reprisal measure for attacks by bands."

Then on page 103 of the German, 77 of the English, again from the same units, the 69th Corps and 187th Reserve division:

"During mopping up operations by the II Ustasha Brigade and by police units near Djakovo several villages were burned down as a reprisal measure, 2 bandits captured."

Then we have a report of 15 December, with reference to the action "Panther", concerning the 373rd Infantry Division, part of the 15th Mountain Corps, which at that time was commanded by the defendant Leyser:

"During the night propaganda vehicles were employed; 4 deserters."

Then over on page 103, for the 373rd Division again, still of the 15th Corps:

"Base of Kola taken by bandits during the night of 13 to 14.12.

9 Croats dead, 33 Domobrane and 2 officers missing. German relief forces occupied Kola without contact with the enemy but Croats again evacuated Kola. Enemy attack allegedly was carried out by 1500 bandits."

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Then for the 69th Corps:

"Since 8 December 1943 stronger sabotage activity against main railroad line. 173rd Reserve Division seized 220 hostages for attack on railroad near Putinci."

This 173rd Division, we have not referred to it lately, however, that is one of the three divisions along with the 187th Reserve and originally the 1st Cossack, which was subordinate to the 69th Corps which was a corps of the 2nd Panzer Army, and your Honors will recall at the commencement of this book, the reports from the First Cossack Division were being made to the 15th Corps, and although we have never found the order transferring that Division from the 69th to the 15th Corps, the earlier reports which were contained in Book 14 for actions in the early part of 1943, were made from the 1st Cossack Division to the 69th Corps.

That, if Your Honors please concludes this book, and we are endeavoring to get the documents for the next book. It is just a matter of bringing them up here. I do not know where they are.

Dr. Laternser is here to speak.

DR. LATERNSE: Your Honors, after looking through the translations, on page 101 of the English document book -- I am sorry, on page 74 of the English document book, the German word, "uebergall" has been translated, "attack". That is the first case. A second case, on page 76 of the English Document Book, at the top of the page, the word "Ueberfall" has again been translated by the word "attack".

The third case is on page 76 of the English document book, and is the word "Bandenueberfall" translated in the text by "attacks by bands," On page 78 of the English document book, in the center of the page, the word "Fuer vahnanschlag bei Putinci" is translated by "attack on railroad". These four translations, I would be grateful if these translations could be submitted to the interpreters.

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MR. DENNEY: We have no objection to submitting them, your Honors. There is one point I would like to make. I have spoken to Dr. Laternser about it before. I think it is only fair that when he comes up with a translation disagreement, if he will just call our attention to the German text with which he disagrees. Now here it is obvious that he finds four translations of the word, "attack" as improper. The interpreters hear it and their first reaction when they get the German is, "Well, what different can we find than 'attack' to use", whereas if he will come up, -- I have no objection at all to any trouble or fault he wants to find with our translations. We are certainly trying to make them as proper as we can, but if he will just come up and says, "I want the word "Bandenueberfall" on page 102 of the German

translated; or I want the word "Eisenbahnueberfall" on page 76 of the German translated, so that the translators at least can go into it with an open mind, I do not think that request is unreasonable.

PRESIDING JUDGE CARTER: You may send up the original. We will have it interpreted.

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DR. LATERNSE: From what the Prosecutor has just said I want to say this; I want to add something. I believe I did not proceed in any other way, I pointed out the pages and the places to which I objected, and I did not choose any other way. I also have an interest that the translation is done in the proper way.

THE PRESIDENT: (JUDGE WENNERSTRUM): I think we will take our morning recess while you get the pages and lines.

MR. DENNEY: If Your Honor pleases.

(A RECESS WAS TAKEN FROM 1105 to 1115)

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

THE PRESIDENT: (JUDGE WENNERSTRUM): Judge Burke and I regret to announce that Judge Edward F. Carter has received a cablegram that his brother in America was recently killed in automobile accident. Naturally Judge Carter is deeply affected; and out of respect to him, and because of his and our wish in the matter, the Tribunal will stand adjourned at this time until 9:30 tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until 9:30 o'clock tomorrow morning (THE TRIBUNAL ADJOURNED AT 1117, TO RESUME

SESSION TUESDAY, 5 August 1947, at 0930) Official Transcript of Military Tribunal V, Case VII, in the matter of the United States of America against Wilhelm List et al, defendants, sitting at Nurnberg, Germany, on 5 August 1947, 0930, Justice Wennerstrum presiding.

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THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V. Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, you will ascertain if all the defendants are in the Courtroom.

THE MARSHAL: May it please your Honors, all the defendants are present in the Courtroom.

THE PRESIDENT: You may proceed, Mr. Denney, with such matters as you may desire.

MR. DENNEY: May it please your Honors; Dr. Laternser I wonder if you step up and we can look at these translation notes and make sure that I have them all properly marked. Dr. Laternser?

If your Honors please, at this time I would like to hand to the interpreters Exhibits 372 and 373. The word which appears in Exhibit is on the third line from the last of the last page of the Exhibit in the German and is the word "Ueberfall."

And in 373 the first word appears on the third page, counting this title page as one, and is on the last line of that page, the word "Bahnanschlag."

The next word is on the sixth page and appears in the last line of Paragraph D, and it is "Ueberfallstelle."

And the last word appears in the last line of Paragraph B on the last page of Exhibit 373 and is the word "Bandenueberfalle." And I would ask the interpreters to translate those words.

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THE PRESIDENT: If the interpreters will please state the line and page of the English documents, that will be helpful to the Tribunal.

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MR. DENNEY: The first word, Your Honors, is on page 74 of the English, Document [NOKW-931](#), Exhibit 372. It is the fourth word in the paragraph which appears at the bottom of that page "reprisal measure for attack." And the second is on page 76 of the English, Document [NOKW-073](#), Exhibit 373 in evidence. And it is the third last word on that line which is underlined. "Attacks." The third word is the third and fourth words on page 78 of the last page of Document Book 15. The same document, the same exhibit. The first on the second last line under the entry of 273 Infantry Division. The second word in the last sentence, "attack", and the fourth word is the fifth word from the end of the entry under the 69th Reserve Corps, "attack."

INTERPRETER SCHAEFFER: Page 74 of the English, 104 of the German, the German word "Ueberfall" would be translated as "surprise attack." The sentence should then read: "Reprisal measure for surprise attack on the road patrol in Elbasan..." That is the first place. In the second case in question, on page 76 of the English Document Book, page 102 of the German Document Book, the word "Bandenueberfalle" should be translated as "surprise attacks by bands." The sentence should then read: "21 December. In Bjelovar 25 hostages and people suspected of being bandits shot to death as reprisal measure for surprise attacks by bands."

The third case is on page 78 of the English --

MR. DENNEY: Page 58, it can't be on 58.

INTERPRETER SCHAEFFER: Page 78.

MR. DENNEY: I am sorry, I misunderstood you.

INTERPRETER SCHAEFFER: And page 103 of the German, the word in question reads "Bahnanschlag," "surprise attack on railroad." The sentence should then read: "173 Reserve Division seized 220 Hostages for surprise attack on railroad near Putnic." And the last case in question is on page

102 of the German, and the word in question is "Ueberfallstelle". That is "the spot of the surprise attack."

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The sentence is on page 76 of the English Document Book, on top of the page: "In reprisal for a mine attack near Rajac, 6 hostages hanged at the place of the surprise attack."

Those are the four cases that were being questioned.

MR. DENNEY: In reply to a request by counsel for the defendant Rendulic, I would like to hand his counsel a copy of "Recht der Landkriegsfuehrung", and in that the prosecution is signed out with this book from the library, I would appreciate it if counsel would make such use of it as he needs and return it within one week, lest we be fined.

Mr. Fenstermacher has made available to counsel for the defense, an additional list of 54 documents which are in the document room, under a memorandum of 4 August. I now hand to Dr. Laternser a large stack of material which I have not counted, and which comprises the balance of the documents which the prosecution has in Nuernberg. These documents have never been translated, and I am giving him the original photostatic copies. He may have them for as long as he wants; however, I would certainly appreciate it if he could have them returned to us ultimately.

In addition, here is one more, and Mr. Fenstermacher's memorandum covering the deliveries.

THE PRESIDENT: To what exhibit and what matter do these documents refer, Mr. Denney?

MR. DENNEY: They are documents, if Your Honors, please, which were sent to us from Washington in connection with our request throughout the case that any material having any bearing whatsoever on this matter be forwarded to Nurnberg. This material has been sent under that directive. We have felt that it is not such material as has sufficient bearing on the case to warrant its presentation to the Court; however, in line with our discussion with Your Honors, and defense counsel of last week, we are delivering all of the documents to Dr. Laternser for his examination.

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These copies which have been physically handed to him today, together with the various lists which have been made available to him from the document room, comprise all of the documents which we have here except those which are being held for cross examination and except those which are in the document books.

I now hand Your Honors three copies of an addendum to Document Book 3, 24 copies for defense counsel, two copies for Major Hatfield, one for the interpreters and one for the reporters. This is an addition to 113-A, which appears at the close of document book 3 and concerns Exhibit 100-B in its various parts. It should be marked page 173 and inserted at the end of Document Book 3.

I now hand Your Honors three copies and 24 for defense counsel of another paper which I shall identify in a moment. Two copies for Major Hatfield, and one for the court reporters and interpreters. This

should be marked Exhibit 319-A, and placed at the conclusion of Document Book 12. The pagination is 166 and 167. Two copies for Major Hatfield and one for the court reporters and interpreters. This should be marked Exhibit 336-A for identification and given pages 143 and 144, and placed at the conclusion of Document Book 13. This last copy which has been handed to Your Honors, defense counsel, the interpreters, the reporters, and Major Hatfield, should be marked 363-A, pages 144 and 145 of Document Book 14. And copies for the court, the defense counsel, the interpreters, reporters and Major Hatfield have been given as the last insert which is Exhibit 373-A page 79 of Document Book 15.

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At this time I am advised by counsel for the defense that the defendant Dehner is no longer represented by counsel, and requests that an adjournment until 1:30 be granted in order that an effort maybe made by Dr. Laternser on behalf of the defendant Dehner to obtain counsel for him, and it is my understanding that if defense counsel are unable to obtain someone at that time a further adjournment until tomorrow morning may be requested. However, they hope to work something out between now and 1:30.

THE PRESIDENT: The request and application made by Mr. Denney will be granted. The Tribunal respectfully asks Dr. Laternser to make his contacts and to make every effort to have a representative of the defendant Dehner here at 1:30.

The Tribunal will now stand in recess until 1:30.

(Thereupon at 10:05 a.m., a recess was taken until 1:30 p.m.)

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THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

THE PRESIDENT: Are there any matters that you desire to present to the Court or to the Tribunal at this time?

MR. DENNEY: May it please Your Honors, Dr. Laternser, on behalf of the Defendant Dehner who is absent, has advised me that he has tentatively secured a counsel for the Defendant Dehner and that this afternoon they are conferring in an effort to determine whether the counsel is satisfactory to the defendant and whether the counsel can undertake the case. And I have been advised by a member of the Defense Information Center that the proposed counsel is satisfactory to them; and with that in mind, in view of the absence of the Defendant Dehner, defense counsel have asked me to request that we adjourn until 9:30 tomorrow morning. The Prosecution has no objection in order to enable the Defendant Dehner to secure counsel, and it is so requested by the Prosecution.

THE PRESIDENT: Does Dr. Laternser care to make any statement at this time in connection with this matter?

DR. LATERNSEER: Your Honor, what Mr. Denney said just now is quite correct. I assume that the question of the defense counsel for General Dehner can be decided this afternoon. Since General Dehner himself is not present now, I, in his name, ask for an adjournment.

THE PRESIDENT: Will Mr. Denney or Dr. Laternser advise the Tribunal during the afternoon as to what they may learn as to the developments?

MR. DENNEY: I certainly will, if I hear anything, Your Honor.

THE PRESIDENT: Now, in connection with the motion which is made on behalf of the defendants for the sending of representatives of defense counsel to Washington and the resistance thereto, which was presented to the Tribunal during the morning, may I make an inquiry as to whether or not the documents that you turned over to Dr. Laternser this morning bear upon that question? I am directing my inquiry to Mr. Denney.

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MR. DENNEY: Yes, Your Honor, they are the balance of the documents which we had here. We never had them translated, and there, as Your Honors saw this morning, quite a substantial pile of them.

THE PRESIDENT: And does the record show what they are---the number and the amount of them?

MR. DENNEY: The record, I believe, does not show the number, Your Honor. The communication which was handed to Dr. Laternser from Mr. Fenstermacher by me lists the documents, and other than a statement that there are a large number of documents, the record does not show what they are either by document, name or number or pagination.

THE PRESIDENT: And it's stated in the resistance, on behalf of the exception of some few that you may be withholding for purposes of the Prosecution for cross examination.

MR. DENNEY: Your Honor, they are all that are here in Nurnberg and all of which we have been advised from Washington; and of course they do not include the balance of the document books. We are on No. 16 now --say six document books plus a book for the Norwegian, which is seven; and there may be one more of the general documents that are being processed now.

THE PRESIDENT: I am making these inquiries for purposes of the record and also for the information of the Tribunal.

MR. DENNEY: I might say that the answering papers were served on the defendants--that is, given to defense counsel--eleven copies just before this afternoon's session. I left some in Your Honors' office during the luncheon period, and copies were served on the Secretary General's office during the noon hour.

THE PRESIDENT: I think that answers the inquiries that I have in mind unless other members of the Tribunal have some statement to make. The application and motion for adjournment until 9:30 tomorrow morning, will be granted. This Tribunal will stand in adjournment then until 9:30 tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until 9:30 tomorrow morning.

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(The Tribunal adjourned at 1340, to resume session Wednesday, 6 August 1947, at 0930.)

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Official Transcript of the American Military of Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 6 August 1947, 0930-1630, Justice Burke presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the court.

JUDGE WENNERSTRUM: The Tribunal will ascertain whether all the defendants are present in the court room May it please your Honors, all defendants are present in the court room.

The persons in the court room will be seated.

JUDGE WENNERSTRUM: Judge George Burke will preside at today's session of the Tribunal.

PRESIDING JUDGE BURKE: You may proceed, Mr. Denney.

MR. DENNEY: May it please your Honors, I have received a notice from Dr. Mueller-Torgow asking for the balance of Exhibit 336, which, if your Honors recall, is Document NOKW 293 and concerned the German occupation of Croatia. I now hand Dr. Torgow the balance of the exhibit and the court can see that it is about 250 pages. The matters which are covered are the Italian occupation, the occupation of Finland, the occupation of Rumania, the occupation of Hungary, and some other allied matters. I would like to get this document back from Dr. Mueller-Torgow when it has served its purpose

PRESIDING JUDGE BURKE: Is counsel for defendant Dehner present today?

MR. DENNEY: May it please your Honors, Dr. Latenser yesterday was able to arrange for Dr. Gawlick to represent the defendant Dehner and it is my understanding that although, at least a formal notice to that effect has not been served on the Prosecution, and I don't know about the Tribunal, that Dr. Gawlick is agreeable to representing the defendant Dehner and the Defendant Dehner is agreeable to having Dr. Gawlick represent him.

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Perhaps Dr. Gawlick would like to make a statement for the record to that effect in order that your Honors can be informed from him.

PRESIDING JUDGE BURKE: If he cares to do so I'm sure the Tribunal will be glad to hear him.

DR. GAWLICK: (Attorney for the defendant Dehner) Your Honors, if the Tribunal agrees I have taken over the defense of the defendant Dehner. Of course it is extremely difficult for me to intervene in the process at this moment. I had refrained, so far, from asking for a postponement. However, I might have to ask for adjournment when the proper time arises. In the event that it is not possible for me to get the necessary evidence, when the turn for my case comes.

PRESIDING JUDGE BURKE: I think the Tribunal is mindful of the difficulties involved in your coming into the case at this time and we will try to suit the situation to the convenience of your client and yourself.

MR. DENNEY: It is believed that Dr, Gawlick will be able to obtain all of the document books which the former advocate for the defendant Dehner had and I might say for the record that yesterday afternoon Dr. Gawlick came to the prosecution office and we made available to him for a cursory examination all of the documents which will be submitted today concerning his client. The other documents, of course, are in the record and if we can be of any help

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to him by spending time out of court over these documents we will be very glad to do it.

PRESIDING JUDGE BURKE: I am sure the members of the Tribunal will appreciate any cooperation and assistance and help you may be able to furnish so as to prevent unnecessary delay.

MR. DENNEY: We proceed now to Document Book XVI. We still are in the period late '43 and early '44. The establishment of Army Group [F has](#) already been detailed At this time the defendant Weichs is still the Commanding General of Army Group F; his chief of staff is the defendant Foertsch. Army Group E was under the command of General Loehr; Military Commander in Serbia was General Felber and his chief of staff was the defendant Geitner; under Army Group E there is the 18th Corps commanded by the defendant Felmy, the 22nd corps commanded by the defendant Lanz, and on the other side, the 2nd Panzer Army under the defendant Rendulic, and under the XVth Mountain Corps and the 21st Mountain Corps, each of which were commanded at different times by the defendant Leyser, and the 69th Mountain Corps which was commanded by the defendant Dehner.

On page 1 of the English and 1 of the German is Document [NOK W 648](#). Major Hatfield, is this Exhibit 374? Thank you, which the Prosecution offers as Exhibit 374. This is extracts from the war diary of the 69th Corps and at one page in the diary there is a signature of the defendant Dehner, on page 5 of the original, - I shall point it out to the Court as we pass it and hand the document up momentarily. The first entry is for the 23 September 1943. It speaks of "strong enemy forces in Ivan Zabno and Eastward from there approximately 4,000 men armed with guns, light machine guns and trench mortars.

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On the basis of the order of the Commander in Chief of the 2nd Panzer Army – No. 38/43 secret dated 15 September" – and it is submitted that is the order which is Exhibit No. 340 which is in Document Book XVI, at page 15 of that document book. That, if your Honors will recall, is the order of the defendant Rendulic which sets up the 50 to 1 ratio for a German killed and 25 to 1 for a German wounded and goes into some detail with reference to retaliatory measures.

–"the corps headquarters, pursuant to this order, issues an inclusive order pertaining to, 1) Propaganda to induce desertion, 2) Taking of hostages, 3) Evacuation and installation of work camps, 4) Reprisal measures. See enclosure."

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And then under date of 4–10, 4 October, "A total of 40 hostages executed as reprisal for the attacks on railroads of the last few days.

..."

And below that on page 4 of the German, page 2 of the English, there appears the signature of Steinbeck, Colonel in the General Staff Corps, who was Chief of Staff for the 69th Corps, and Dehner, General der Infanterie, Commander of 69th Res. Corps.

Then on 17 October.

"Reprisal measures reported executed for attack on Novska by 187th Res. Div. That is one of the corps units. "After the arrests of 27 male hostages, 50 to 60 years of age (1/3 of these were railroad personnel in Novska) who were proved to have been members of bands, and after the evacuation of the population, the villages of Paklenica and Vocanica were burned down."

This has to do with the particulars of Count 2, Paragraph 9–G, in the indictment.

Then 19 October, Mopping up of the Fruska Gora by police in the area of Rakovac.

75 people suspected of belonging to bands were arrested. 5 enemy dead. Village burned down because nest of the band.

And then on the 11th:

At the same time, band attack by approximately 3 to 4 hundred men against the bridgehead of Broke. Both attacks miscarry. In many cases hand to hand combat occurs.

For the next entry, this is a time entry, 15.30. It is submitted, it is still under the date November 11:

173rd Res. Div. reports hanging of 20 hostages and shooting to death of 20 hostages, as reprisal for railroad sabotage near Stara Pazova, where an SS transport ran on to a mine and as reprisal measure for an attack on railroad patrol 40 Km. Southeast of Vukovar.

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And then for December 2:

"In the sector of the 173rd Res. Div. ---" which is also one of the subordinate units of the 69th Corps.

"4 inhabitants of the bandit village Ugrinovei were hanged in the village, 2 dugouts which were destroyed and 5 fleeing bandits were shot dead as a reprisal measure for railroad sabotage."

And at the end appears the signature of Steinbeck, Chief of Staff, and where it is typed "General of Infantry, and Commanding General of LXIXth Res. Corps, there is no signature above that.

We will pass this up to Your Honors. Above that appears the signature of defendant Behner. Then if you will give it to Major Hatfield, after you have read it, please.

On page 5 of the English and page 11 of the German, NOKW 658, which becomes Exhibit 375. This entire exhibit is all typed. There is no signatures on it at all. There are various pencilled notations, and we see "War Diary", and there are various initials, and various interlineations, and reports from the 69th Corps to the 2nd Panzer Army, and the 2nd Panzer Army at this time was commanded by the defendant Rendulic, and the 69th Corps by the defendant Dehner. There are information copies that go through out to the Military Commander Southeast, Belgrade, and at this time that was the then General Felber; and also to Corps Headquarters IV Corps, Banja Luke, and Commanding General IV Corps, then at that time was General Leyser, and also copy to the German General - Plenipotentiary in Croatia, and I would like to call the court's attention to the statement "only for the personal information of the Chief of the General Staff."

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The first report for the 20th September, and is one for the 173rd Reserve Division, and it recites the activities for the previous day:

Band base raided and destroyed during the partial operation SS-Gruppenfuehrer Kamerhofer. Own casualties: 3 wounded, 36 enemy dead, 21 members of band shot to death, about 60 prisoners brought in.

Then the report for the 21st but including the 20th of September, 187th Reserve Division:

"10 hostages hanged on the scene of the incident in further reprisal for the attack on truck of Croatian Panzer Regiment 202."

Then there is a reference to an earlier report.

Then the report for the 23rd, submitted the 24th, for the 173rd Division:

Search of the eastern part of Pruska Gora on 22.9 during operation SS Gruppenfuehrer Kammerhofer near G R G E T E G, search also of B U K O V A C and of K L O S T E R (Monastery) R E M E T A (northeast of Grgeteg). Grgeteg and Bukovac and villages burned down.

(Last 3 words struck out).

During these operations 2 wounded of our own. 13 enemy dead, 18 members of bands executed, 40 hostages taken.

Page 1,452

For 187th Reserve Division:

Attack on G R A B O V O (9 southeast of Vukovar) during the night of 22.9 at 2130 o'clock. 1 German and 2 Hungarian farm managers shot to death. Grain was taken away. Leader of the band was a former manager of the farms, who had been dismissed. Continuation of operation Kammerhofer on 23.9.

All male inhabitants of K R U S E D O L - P R N J A V O R (16 northeast of R U M A) had fled. 84 persons arrested, among them 20 men and 6 women, unmasked as bandits.

187th Reserve Division:

a) During the night 22./23.9. attack on V I R O V I T I C A repelled. 100 hostages taken because shots were fired from private houses."

Then for the 25th, the 187th Division, still reporting through the 69th Corps, through the 2nd Panzer Army, with information copies to the same headquarters which were initially noted:

"While advancing in preparation for the operation, parts of the 5th Battery of the Artillery Reserve Regiment 96 with infantry cover were attacked by a strong band in the forest 1 km northeast Vranovci." and then they recite their casualties.

"Only minor contacts with the enemy during whole operation."

And then they refer to "The noted band case of Busnjevcı, was burned down in reprisal for the attack.

Under d) "100 men forcibly recruited in Prestovak."

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Then for the 30th of September, 173rd Division:

"15 hostages executed by police on the scene of the incident for the mine attack on Wehrmacht transport train which caused the death of 1 man of the escort personnel - as reported in the daily report 28.9. paragraph IIa.

Then for the 3rd October, to the 173rd Division again, "At total of 40 hostages executed on the scene of the incident by the police (last words crossed out) as reprisal measure for the attacks on the railroad of the last few days."

And that which is submitted is the same one referred to under entry in this report. The operation by and SS Officer named Kammerhofer.

173rd Reserve Division:

Police Operation Kammerhofer:

"The forest terrain west of OBB R E Z was combed on 7.10. No contact with the enemy. The summer camp and the band were destroyed, as well as the village of V I T O J E V C I, which was burned down, No losses of our own, 25 prisoners and hostages.

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And on the same day 187th Division:

"100 hostages taken in reprisal for the attack on the main railway line near Novska. The villages of Paklenica and Vocarica were evacuated and burned down."

"Residents of Koritna --"

This is a reference to the same section of the report which appeared earlier in the prior exhibit at page 2 of this book. The report in that instance went from Corps to Army, and here is another copy of the same report from the Corps to the Army:

"--were found to be infected with communism and to be looting the neighborhood. Reprisal measures are started. Communist courier detained, hanged after interrogation."

Then on the 9th October, 187th Division:

"20 people suspected of belonging to bands were executed from the neighborhood at the locality of the incident in reprisal for the attack of the 9.10., 01.30 o'clock, on the freight train on the main railroad 12 miles southeast Vinkovcias reported in the morning report 9.10."

This refers to Count I of the indictment, Paragraph 5-M, In the report for 12 October again 187th Division: "2 bandits arrested in Koritna. 1 of them hanged immediately. Hostages taken."

I would like to hand this to the interpreters. I will mark the sentence and ask that they translate it, if that is agreeable with Dr. Laternser. I can't seem to figure out what it is in the English here.

JUDGE BURKE: It may be handed to the interpreters.

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PRESIDING JUDGE BURKE: To what line, on what page are you making reference?

MR. DENNEY: It is the 1st line under 173rd Division, on page 15, your Honor, and it is page 36 of the German, the last paragraph on that page, the first line which begins with: "In the villages--"

PRESIDING JUDGE BURKE: Thank you.

MR. DENNEY: Just the one sentence, the sentence I have marked.

THE INTERPRETER: The translation from the original German is as follows: "In the villages through which the calvalry passed, only old people and children."

MR. DENNEY: "In the villages through which the calvalry passed, only old people and children. 11 fleeing bandits shot to death. According to reports of confidential agents, parts of bands with women and children had fled in a southwesterly direction across the Save between the villages of Bosut and Jamena during the last days."

And then the report for the 15th of October under the 187th Reserve Division:

"Band group in strength of about 1,000 men reported near Bezje. Majority of population of the villages of Paklencia and Vocarica taken hostages. Villages burned down as reprisal measure for the band attack on Novska."

And again we have the same reference to which we earlier referred, both in this report and also from the War Diary of the 69th Corps.

"Outside of the security sector: Panzer train 23 hit a mine between Blinski Kut and Sunja. Railway line 15.10. Road reopened for traffic 15.30. As reprisal measure village of Kinjacka burned down."

And a report for the 17th of October, still from the 69th Corps and still going to the same headquarters, the Second Panzer Army, and the same information copy, 187th Reserve Division report:

"Arrest of a woman teacher as hostage in Kapela whose husband, a Croatian captain, deserted to the bandits and who wanted to persuade soldiers of his company to desert also."

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Report for the 19th:

"The area of Rakovac was especially searched during the moppingup of Fruska Gora by police troops Kammerhofer 18.10. Enemy contact with small band groups. 5 enemy dead. Several dugouts and hideouts in Rakovac were destroyed. The village which was a pronounced nest of bandits was burned down. 75 people suspected of belonging to bands arrested."

"187th Division: 3 bandits lured into ambush by patrol of the VI. Ustasha Battalion near Ljeskovica shot to death during the night. Among them were communist village leaders. Important documents captured."

Then for the 20th for the 187th Division:

"Passenger train 12 northeast Bjelovar hit a mine. Bandits attacked train, looted and "burned it. After action by parts of the Res. Gren. Battalion, 2nd Battalion of the 482nd Regiment they withdrew in the direction of Sandrovac. 25 members of the band were executed and their execution made public as reprisal measure for this attack and the attack on Vukusavljevica on the 16th."

And for the 30th for the 187th Reserve Division:

"7 bandits in German uniforms were given battle by a patrol of Str: Topolje. No losses of our own. Enemy losses: 3 dead, 9 people suspected of being bandits, shot to death."

The 1st of November for the 187th Reserve Division:

"During reconnaissance in the area of Potocari 6 bandits shot. Captured material: 3 rifles. During reconnaissance by Ustasha troops stationed in Krizevic in the area northeast Krizevci, 7 bandits shot, 4 captured."

For the 2nd of November for the 187th Reserve Division:

"3 bandits hanged by the 1st Battalion of the 130th Regiment during reconnaissance in the forest area around Vrbanja and Drenovci."

DR. LATERNSEER: Your Honors, unfortunately, at the moment I can not follow the proceedings. The fact that the numbers of the pages are not given in German -- I cannot find the page which is being read.

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MR. DENNEY: I am sorry, your Honors, I will give the pages in German. Excuse me, Dr. Laternser. This is on page 53 of the German and page 22 of the English, report for the 2nd of November for the 187th Reserve Division. It appears on the bottom of page 53 of the German.

"3 bandits hanged by the 1st Battalion of the 130th Regiment during reconnaissance in the forest area around Vrbanja and Drenovci."

And then under the date of 1 November:

"2nd and 3rd Battalions of the 8th Mountain Regiment surrounded and searched C. Daruvar and Sibovac. 1 supply commissar and 1 bandit shot to death."

I again direct your Honors' attention to the use of the word, "commissar."

"34 bandits and people suspected of belonging to bands arrested. Captured material: 2 rifles, 2 vehicles horses drawn carrying bandages, food, tools, equipment and courier mail."

On page 23 of the English, page 55 of the German, report for the 4th of November, 1943:

"173rd Reserve Division: 100 bandits hanged for the attack on railroad Ratkovac-Ledinci, railroad attack Mitrovica, and attack on Police forces near Grgurevci."

"187th Reserve Division in the Brcko Area:

"Gradacac and Modrica occupied by 2 Communist brigades (approximately 1200 men).

And over on the top of page 56 of the German and still on page 23 of the English: and still for 187 Res. Div.:

"664 hostages taken by SS-police sector leader Osijek -- for 180 missing during attack on labor service camp Josipovac. These hostages were from Bundimci and BijeloBrda. Bandit leaders and the police are discussing exchange."

And then I would like to direct the Court's attention here to the part with reference to the exchange negotiations about these prisoners, the 664 taken by the SS in retaliation for the 180 people missing and that the police reports here to the army about it and the army makes a note that the SS are negotiating with the bandits with an eye to a possible exchange at some later date.

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And then on page 57 of the German and 24 of the English, report for the 5th of November for the 187th Reserve Division:

"After railroad sabotage 3 kilometers east of Nova Gradiska the terrain north of the location of the detonation combed. Bandits and people suspected of being bandits hanged on the scene of detonation. 3 or 4 bandits shot to death during reconnaissance northwest of Koprivnica. No other contact with enemy."

Page 59 of the German and page 25 of the English, for the 6th of November, still from the same unit, the 69th Corps and directed to the 2nd Panzer Army with the same information copies:

"173rd Divisions: 19 Communists hanged at scene of detonation in reprisal for railroad explosion Mitrovica-Lacarak on 1.11," and that is the same one that is referred to in an earlier section of this same exhibit.

"187th Reserve Division: Jamena after evacuation as a pronounced bandit next partly burned down."

Page 61 of the German and page 26 of the English -- this should be the "8th of November" up here at the top, your Honors. There is nothing in the English. However, on the original it says: "Teletype dated 8 November 1943." It is a daily report for the 7th of November:

"173rd Reserve Division: 21 hostages shot to death as reprisal for the attack on the freight train between Lacarak-Martinoi as reported in the daily report of 7.11. paragraph II"; and that, of course, refers to the paragraph which appears in the prior page, page 25 of the English and page 59 of the German.

And then on page 65 of the German, page 27 of the English, report for the 11th of November:

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"Operation 'Ferkel': Subsidiary operation. The night of 10.11. Band attack of 1500 men supported by anti-tank guns, trench mortars and artillery against the entire front south of Brcko. Simultaneous band attack of 3 to 4 hundred men against bridge head east of Brcko. Enemy had good leadership.

"173rd Reserve Division: 20 hostages hanged and 20 shot to death in reprisal for railroad sabotage near Stara Pazova" -- and then it refers to the daily report of the 4th under paragraph II with reference to the same division, the 173rd -- "and for attack on patrol 40 kilometers southeast of Vukevar," which refers to the daily report of the 9th, paragraph III, also the 173rd Reserve Division.

And then we have an entry for the 1st Cossack Division which was the 3rd division operating with the 69th Corps at that time:

"9 bandits shot during reconnaissance operation on Punitovci."

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(Mr. Denney) Then on page 68 of the German, 28 of the English, there is a report for the 14th of November, and then if defense counsel will turn to page 69, your Honors, there, the 187th Reserve Division:

"13 hostages hunged in reprisal for attack on passenger train 2 west Okucani, see daily report of the 13th".

Then on page 70 of the German, 28 of the English, report for the 16th of November, and then turning over to page 71 of the German:

"187th Reserve Division: During reconnaissance on Soljani 14 Northeast Broke, skirmish with bandit group three to four hundred men. Escaped Volksdeutsches girl reports: about 500 bandits attacked Soljani in the afternoon hours. Volksdeutsche murdered, families of members of the Ustasha kidnapped."

"1st Cossack Division: During reconnaissance operation in area northwest Djakove 2 bandit leaders, 1 courier with records of the communist detachment Esseg and 12 bandits were captured. 24 bandits and 1 Cossack deserter shot to death."

I would like to call the court's attention to the fact that the First Cossack Division is appearing, operating again under the command of the 69th Corps.

If your Honors will recall, this latest division was under the 69th Corps, and later we had some reports where it was reporting to the 15th Corps, and the 15th Corps was sending their reports on, and now, starting with the entry of the two days before this, the 11th of November, again we see the first Cossack Division returning apparently to the 69th Corps.

It is submitted that if they are reporting to them, if they are not an organic part of the Corps, they are at least attached to the Corps, or assigned to the Corps for this period.

On page 72 of the German, page 30 of the English, report for the 26th of November-

DR. LATERNER: Your Honor, May I look for a short time at the English document book? Your Honor, after just a fleeting glance at this, may I say, the German document book is much more extensive.

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In our German Document Book we are on page 71, and in the English Document Book, at the moment, 29 is being heard from; normally this should be the other way around. Since the translating notes take about one page, so that if the document books have always the same contents, the English Document Book, because of these certificates, must be more extensive. This was the usual situation which I found in the former document books.

Now it seems that things are quite different. The German document book is much more extensive. It seems to me that in the English document book something is only entered in order to be more exact; it seems to have been entered if there is something which the prosecution wishes to present as an incrimination, but if the reports are so picked out, and only, the last part is submitted, why, the Tribunal does not see the basis for this evidence, and then the court cannot judge what it is all about.

I think that I will ask the Tribunal, -- must ask the Tribunal, to have a break here so that I and my colleagues can examine the two document books a little more closely than I was able to do now.

It is really so that the German document book is two or three times larger than the English document book, and then I would have to protest against this. I would therefore ask your Honor that the Court have a recess for a short time so that we can compare the two document books.

PRESIDING JUDGE BURKE: Is your difficulty, Dr. Laternser, concerned particularly with the fact that you have so much more volume that it become difficult to follow the observations made by the prosecution?

DR. LATERNSEER: No, that is not the real reason. The real reason is that something which I have not been able to check yet, -- the way in which the English document book seems to have been compiled, can give a false impression. Thus, for instance, when the reports contained in the German document book say that the bandits have had great activity, then, of course, measures have to be taken by the occupation forces, but the Tribunal gets a quite wrong impression if the prosecution leaves out the activities of these bandits, which, for instance, are contained in the German document book, and only enters those measures which are taken against the bandits.

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So, your Honor, it is not that we cannot follow, but in my opinion, from my first impressions, this English document book is not so compiled as it should be from the point of view of the defense, in order not to give an entirely wrong impression.

PRESIDING JUDGE BURKE: It seems to me on that subject, Dr. Laternser, we are not assuming to take for granted any observations or conclusions stated by counsel for either side, but will require some formal and more definite type of proof, so I think that you need not be concerned with its effect upon the Tribunal.

And as has been pointed out to me by my colleague, Judge Carter, you can cause any other matter to be translated and offered on your behalf or on behalf of the defendant.

DR. LATERNSEER: I see that, but I also think that if the defense then at some other stage of the proceedings wants to get parts translated which seem to us important, then the translation department will have an awful lot to do, and then it will not be possible to that extent which in our opinion we think necessary.

PRESIDING JUDGE BURKE: The translation department will have to bear the additional burden that may be placed upon them.

DR. FRITSCH for the defendant Rendulic: Your Honor, I would like to support this application of my colleague, Dr. Laternser. In my opinion the difficulty in this question is as follows: If it is as Dr. Laternser states, then the Tribunal will have completely different documents, that is, more or less than the defense, so that the defense is not in a position to assume that these documents which the defense has, also go to the Tribunal. From this, difficulties may arise.

JUSTICE CARTER: Mr. Denney, the fact is, that this whole exhibit if offered in evidence isn't it?

MR. DENNEY: Yes, your Honor.

JUSTICE CARTER: You are reading a part of what has been offered in evidence?

MR. DENNEY: Yes, your Honor, we submitted the whole thing, everything that is in their book. The only point is we do not translate every part, and I disagree with Dr. Laternser's statement that we just present our side of the case. There are certainly plenty of things being read in here to show activities by the people opposed to the German forces down there.

We just finished stating about attacks on railroad trains, and things like that. He has had the document book, -- this particular one, -- for three or four days. I have no objection to his reading anything in, in addition, that he wants to.

JUSTICE CARTER: It seems to me that the prosecution can read what they care to read from an exhibit and then anything that the defense wants to read in addition thereto, it is up to them to get it, and have it read into the record.

MR. DENNEY: That is the way it also seems to us, your Honor.

DR. LATERNSEER: Your Honor, I understand this regulation, but how should the defense be in a position -- that is, how is the defense to show to the Tribunal in a proper way -- the connections that exist between what the Prosecution reads and what the defense has to say to this. In my opinion, regarding the extent of the material submitted, this is an impossibility because if, as the Prosecution has just said, it submits the whole of the documents, of course they can do that, but the Tribunal can't really take in the whole of the documents, because I must assume that the Tribunal has not complete command of the German language, and it is simply impossible, and it doesn't help the Tribunal if the documents are submitted in German. And, therefore, if we are to point out the connection to the few lines which the Prosecution has read, we must be able to give the reason for this. May I please quote another small example from which the Tribunal can certainly see what I mean? For example, the Prosecution states that Village X was burned to the ground; and then in this they say, or they think they say that this is a war crime. But there is certainly no war crime when the troops were shot at from this village. Under these circumstances it constitutes no violation of International Law. The Prosecution ...

MR. DENNEY: It isn't proper to start arguing the law now. Your Honors have directed before that the document be submitted, and the law will be argued later. Dr. Laternser's view of the law and ours are substantially different.

JUDGE CARTER: Well, Dr. Laternser, it seems to me that if you have something in one of these documents that you want offered in evidence as part of your defense you can say that you want to offer additional parts of exhibit number so and so, found on page so and so, and put it in the record. But why can't you handle it that way and connect it up that way?

DR. LATERNSEER: I really don't see that this is possible, Your Honor because then the Tribunal would have about twenty document books which the Prosecution has submitted to them, and then come the German additions for about twenty or twenty-five document books.

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How then should the Tribunal find out what belongs to what, and for this reason, I think that it is extremely dangerous if the Prosecution only reads the few lines from which something is to be assumed, while the reason for this, the basis for this, the basis for this, is in the German and remains completely ignored. I don't think this procedure is right.

PRESIDING JUDGE BURKE: It is the feeling of the Tribunal, Dr. Laternser, that we have no desire to prevent you from offering such portion or portions of the various documents or exhibits as you may feel may be material or competent on behalf of the defendants. But at this time to attempt to segregate the views of the Prosecution and the defense in such a fashion that the cause for that might be given, I think will be difficult if not impossible, and we will not be unmindful of the fact, when you come to present your case, that you have the right to supplement such observations or proof or alleged evidence as may be offered to this by the Prosecution.

DR. LATERNSEER: Yes, Your Honor, but may I please point out something else which I have just been told by my colleague? Since the document books -- the German and the English Document Books -- are not the same, then the defense must be given the English Document Books first of all in order to find out which passages the Prosecution has included in the document books, and then there's a further difficulty -- not all of the defense counsels, or only a few of them, have a good command of the English language so that they could find out to which passages they would like to make additions. And there's a difficulty which arises from the discrepancies in the two document books. We wouldn't have to point out only small additions, but such important differences, as in this case, the defense thinks they ought to point out.

PRESIDING JUDGE BURKE: Let me inquire of Dr. Laternser, do you not also receive a daily record of the proceedings of the Tribunal?

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And are there not available for your use competent interpreters from German to English, and English to German -- or have members of your staff?

DR. LATERNSEER: Your Honor, it is true that we receive the protocol of the session, and we also receive them in German, it's true.

PRESIDING JUDGE BURKE: I think it is the view of the Tribunal, Dr. Laternser, that we will proceed as we have in the past, with the suggestion that was made by the presiding judge on the second day of the hearing of the Tribunal, and you will be given full opportunity to present such testimony or proof or such competent or material evidence as may bear upon the proper defense of any of the defendants in this case.

DR. GAWLIK: Your Honor, then I would ask that, first of all, a regulation should be made that if the English Document Book contains only part of the events, it should be made sure that this particular parts are contained in the German document book. Then, we can assume that what we have in the German document book is also contained in the English document book. For otherwise in our closing speech we could refer to the German Document Book – a certain sentence in the German Document Book – and then perhaps that sentence might not be in your Document Book, Your Honor. The two document books must be the same.

PRESIDING JUDGE BURKE: I thought the Tribunal had made it clear that you are privileged to use any part of the document book that you desire to make available for the information of the Tribunal?

DR. GAWLIK: Yes, Your Honor. Yes, we don't know which parts; we would have to compare the English and the German Document books to see that the same exhibits are there.

PRESIDING JUDGE BURKE: Have you not been presented by the Prosecution with all of the papers or documents making up the document books in German?

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MR. DENNEY: Your Honor, in their document books sometimes when we have translated them ourselves and not sent them to the Translation Department, the complete German text does not appear. However, in cases like this, when they have been sent down to the Translation Department, it is merely a matter of mechanics. They translate everything. When they translate one it goes in completely. They have available in them, it is true, the complete text.

PRESIDING JUDGE BURKE: That is the inquiry that I directed on behalf of the Tribunal as to whether all of this materials is available for counsel of the defense.

MR. DENNEY: Yes, Your Honor, it is all available. Part of it is in their book, and sometimes a complete exhibit will appear in our book and sometimes it won't be in the document room. They're certainly entitled to see any of these, and then, of course, any exhibits which Major Hatfield may have on the complete paper.

PRESIDING JUDGE BURKE: Has any difficulty been experienced by you in securing the material or the information to which Mr. Denney has just referred?

DR. GAWLIK: No, Your Honor. It's not a question of whether we have difficulties in obtaining any kind of material, but that a false impression arises with us. We assume by reason of the German Document Book, that the whole document book is submitted to the Tribunal, and, therefore, by reason of this mistake we will not submit the additions to the Tribunal, and then, in the final plea, differences will arise. I am working on the assumption that what is submitted to the Tribunal in the English Document books is only that which is contained in the German document books. Both document books must be exactly the same. If not, we get the Prosecution's reading only parts. But the German document book must be a literal translation of the English document book, or the other way around.

PRESIDING JUDGE BURKE: In that event, aren't you dictating the method in which the Prosecution should present its case?

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DR. GAWLIK: No, Your Honor, we only want to know. We wouldn't dream of telling the Prosecution how to present its case, but we only want to know what is submitted to the Tribunal. And this should be seen from the German Document Book because the one document book should be the translation of the other. One document book shouldn't contain more than the other. That's where the difficulty arises.

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A proper translation must coincide. If the English document book is a translation into the English or the English is a translation into the German, then both must be alike.

What the prosecution submits -- that is, of course, their affair but I would ask your Honor to put yourself in our position. We assume from the German Document Book that the whole document book is the same as the one submitted to the Tribunal.

PRESIDING JUDGE BURKE: I trust that you will give the Tribunal sufficient credit for having intelligence enough to determine between what is and what is not contained and what omissions have been made in the English Document Book and supplied by you - that it is not an insurmountable obstacle to our understanding of it. I think the ruling that has been made by the Tribunal will stand unless and until some further reason is assigned why a change should be made at this time.

You may proceed.

MR. DENNEY: Then turning to page 72, 73 and 74 in the German, and page 30 in the English, the report for the 26th of November from the 173rd Division, this is on page 172. I am sure if defense counsel will mark as I go along what pages I give them, they can certainly see what is in and what isn't in the exhibit. I see some seven of them here in court, and I will be very glad to indicate exactly where they are on the pages.

PRESIDING JUDGE BURKE: I think it might be a matter of accommodation to the convenience of counsel for the defense if you would do that and since there appears to be a difference in the number of pages in the German Document Book and the American Document Book, I think as a matter of right they are entitled to that courtesy.

MR. DENNEY: Well, I was just suggesting, your Honor, to help them, This appears under paragraph II of the daily report for the 26th. It is the 173rd Division. This refers to paragraph 9-i under section II of the indictment.

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"Village burned down in reprisal for attack on police in Grgurevci. Non-volksdeutsche residents also had participated."

The next entry is the area of Tuzla, which appears under the 187th Division. It is after the paragraph numbered "b". "Reconnaissance results: Zivinice occupied by 200 to 300 bandits."

Over on page 73 of the German, opposite the small letter "c" -Area Derventa -- "Bandit attack (200 to 300 men) between Lupljanica and Pocivalka repelled by units of the II Cossack brigade."

Turning to page 75 of the German and 31 in the English, this is a daily report for the 27th. It is II, out to the left, and the 173rd Reserve Division. Perhaps 76 was turned and I don't know why the page shifts. It is the daily report for the 27th of November on page 75 or 76 under II 173rd Reserve Division.

..... Despite 2 hours loss of time due to road blocks and to destroyed bridges near Susea, Battalion of the II/901 early in the morning made a surprise thrust from the north into the bandit village of Grabovo. The village was sealed off on the north and south and the mopping up operation accomplished. 35 fleeing bandits shot to death. Svilos cleared of the enemy. In accordance with the desire of Croatian authorities both villages burned down as pronounced bandit rests. Lezimir cleared of the enemy. Bandits fled. During reconnaissance against St. Divos a platoon of the 901 Regiment shot 5 bandits and captured 5 of fleeing bandits, Lezimir was burned down by the Police.

.....

Then on page 78 of the German and on page 32 of the English, report for the 29th, 187th Reserve Division -- this is under IIc, "Area of Virovitica - Bjelovar - Koprivnica. Between Narta...."

It is on the bottom of page 78 in the German and the top of page 79.

"Between Narta (6 km south southwest Bjelovar) and Cazma enemy forces consist of 4 communist brigades at least Results of plane reconnaissance at 1015 o'clock:

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about 500 - 1000 bandits in Cazma."

And then following right along after that under "Virovitica: Recruit transport going from Bjelovar-Nova-Gradiska attacked during the night 26.27.11. near station Vrbovec. Attack repelled and destruction of the station of Vrbovec prevented. Own casualties: 3 dead, 5 wounded. Enemy losses: 6 dead counted. 15 people suspected of belonging to bands were shot to death in reprisal."

Page 81 of the German, page 33 of the English, report for the second of December, 1943, opposite II, 173rd Reserve Division -- this is right at the top of the page on page 81 of the German under II, the paragraph that starts out "Als Vergeltung."

..... As reprisal measure for railroad attack between Nova Pazova and Batajnica -- see morning report of 13.11. which is an earlier part of this document -- 4 inhabitants from Jarinovci to which the tracks led - hanged on 2.12.43. 5 of 9 fleeing bandits were shot to death. 2 shelters constructed into the well there were destroyed. This operation was executed by Panzer Platoon 64 and units of the Reserve Grenadier Battalion.

And then we turn over to the next page in German which is 82, the second paragraph on the page which refers to the II Cossack Brigade, follows II. It is the 7th line on page 82 in the German, still on page 33 in the English.

.....Enemy contact occurred during reconnaissance thrust of some squadrons in the area west of Doboj near Godakovac. Village taken and destroyed after hard fighting, Losses of our own: 5 wounded, 1 squadron leader wounded. While this report is being made the operation is still in progress.

.....

The turning to page 84 in the German, page 34 in the English, it starts right at the top of the report.

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It is under II, the area of Tuzla, and then drops down there to the last paragraph under IIa which is eight lines up from the bottom of the page on the German 84.

"During fighting around Kladanj bandits in German uniform used combat methods as reported previously in the daily report 5.12. (they approach calling out: 'Do not shoot. Deserters' Then they open fire at short range.)" Then under D which is on the next page, it is the sixth line down in the German book on page 85, "The II Ustasha Brigade -- The villages of Pistana, Kokocak, Drenovac, and Rijenci from which resistance emanated during mopping up operation by Panzer Gren.

Training Regiment 901 were burned down by police as reprisal measure."

Thirty-five in the English, 86 in the German, paragraph I for the daily report of the 15th of December. It is the first paragraph in the German text too, under I. "The situation on the main railroad...."

15 December, page 86 of the German, first paragraph on the page.

.....The situation on the main railroad - in particular near Ivanicgrad and in Syrmien remains serious. Railroad sabotage (blasting) was executed in accordance with captured order (see daily report 15th) issued by bandit leadership. The weak security forces available were unable to prevent it.

Then under paragraph 187th Res. Div.: Area of Tuxla: - and it is in 'a' and it is the fourth line in that paragraph which starts out "Nacht Einwohnernaussagen"According to statements of residents a band group of 1500 men retreated from the area of Rijoka to the areas of Krivace and Dzimrlje.

.....

And under D which is over on page 87 of the German at the top of the page, and it is the last two lines of that paragraph, the 12th and 13th lines on page 6.

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.....6 hostages hanged on the scene of the incident in reprisal for mine sabotage near Rajic (see morning report the 15th.)

.....

Then going down to the II Cossack Mounted Brigade it says, three lines before the typed part 'Corps headquarters'--

..... 50 looting bandits in Socanica Then turning to page 88 in the German, 36 in the English, and this is the last page of the document, if we might finish it before we recess, your Honor, this is the report for the 22nd of December, 1943.

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This is a report of the 23 December 1943 and there it goes to the 2nd Panzer Army and the German General Plenipotentiary in Croatia, and to indicate that copies were sent to the other headquarters which have been mentioned before and I believe one or two earlier reports; the last 3 reports have gone only to the 2nd Panzer Army and the Commanding General in Croatia. Otherwise they went as originally stated. This, under Roman numeral III; which is on 88 in the German, paragraph A under the 187 Reserve Division:

"Area of Brcko, 20 December. Attack by hand group (400 men) on Strosinci and Jamena partially repelled in hand to hand combat."

Then under "b" which is the next paragraph, 21 December:

"Sjelovar: 25 people suspected of being bandits and hostages shot as reprisal measures for band attacks."

And here is the exhibit I hand to the Secretary-General.

PRESIDING JUDGE BURKE: We will take a recess here until 1120.

(a recess was taken)

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THE MARSHAL: The Tribunal is again in session.

JUDGE BURKE: You may proceed, Mr. Denney.

MR. DENNEY: May it please Your Honors, I return now to page 90 in the German book and page 37 in the English. This is Document [NOKW 657](#), which is offered as Prosecution Exhibit No. 376. This is an order from the 69th Corps, which was commanded by the defendant Dehner, which in turn was subordinate to the 2nd Panzer Army commanded by the defendant Rendulic, which in turn was subordinate to the Army Corps-F commanded by defendant, former Field Marshal von Weichs.

Actually, there are two orders, both from the 69th Corps, and it bears at the end typed, "fuer das Generalkommando," which means for the Corps Headquarters, the Chief of General Staff, signed "Steinbeck," who was Chief of Staff of the 69th Corps.

Your honor will recall in Exhibit 375, where at page 4 of that exhibit there appeared a signature of Steinbeck as Chief of Staff, 69th Corps, and while all of this is typed it appears that these are true copies which is signed by an unknown lieutenant in the Headquarters.

This is dated 19 December 1943, and it refers to a 1-c communication of the Corps of an earlier date, 27 November, and the subject is "Treatment of prisoners and deserters," and it recites:

Supplementing the order cited above:

1.) The fight in the Croatian area is a fight against bandits. They are an enemy who has taken up arms for the most varied motives. In addition to purely political-communist bandits there is a great number which has been driven into the forests by the concern for a bare existence, by the destruction or the endangering of their bourgeois life, or by a sudden upsurge of national or religious differences, etc.

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The bands in the Croatian area thus differ thoroughly from the bands appearing on the Russian front."

I call Your Honors' attention to the mention of the Russian Front here.

2.) Measures of the unit have repeatedly frustrated propaganda for the enemy as planned by the unit leadership. It must not happen that bandits who arrive at the unit with leaflets asking them to desert and which should be valid as passes, are shot out of hand. This makes any propaganda effort in this direction nonsensical. Even our own confidential agents bringing important news from band territory and notwithstanding their repeated assurances that they are in the service of the German Wehrmacht have been shot down "to simplify matters" i.e. without any investigation. Under such circumstances it is not surprising that

a) notwithstanding the discomforts which living in the forest no doubt entails, particularly during the winter months, the band nuisance increases steadily.

b) the fight itself increases in severity and stubbornness.

c) it becomes increasingly difficult to obtain information from the band territory.

d) in contrast to this enemy propaganda has no difficulty and enjoys great success.

3.) The momentary confusion of the situation makes it necessary for the unit to realize that the unit itself is not in a position to judge individual cases.

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The competent authorities must be unable to investigate deserters and prisoners objectively. This must be left to their discretion.

4.) Arbitrary procedure of the unit where the treatment of deserters and prisoners is concerned, leads to failure and will destroy the advantages which can be achieved by objective treatment.

For the Corps Headquarters The Chief of the General Staff signed Steinbeck.

And this is all typed, and then over to the left "Certified to be a true copy," and then an illegible signature, "2nd Lieutenant."

And then there is an order of 24 December, 1943, which is a 1-C order, and the subject, "Directives pertaining to the Treatment of prisoners suspected of belonging to Bands."

And this starts on page 91 of the German text and it is page 39 of the English.

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Second subject: "Treatment of Persons who may be possible hostages"; and the third subject: "Use of Hostages as Reprisal Measures for German Soldiers killed in the Fight against the Bands"; and the directive states:

"An inquiry causes the Corps Headquarters" -- this is the 69th Corps -- "to set forth as follows in order to unify methods in the Corps area:

"1 to 1) and 2): The Divisional Commander, or independent regimental commanders or the security sector in which the arrest has been made, is the sole and only authority competent to make decisions regarding civilians arrested during operations of the unit as suspected of belonging to bands and regarding the further treatment of them, In connection with the above, the following directives are laid down:

"to 1) a) Civilians whose activity as bandits or members of a band can be proved without doubt are to be considered as spies and as extremely dangerous. They are to be considered as hostages of the first category at the next occasion of reprisal measure, without it being necessary to take the security sector into consideration.

"to 2) b) Civilians who are proven bandit sympathizers are to be made available for reprisal measures as hostages of the second category.

c) Civilians who cannot be proved to have had any connection with bands, but who nevertheless give cause for suspicion, are to be transferred to Germany for labor employment. The Corps Headquarters has made inquiries with the 2nd Panzer Army" -- that is Rendulic's army to which Dehner's 69th Corps was subordinate -- "regarding the office which acts as the agent for labor employment in Germany. The divisions will be informed of the answer after it has been received."

And I call your Honor's attention to the term "divisions" here specifically because we have been able to get no distribution list for this order but it is submitted that the divisions to which he is referring are the 173rd, the 187th and the 1st Cossack Division, all in the 69th Corps.

"Prisoners innocent beyond doubt are to be dismissed from the hostage camp in the speediest way possible.

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"There is no objection to calling for the assistance of the SD if in the course of an operation civilians suspected of being members of bands are captured and the units and their staffs do not have available necessary trained personnel to interrogate these suspects. The civilians, however, remain Wehrmacht

prisoners and are to be treated like the civilians in 1)" -- that is the first paragraph up above --
"according to the result of the interrogation.

"The SD is requested to fulfill the requests of the Commanders of the security sections respectively of the divisions for interrogations, etc., and to pass on the results of the investigations to the commander of the security sector." -- and here, of course, he is making a request of the SD and the Security Police to comply with these requests from the division officers concerned and to pass on the reports.

"Prisoners suspected of being members of bands are not to be transferred to the SD.

"It must be absolutely avoided that innocent people are kept in hostage camps and that they possibly atone with their lives for an affair with which they had no connection. With the exception of case Ia" -- and that refers to "Ia" in the earlier part -- "hostages are to be made responsible for the misdeeds of bands only in the neighborhood nearest to their own villages. It is not permitted, for instance, that hostages from Karlovci be used for retaliation measures in case of a surprise attack by bands or a demolition occurrence near Ruma.

"It is impossible to make use of hostages for the execution of reprisal measures for the German soldiers killed in the fight against bands. It would be contradictory on the one hand to treat active members of bands, captured during battle, as prisoners of war, that is to let them live; and on the other hand, to hang hostages from the next hostage camp for our own losses in the fight against bands.

"Present inmates of hostage camps are also to be checked and treated according to the classification as given under I." -- and that refers back to Roman numeral I of this communication; and it is signed -- that is, it is typed:

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"For the Corps Headquarters, the Chief of the General Staff (Signed) Steinbeck." All of that is typed and over to the left: "Certified to be a true copy" -- illegible signature, the same one that appears on the earlier part of this file -- "2nd Lieutenant."

Perhaps, your Honors would like to glance at the conclusion of that order, those two orders.

Turning now to page 93 in the German and 42 in the English text, we have Exhibit -- or Document No. [NOKW-710](#), which becomes prosecution exhibit 377 in evidence. This is an extract from the War Diary of the 69th Corps Headquarters although the period covered by the Diary from its cover sheet can be seen to be "1 January to 30 June 1944." The only extracts which are here offered are three, for January 8th, 15th and 24th and the chain of command is still the same. This is early in June 1944, prior to the time that the defendant Dehner relinquished command of his Corps to proceed to another theater.

"8 January 1944" -- this, incidentally, is all typed -- "According to a report from an escaped worker who had been drafted by force, the bandits have available approximately 3000 men in the Potomaca district and are in possession of heavy weapons. The Commander of Virovitica expects an attack on the town very shortly.

.....

"Corps Headquarters grants the request of the 187th Reserve Division to destroy the band's stronghold Sumetlica near Nova Fradiska. The destruction is to take place after consultation with the competent Croatian authorities.

And then the entry of 15 January:

"According to a report of the district "Vuka" Vukavar, to the Main Directorate for Public Order and Security Zagreb, hostages have allegedly been taken again in the latter district without consultation with the Croatian authorities.

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Also those Pravoslave who worked with the Croatian authorities were allegedly taken and shot as hostages. The district "Vuka" is requested to give precise information as to when and by which army units hostages were taken within their districts."

And then for 24 January:

"The reprisal quota (shooting of 50 respectively 25 retaliation prisoners for every killed and wounded German) ordered by Army order dated 15 September 1943 will, by Army order, become annulled effective immediately. New instructions concerning reprisal measures are being prepared."

This is an entry for the end of January 1944. It refers, if your Honors please, to Exhibit 340 which is page 15 of Document Book XIV and which was the order of the Commanding General of the 2nd Panzer Army of the defendant Rendulic which bore the number, order number from his headquarters, 38/43, which has been referred to earlier in this book, and here the 69th Corps, more than four months later is now saying that this order is annulled effective at once; and your Honors will recall that the provisions of that order were that, in the event one German was killed or wounded fifty or twenty-five retaliation prisoners respectively would be shot."

Turning now to page 96 of the German and 44 of the English, these are two letters, one signed by the defendant Dehner and the other signed for the Commanding General, Chief of the General Staff.

I wonder, Major Hatfield, if I could see Exhibit 375 for a moment, please. This is [NOKW-705](#) and we offer it as prosecution Exhibit 378. Excuse me, Major, I made a mistake. I meant 374.

And, although it appears on the translation -- and, of course, this is actually not a translation; this is question of identification -- that the Chief of the General Staff's signature here is illegible, your Honors' attention is respectfully directed to page 5 of the document book, or of document -- withdrawn -- Exhibit 374 to compare the signature of the Chief of the General Staff there and also the signature of the defendant Deyner which I shall hand up when I hand up this document.

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This is from the 69th Corps Headquarters. It is signed by the defendant Dehner. It bears the order number 317/769 and has to do with taking of hostages. The communication is dated 4 January 1944.

The second communication is dated 4 January 1944, and the first one is dated 15 January 1944; and I will pass this up to your Honors later because it was omitted from the translation but it's apparent KH Qu. 15 January 1944" on the photostat.

Subject: "Taking of Hostages"; and it is directed to the "Vuka" Combine which is spoken of in the prior Exhibit 377, attention of Director Dr. Blicher, Vukovar.

"I am informed that, according to a report of the 'Vuka' Combine of 18 December 1943" -- and he gives the number of the report -- "To the Main Office for Public Order and Safety, German Military and Police detachments have seized hostages recently without agreement with the Croatian authorities. It is said that on this occasion those Provoslavs were also seized and executed who worked together with the Croatian authorities.

"It is known to the Combine that I have repeatedly ordered the units subordinated to me not to seize hostages any more without consulting with the Croatian authorities.

"I therefore request exact information as to when, by what units and in what localities hostages have been seized without consultation with the Croatian authorities, so that I can take the appropriate steps"; and that is signed "Dehner."

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Then the next communication is dated the 4th of January, 1944, and this business at the bottom of page 44, in the English, all applies to the next letter, if your Honors please; apparently in translation they just carried on over, but starting with page 2 of the original, this all goes on the second letter, which is signed not be General Dehner, but by the then Chief of Staff, which appears in here as Kresebeck, but which should be Steinbeck.

This has to do with traffic sabotage and taking of hostages, and it is directed to the Commander-in-Chief of the 2nd Panzer Army, Intelligence Officer, and it refers again to 38/43 Secret, 15 September 1943, which, if your Honors please, is Exhibit No. 340, the basic order of the defendant Rendulic with reference to hostages, and it is a 50-to-1 ratio and 25-to-1 ration, and on information copy goes to the then General in Croatia, and it is to be noted that the enclosure to the Plenipotentiary General in Croatia, (the deceased Glaise-Herstenau,) went through the 2nd Panzer Army. It is not a direct communication with the 69th Corps to GlaiseHerstenau, but the copy goes to 2nd Panzer Army and then down:

"1) The 32 hostages arrested in Golubinci on 12 Dec. 43 were released again by the SD at Ruma on 15 Dec. 43 after a thorough interrogation, since no evidence for a friendly attitude towards the bandits was found.

"2) With respect to reprisal measures, Corps Headquarters wishes to call attention to the fact that the order of the Commander-in-Chief of the 2nd Panzer Army of 15 Sept. 1943, that is the one that is referred to above, is in force. According to the understanding of Corps Headquarters, the agreements between the State Commissioner for the Security of Railway transportation and the German Railway Security Staff of Croatia, made on 23 Dec., before the LXIX Reserve Corps assumed command, may be

considered invalid. A copy of the order of the Commander-in-Chief of the 2nd Panzer Army, with which the area of Corps Headquarters has complied hitherto, is included in the enclosure."

Now, of course, this is dated 4, January, 1944, and the war diary entry which we have submitted before annulling this order is dated 24 January, 1944, so that is 20 days subsequent to this, and here we have the defendant Dehner advising the Commanding General of the 2nd Panzer Army which is next higher commander in the Echelon of Command, that this order has been complied with hitherto and it is not annulled until 20 days later.

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Then, paragraph 3:

"According to a communication of Police Regional Leader Esseg, a new agreement between the Croatian Government and the German ambassador Kasche was alleged to have been settled on 18 Dec. 43. According to this agreement, recourse to hostages was to be permitted only after approval of the Croatian government (Croatian Ministry of the Interior).

"As yet, no information has come to Corps Headquarters concerning these treaties. Corps Headquarters could issue directives according to these treaties only after resission of the enclosed Army order."

Now it says that the Army order is enclosed, the recitation is that it was the order of 15 September 1943, but we do not have the copy that was enclosed, as well as at the end here there appears "For the information of: 2nd Panzer Army, German Railway and Security Staff of Croatia."

This is signed, "For Corps Headquarters, the Chief of the General Staff", and I will submit these two documents to your Honors. I just want to direct the court's attention to the fact that although they had a legal settlement and agreement with the Croatia Government and the German ambassador Kasche, on 18 December, here on 4 January they still do not have any concrete information about it. Apparently it is still in the rumor stage.

Now I am submitting 374, which is the earlier document, with the signatures of Steinbeck and Dehner in it, and this document, which is 378 which has not been marked by Major Hatfield yet, for comparison of the signatures.

After the second exhibit is marked, I think Dr. Gawlik would like to see it.

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Turning now to page 98 in the English, and 47 in the German -

THE PRESIDENT: You mean just the reverse, do you not?

MR. DENNEY: Yes, 98 in the German and 47 in the English -- I certainly should know about that now. This is all typed except for the end where there again is a certification that it is a true copy, and it is signed with an illegible signature of a first lieutenant, Oberleutnant.

So there may be no confusion about this, although this bears the heading on it, "Commander Southeast", "Army Group F", who at this time was the defendant, Field Marshal von Weichs, we do

not know if he was on leave maybe in Germany, anyway he was not there, and this order, -- we do not concede he was not there, but he did not issue the order -- the order was issued by his subordinate, General Loehr, who was the commander of Army Group E, and he was acting as Commander-in-Chief Southeast, and Commander-in-Chief, Army Group F.

This is dated 22 December, 1943, and this comes out approximately four months after the defendant Weichs entered the field as Commander-in-Chief of Army Group F, which post he took in August of 1943, and then, of course, he was also the Commander-in-Chief Southeast, that is, the Supreme Commander in the field.

The subject is "Reprisal Measures".

"The Fuehrer," that, of course is Hitler, "has commanded a unified counter action against the Communist danger in the Southeast, with the political leadership of which Minister Neubacher is charged. The reprisal penal, and revenge measures practiced up to now must in the future take into account the new political objectives. The first principle has to be, in cases of attacks, acts of sabotage, etc., to seize the perpetrator himself and to take reprisal measures only as a second course, if through reprisal measures the prevention of future attacks is to be expected.

The previous provisions for the conduct of the troops in combat hold good.

The following directives are given in accordance with the Military Commander Southeast and Minister Neubacher:

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"A. In which cases do reprisal measures come into question?

"1. Protection of persons:

"Attacks against life and limb of a) Reich or Volksdeutschen (Wehrmacht, Wehrmacht employee, or German Civilians),

b) of a member of Allied Troops,

c) of a person who is in the service of the occupying powers, without consideration for his nationality if the authority of the person concerned and that of the occupying powers makes it necessary.

d) of the member of the National Government or of leading officials (Regional and District Presidents, Mayors) are to be avenged.

"Reprisal measures will in any case only be carried out if

a) the perpetrators cannot be taken within 48 hours,

b) and the attack on the protected persons took place on political grounds, and

c) the attack brought about death or injury. Murder will be assumed if a kidnapped person has not returned after expiration of a fixed time period.

Executions "Losses which are incurred in combat are in general not to be avenged.

"2.) Protection of installations:

"Furthermore every attack against war-vital installations, especially media of traffic and traffic lanes, communications, industrial, and supply installations are to be avenged, under the prerequisite that

a) damage has been incurred and

b) the perpetrators cannot be taken within 48 hours.

B. Reprisal quotas:

1.) Reprisal quotas are not fixed. The orders previously decreed concerning them are to be rescinded. The extent of the reprisal measures is to be established in advance in each individual case.

2.) Reprisal measures consist of:

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"a) shootings and/or hangings,

b) destruction of dwellings,

c) fines, penal actions, and arrest.

C. Who may carry out reprisal measures?

The revenge for attacks, which are directed against the unit and its installations may be ordered only by a German commander with the disciplinary authority to punish of at least a division commander, in accord with the competent administrative sub area HQs.

"If an agreement is not reached, tho competent territorial commander is to decide. Reprisal measures for losses in the air corps, navy, police and the OT, - and the OT, if your Honors please, refers to tho Organization Todt are to be ordered principally by the territorial commanders.

"All other reprisal measures, for example for German civilians, persons in the service of the occupying powers, and in defense are to be ordered by the competent field commanders. The unit is to support tho administrative sub area HQs in carrying them out.

"In Croatia, commissioners of the National Government with the German HQs authorities are to be empowered to apply tho decisions concerning reprisal measures. The same principles as in Croatia are to be used for Albania where relevant.

"The participation of the National Governments and administrations in Greece, Serbia, Montenegro is to be governed by tho territorial commanders in the provisions for execution.

"The organs of tho SS and Hoeh. Pol. Fuehrer (SD) and counter intelligence detachments are likewise to participate in the selecting of the reprisal prisoners and hostages."

In view of the fact that this order is signed by Loehr I would just like to direct your Honors' attention to the breadth of its scope. It refers to Croatia, Albania, Greece, Serbia, Montenegro, and applies to the SS, the higher police leader and the SD.

"D. What persons are to be used for reprisal executions?

1.) The procedure, of carrying out reprisal measures after a surprise attack or an act of sabotage at random on persons and dwellings, in the vicinity, close to the scene of the deed, shakes the confidence in the justice of the occupying power and also drives the loyal part of the population into the woods.

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"This form of execution of reprisal measures is accordingly forbidden. If, However, the investigation on the spot reveals open or concealed " ----collaboration or a conscientiously passive attitude of certain persons concerning the perpetrators, then these persons above all are to be shot as bandit helpers and their dwellings destroyed.

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Their guilt is to be referred to expressly in the proclamation. In the supplement, an example from the combating of bandits in the East is attached. Now, there's a short supplement which is attached hereto, and the Court' attention is directed to the combating of bandits in the East. Now, that refers to the Russian Theater. And here they are using a communication with reference to the methods used in the Russian theater and sending it along to whoever got this order. "If such people as are guilty cannot be found, those persons must be resorted to who, without being connected with the actual deed nevertheless are to be regarded as co-responsible. Such persons are co-responsible first of all who recognize Communism. It has been proven of value to arrest hostages carefully, nevertheless only those on whom reprisal measures can be carried out according to the preceding directives. For the selection of the hostages, the provisions of section "C" are valid." And that refers to the earlier section in this order. "Not to be used for reprisal purposes are: a) persons who have nothing to do with the aims of the insurgents, or those, as for example officials, who belong themselves to the sheltered circle or persons, b) women and children. These may be shot only as perpetrators or bandit helpers, c) enemies of Communism, in case they themselves are not concerned with enemy treatment against those persons or objects mentioned in number, a, 1. and 2." And that refers to the earlier part. "Publication of reprisal measures: Each reprisal measure must be published (Posters, leaflets). The subversity of the deed and the guilt of those executed must be clear from the text of the proclamation. Since no uniform directives can be given in the diverse Southeast area for all cases, I empower the territorial commanders in agreement with the commanders in chief to decree definitions of command, especially concerning the participation of the National Administration in the executive authority, concerning the form of the execution of measures of punishment as well as their publication."

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And , of course, the territorial commander to whom he refers there, in addition to the commanders in chief, are the people -- well, the only ones with whom we are concerned here is the Defendant Speidel

down in Greece, Glaise-Horstenau in Croatia, Keiper in Montenegro, Gullmann in Albania, and , of course, Felmy with the overall command up in Serbia. "These orders are to be presented to me through channels. All orders contradicting these orders are to be rescinded, number 3, C in C Southeast I a/ teletype No. 604/43 Secret of 10 October 43 is to be struck out." And then it has the Commander in Chief (Acting), signed Loehr, General, and that is all typed, and over to the left a certification, which is illegible but written. And then there is the supplement, and an order to make sure that this is a supplement to this communication because it's just a little piece of paper. If Your Honors will refer to the order number for the Ia in the supplement, it is 296/43 Secret 22 December 1943. If you will check back to Page 1 - Page 98 of the German and Page 47 of the English, the basic communication also has "Ia Branch/ Teletype No. 296/43 Secret," and the date December 22, 1943 appears over to the right. This is the supplement:

"The following procedure frequently resulted in success." And this is submitted as the method which is spoken about that was used on the Eastern Front.

"Individual 'V Men' were sent into the territories or villages in question, and after some time of residence amongst their own countrymen, stated that they were bandit members, or even began to work apparently for the bandits. In this way, the doubtful elements and those who more or less openly work for the bandits reveal themselves. By a cleverly led special action, it was possible to arrest the residents of the village including the 'V Man' immediately in order to remove the guilty men after the reliable testimonies of the 'V Man'.

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" And now we go to Page 102 in the German Document Book and Page 52 in the English Document Book.

DR. LATERNSEER: Your Honor, I would like to have the following extracts translated. First of all, on Page 98 of the German Document Book and Page 47 of the English Document Book. That I would like to have taken, that's as the second point. The first point, to begin with, "die bisher ueblichen Suehne and Vergeltungs massnahmen." I withdraw this objection. Then, thirdly, we have on Page 99 of the German Document Book and Page 48 of the English Document Book the words "die Vergeltung von Anschlaegen."

PRESIDING JUDGE BURKE: On what page in the English Document Book?

MR. DENNEY: In the English, Your Honor, that is the second last line, the line next to the bottom , Page 48.

PRESIDING JUDGE BURKE: Very well.

DR. LATERNSEER: On the same page the words "die Vergeltung von Anschlaegen."

MR. DENNEY: We had that.

DR. LATERNSEER: Yes; and fourthly, on Page 99 of the German.

MR. DENNEY: Page 49 of the English, Your Honor.

DR. LATERNSE: Then, the words "Ausfuehrungs Bestimmungen."

MR. DENNEY: Section c -- that's the second paragraph above "d" on Page 49, Your Honor.

DR. LATERNSE: And for the fifth point, I would like to have the last part of the order translated from the "Oberbefehls haber to the Generaloberst.

MR. DENNEY: Your Honor, that is on page 58 just before the certification.

PRESIDING JUDGE BURKE: Very well, hand them to the Interpreter.

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The Interpreter will identify the disputed sections by line and page of the English Document Book. You may be able to save time during the noon recess by having the matter considered by the Interpreter and thus clarified and simplified by reference to page of translations in the German text and English text; and so we will, therefore, stand adjourned until 1:30 this afternoon.

(The Court adjourned at 1215, To Resume at 0130).

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AFTERNOON SESSION (The Hearing Reconvened at 1330 hours)

THE MARSHAL: Persons in the Courtroom will be seated. The Tribunal is again in session.

PRESIDING JUDGE BURKE: Mr. Denney, has the translation been completed which we had under consideration at the close of the morning session.

MR. DENNEY: Yes, Your Honors.

PRESIDING JUDGE BURKE: Very well, we will receive it.

THE INTERPRETER: The first point presented by defense counsel is on page 47 of the English document book and page 98 of the German document book, line four, beginning "die bisher ueblichen Suehne Straf und Vergeltungsmassnahmen." We translate this as the expiatory, punitive and retaliatory measures usual up to now. " The second point is on the same page in the German document book but on page 48 of the English document book under Id, beginning "Suhnemassnahmen werden jedoch nur ausgeloeest wenn," which we translate as "Expiatory measures only become operative if."

Point three is at the bottom of page 48 of the English document book under "C", who may carry out reprisal measures. The words in question are the first few words of the following sentence. In the German document book it is on page 99 again under "C" beginning "die Vergeltung von Anschlaegen" which we translate as "reprisals for attacks."

The fourth point is still under "C" but on page 49 of the English document book. The last three words of the last paragraph but one and still on page 99 of the German document book. The word "

Ausfuehrungsbestimmungen" in the last paragraph but one under "C"; we translate this as " regulations regarding implementation."

The word " execution" is just as correct but it may in this context be ambiguous.

The fifth and last point occurs in the middle of page 51 of the English document book and at the bottom of page 100 of the German document book. The German reads: "der Oberbefehlhaber I.V. gez.

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Loehr Generaloberst," which we translate as "signed Loehr, General for the Commanding Chief."

PRESIDING JUDGE BURKE: Are there any objections to the interpretation by the interpreter? If not, you may proceed.

MR. DENNEY: May it please your Honors, page 102 of the German text and page 53 of the English, [NOKW-833](#), which is offered as prosecution's exhibit 380. This is an extract from the War Diary of the XXI Mountain Corps for 4 February 1944, at which time the Corps was under the Second Panzer Army commanded by the defendant Rendulic.

"SS Brigadefuehrer Fitzthum informs the Commanding General concerning a raid carried out in Tirana, and in the course of which 15 Communists were shot to death.

The next Exhibit is at page 104 of the German, page 55 of the English, [NOKW-674](#), which is offered as prosecution's Exhibit 381. This is an order of the 2nd Panzer Army commanded by the defendant Rendulic dated 13 February 1944. It has to do with the evacuation of the islands and of the coast in the event of an enemy landing, and the Court's attention is respectfully directed to the number of the order, 0975/44. Twenty copies of which this is the 20th, and on the distribution lists it will show that this is a copy which went for information to the Quartermaster --- the Quartiermeister. That is page 108 of the German, 59 of the English.

"In the event of an enemy landing on the Adriatic coast the numerous men capable of bearing arms among the population of the islands and the coast form a serious threat to the defenders. Furthermore the presence of the entire civilian population may lead to a serious encumbrance of the defensive measures in case of an enemy attack.

To forestall these dangers it is ordered:

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1.) Evacuation of the islands.

The entire male population capable of bearing arms in the islands situated before the Adriatic coast is to be seized and to be transferred to the main land immediately.

There their further employment is to be carried out in cooperation with the German territorial authorities Plenipotentiary Generals in Albania and Croatia, Administrative Area and Local Headquarters) as well as with the competent indigenous authorities as follows:

- 1) They are to join the Croatian armed forces of the Croatian labor service pursuant to the pertinent laws and directives issued by the State of Croatia.
 - 2) Formation of all persons not falling under number 1) into closed construction labor companies with the participation of the contractors to the Navy and the Luftwaffe too, and employment in the construction of coastal defense works and of roads. Here a difference must be made between voluntary labor and persons refusing to cooperate voluntarily. The last names are to be organized into special labor columns which are to be under special guard.
- As far as the absorption capacity of the unit is concerned, employment for construction of coastal defenses and roads has priority over employment in the Croatian armed forces.
- 3) The remainder which is not as yet employable is to be evacuated to suitable areas further in the rear. The competent territorial authorities with the competent indigenous authorities are to be requested to regulate billets and employment there. The billeting areas are to be determined by the Corps in agreement with the territorial authorities.
 - 4) Sufficient guards must assure that the persons capable of bearing arms, once having been taken, will not escape evacuation and employment or even desert to the bands.

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- 5) That part of the population not capable of bearing arms which wishes to leave the islands is to be supported in that intention as far as the possibilities permit. However, they must be prevented from settling directly on the coast. The competent territorial authorities with the indigenous authorities are to regulate the evacuation.
- 6) Military Commander Southeast is requested to call the possibility for labor recruitment to the attention of the labor employment authorities."

DR. LATERNER: Your Honor, I would ask if the prosecutor would read a little more slowly and a little more clearly.

MR. DENNEY: I will be glad to, Your Honor.

11. Evacuation of the coast.

- 1) In the event of the enemy landing the evacuation of the civilian territory population from the immediately adjacent to the coast is to be prepared with a time table.

The corps will determine the depth of the zone to be evacuated according to the local situation and also the billeting areas considered for the individual evacuation areas.

- 2) The territorial authorities (Plenipotentiary Generals in Albania and Croatia, Administrative Area and Local Headquarters) are to be requested especially to participate in this. They primarily are charged with the cooperation with the competent indigenous authorities. Where the cooperation of the territorial authorities or of the indigenous authorities is insufficient the local troop commanders who are

competent for the coastal defense must work independently. Pertinent directives and policies to be issued territorial authorities are binding also for the Troop Commanders.

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3) The following points are to be particularly observed in the preparations:

- a) Fixing of the zone of evacuation (prohibited areas)
- b) Fixing of the march routes for the population away from roads important for defense (putting up of signs)
- c) Exact fixing of the billeting areas
- d) Food supplies and welfare (is to be taken care of by indigenous authorities. This is to be supervised.)
- e) The population to be informed speedily (preparation of required posters)
- f) Traffic regulations" The distribution list which appears on the next page:

*XXI Mountain Corps, which was subordinate to 2nd Panzer Army; *XV Mountain Corps which at that time was commanded by the defendant Leyser, also subordinate to the 2nd Panzer Army;

V-SS Mountain Corps;

Military Commander Southeast, and The General Plenipotentiaries in Albania and Croatia, and Information copy to the Commander-in-Chief Southeast who at that time was the defendant Weichs and various other copies.

DR. LATERNER: Your Honor, this was an error. At that time, the Military Commander Southeast was Field Marshal Weichs according to the Prosecutor; he was never that.

MR. DENNEY: Excuse me, Your Honor.

PRESIDING JUDGE BURKE: You acknowledge the correction?

MR. DENNEY: Yes, Your Honor. On page 109 of the German, 61 of the English, [NOKW 671](#). This is offered as Prosecution Exhibit 382. That is from the 2nd Panzer Army to various subordinate units and is dated 21 February 1944, and it refers to the earlier order of 13 February 1944, 0975, and has to do with evacuation of the islands.

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Pursuant to the order of the Army Group the report of completion of mission in accordance with number III of the order mentioned in the reference, is to include the results of the measures ordered. Report of completion of mission must therefore include the following data:

- To 1.) a) Number of evacuees from the islands (listed according to men, women, and children).
- b) Billeting areas of persons evacuated according to a).
 - c) How many are employed in coast and road construction,

d) How many were contracted for work in the Reich.

Again, referring to the earlier order which was Exhibit 381: To II;a) Number of persons presumably to be evacuated,

b) Intended billeting areas.

c) March routes planned.

For the Panzer Army The Oberquartiermeister (initial illeg.)

And the distribution to the XX I Mountain Corps; XV Mountain Corps; and, V-SS Mountain Corps and the others which are to be noted, including the Military Commander Southeast which at that time was Felber and his Chief of Staff at that time who was the defendant Geitner.

Then on page 110 of the German and 63 of the English, is NOKW 673, which is offered as Prosecution Exhibit [383](#). This is from the Plenipotentiary General in Croatia to the Ministry of the Armed Power, and to the Ministry of the Interior, dated 26 February 1944. It is signed but the signature is illegible, by a Colonel, and there is a receipt stamp on the first page showing that the 2nd Panzer Army received a copy of this:

"The 2nd Panzer Army has the intention of recruiting urgently the male population of the islands off the Croatian coast for employment on the construction of fortifications on the coast.

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"In reference to this matter, the following suggestions are submitted to you with the request for your early comment and any supplement you may care to make to the individual questions.

"a. All men of class 1904-1927 will be recruited and transferred to the mainland."

It is submitted that these are age classes, referring to the year which these people were born, first people 1904 who were then 40 and people 1927 who were at that time 17.

"b. Mixed commissions, consisting of one Croatian Army Officer and one officer of the Ustasha Militia, to which one German officer for liaison purposes with the German authorities will be attached, will effect the seizure and transfer of the men, in cooperation with the local Croatian authorities."

And, I should like to direct the court's attention to the word "seizures."

"c. Members of class 1924 and 1925 are to be sent to the Croatian Armed Forces as recruits, unless they are of the pravoslav religion, and will be turned over to the competent Croatian Military authorities.

d. The rest of the men are available to the Fortress Engineers Staffs for construction work on the coastal fortifications.

e. If politically unreliable persons are found during the seizing, they are to be employed in work battalions outside of the coastal area.

f. For the provisioning of men mentioned under d, the basic directive of the Croatian ministry of the Interior No. VT 11/44 of 22.1.1944, is applicable.

g. The transfer of the men must be completed by 15 March 1944.

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For the German General -Plenipotentiary in Croatia The Chief of Staff (signature illegible) Colonel" Page 112 in the German, 65 in the English, [NOKW 1339](#), and this is offered as Exhibit 384.

This is an activity report for the month of February 1944 of the Ninth Secret Field Police Detachment and the first entry under Total Statistics:

Total number of incidents handled, and screenings, 587, and 1, 561 respectively; and then it is to be noted that the next one cites:

"In addition during operation pursuant to directives of the 2nd Panzer Army," they have 7,500 arrests including previous month, 602. We have the police report showing the 2nd Panzer Army was giving them directives. Then they break these figures down:

Executed 5 Turned over to PW camps 3 Turned over the the SD 241 Turned over the courts martial 15
Turned over to Branch Ic 26 For labor allocation to Germany 118 Turned over to Croatian authorities 4
Turned over to other offices 67 To hostage camps 6 Concentration camps 1 Collecting camps 2
Deserter camps 1 Released 52 Still under arrest 61 Distribution:

Page 1,501

Wehrmacht Field Police; Chief, Auxiliary Field Police; 2nd Panzer Army; Files. There are only four copies and it is signed by Maurer, Field Police Commissioner and Deputy Unit Leader.

Next we have a report for 20 March 1944 made by Captain Dr. Cartallieri who also made an earlier report which we had in evidence here as Exhibit 336. That was the report the balance of which I furnished the defense counsel in court this morning. He appears as Captain under Wehrmacht operational staff and it is to be noted that it is written at Fuehrer Headquarters -- Hitler Headquarters stamp: Top Secret, 20 copies of which this is the ninth. I might say that the second page of the first letter is missing. We have endeavored to find it and we have not abandoned it as hopeless as yet, but if and when we get it we will certainly furnish it to defense counsel. The subject is: Official trip from 13 March to 18 March '44 and has to do with the Operation Zone, Adriatic Coastland, which has been discussed in earlier exhibits which we have considered.

1.) The conditions in the Operation Zone, Adriatic Coastland cannot be compared with those of the Operation Zone Alpenvorland.

In the Operation Zone Adriatic Coastland not only are there bands in the larger part of the area but there is also the possibility of an enemy-landing there for which the only weakly occupied, good ports of Trieste, Pola and Fiume offer themselves, with the possibility of a thrust in the direction of Vienna or Hungary, in between the 2 mountain chains.

2.) The Operation Zone, Adriatic Coastland is a bandit-combatting area under the jurisdiction of the Reichsfuehrer-SS-----And if Your Honor please, the Reichsfuehrer SS at that time was Heinrich Himmler ----. However, the competent higher-SS and police leaders lack the necessary forces. On the other hand the Wehrmacht, on account of lack of forces, is also not in a position to destroy the bands.

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Coastal defense and the combating of bands in the Operation Zone can only be separated from each other if the competent office for the combating of bands has at its disposal the necessary manpower and material enabling it to carry out its task alone so that the Commander can limit himself calmly to the defense of the coast. Because of lack of Wehrmacht and police-forces, however, it is likely that this will never occur.

3.) The 3-channel system of competence existing up to now in the Operation Zone of Adriatic Coastland is not responsible, as the zone is already practically a combat zone."

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And then the "Enclosure 2."

"The Commander In the Operation Zone "Corps Headquarters 24 Feb 1944.

Adriatic Coastland. Stamp Secret."

Subject: Conduct of the fight against the bandits Corps Order No. 9 I. By the withdrawal of the 71st Infantry Division from the coast and the commitment of the 162nd (Turkish) Infantry Division the bands are able to breathe freely.

They terrorize the population, steal cattle and food and recruit followers largely by compulsory drafting. They murder German soldiers from ambush, raid motorcars and columns, blow up railway lines and bridges, plunder food apply transports, destroy cables and wire connections, massacre prisoners and desecrate the corpses of German soldiers.

The one and a half months from 1 January until 15 February 1944 have cost us in dead and wounded 503 victims, amongst whom were 3 commanders.

181 surprise attacks on the Wehrmacht 125 attempts on the railway 22 bridge demolitions on roads and railways 25 Extensive sabotage acts on cables and telephone lines.

68 vehicles destroyed or seriously damaged.

This must be considered great combat by command of the enemy powers. Furthermore it has been determined from captured papers that the bandit leadership is preparing a general uprising of the people according to plans for "the day", that is the day on which the Anglo-Americans wanted to land on our coast.

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Therefore serious danger threatens; for the defense of the coast is endangered in the rear, if the bands rage around the country, the leadership is paralyzed, if the communications are cut, reinforcements cannot be brought up; the supply of arms, ammunition and food stops, if the railways are interrupted.

In such a case there is only one solution:

Terror against terror, An eye for an eye A tooth for a tooth'. The most important commandments in our fight against the insurgents are:

1) What we lack in numerical strength, we must replace with severity in warfare, energy in action and courage of every single one of us.

2) No consideration can be given to our own comfort. No one has a right to "Winterquarters."

The enemy will be pursued wherever he is discovered, even up to the summit of the Monte Navosco or the Triglav. He must be chased to death.

3) The enemy causes the most trouble during the night. Therefore, we too must become like animals of the night and must learn to stop the nightly activities of the enemy by night. Here we have still a lot to learn. A quick change is necessary.

4) Only attack brings success.

Whoever takes up a defensive position when the enemy attacks is lost from the start. In any case he has a liability to the leadership, which has to utilize forces to dig him out."

DR. LATERNSE: This document cannot be submitted by the Prosecution because the Commander in the zone of operations in the Adriatic Coastland is not under the jurisdiction of the Commander-in-Chief of the Southeast. I would ask that the document be withdrawn.

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MR. DENNEY: Your Honors, they are from the same territory down there. We make no contention that this man was under any one here, but it is just to show the general warfare down there and in the similar units. We have offered very few documents, as a matter of fact this is the first from this particular command of General Kuebler who was a general of mountain troops in the Adriatic Coastland. It is submitted that the Adriatic Coast is geographically a part of the territory of these operations. It is also attached to the report from the captain of the General Staff in Hitler's Headquarters.

DR. LATERNSE: Your Honors, these are again statements made by the Prosecution. I submit that this commander to the Adriatic Coastland was never subordinate to any of the defendants, and that this document cannot be submitted here in this connection. Otherwise it might be submitted.

JUDGE BURKE: For whatever it may be worth, and without limitations, with which the Tribunal is entirely familiar, it will be received and for that purpose only. I know of no case, where insurgents held out to the end, if they were seriously attacked even if by very small units. I know of many cases however, in which strongholds were conquered and detachments destroyed, because they had limited themselves to defense.

Everything depends on the energy and courage of the leaders. If more than a platoon is employed the Company Commander personally leads; if more than a company.....the Battalion Commander in person, In battle everything is right and necessary which leads to success. I shall cover personally any and every measure which is in accord with this principle.

With regard to the treatment of bandits and their voluntary helpers the greatest severity is to be applied. Captured bandits are to be hanged or shot. Whoever voluntarily supports the bandits either by heltering then or giving them food, by keeping their whereabouts secret or by any other measures, merits death and is to be taken care of.

Whoever can prove that he was forced by terror to passive helping of the bandits is to be treated in a milder way (e.g. deportation for compulsory labor.)

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The guiltless are to be spared. It is important to win and preserve by just and correct treatment the confidence and cooperation of that part of the population which is favorably disposed towards us. That at times innocent people also get caught up in battle with their lives and property, is regrettable but cannot be altered. They may thank the bands for their mishaps. We did not start the war against the insurgents.

Collective measures against villages, etc. may be decreed only in direct local and chronological connection with combat actions and only by officers from the rank of captain upwards. They are indicated if the majority of the population has voluntarily supported the bandits. For the rest the carrying out of collective measures needs my permission. It is not necessary to list more completely here what is prescribed, allowed or forbidden. Moreover, in the third year of the war against the insurgents every leader knows what has to be done. The "instructions for Combating Bands in the East" is valid as far as principles are concerned for the Operation Zone, Adriatic coastland too.

And here again we have a reference to the instructions for combating bands in the East, which has been submitted were also applied in other areas, and here these bands in the East are applicable into Adriatic Zone Coastland.

"To sum up:

The bands are numerically many times superior to us.

They are out to murder us insidiously. By these means, and by sabotage of all kinds, they want to help the Soviets, the English and the Americans in their battle of extermination against our homeland and against the German people which is struggling hard in a fight for its existence."

It is our task to destroy the bands. Extreme severity against the bands and ourselves is prescribed.

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Only attack brings success. The leader however is always the decisive person. Everything depends on his energy, his initiative, his ardour and his aggressiveness. This applies to everyone from the Corporal up to the General.

Act accordingly!

(Signed) Kuebler General of Mountain Troops.

and this order is to be distributed down to the Companies. Its principles are to be hammered into the heads of all officers, NCO's and men again and again.

And on page 117 German Text, page 73 English Text, [NOKW 1112](#), which we offer as Exhibit 385 -

JUDGE BURKE: You have completed [NOKW 1112](#).

MR. DENNEY: In my book it is [NOKW 1352](#), which will be Exhibit 386, page 117, and page 73.

This is an order of the 2nd Panzer Army to the subordinate units with reference to cooperation with the SS in accomplishing security tasks. In this order it is submitted the photostat copy is a photostat of a copy which is signed by the defendant Rendulic. The copy that we have here has the stamp of the XV Mountain Corps on it, as being received March 21, 1944, and it refers to an earlier order 62744 of the 2nd Panzer Army, and the Subject: "Chain of Command in the North Coratian Area." 24 copies, of which this is the 4th copy.

In the first part we are concerned with page 117 of the German and page 74 of the English:

"The main task of the Command Authorities (as per No. 2) in these areas is to protect the railroad line Zagreb-Belgrade as well as the main line (only up to the area borders) during the course of operation "Cannae" and to keep open these vital supply lines. Due to the lack of forces it will be necessary for this purpose to organize mobile task troops including all possible aids and to commit these flexibly and continuously.

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Beyond this, all military and economically important objects are to be secured as far as is at all possible and the command areas to be kept pacified in closest cooperation with the deputy of Reich Fuehrer SS for Croatia." And the Reichsfuehrer SS is, of course, Himmler, and it speaks of his deputy in Croatia.

"The Deputy of the Reich Fuehrer SS for Croatia will be requested to contact the command authorities and -- in close cooperation with them to employ all forces at his disposal for railroad security and other local security duties.

.....

Headquarters, 1st Cossack Division and Commander Sirmia are instructed to co-operate with the Deputy Reich Fuehrer SS for Croatia and the Police Officials and Units subordinated to him in the command areas as per No. 3[NOKW-1353](#), page 119 and 75, is offered as prosecution Exhibit 387.

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This is from -- this is a teletype and it is from the 2nd Panzer Army to its subordinate unit, the 15th Corps and it is transmitted on 17 March 1944. It bears the number "17 III 1944 and "17 March 44" is on the original.

"Effective immediately the Representative Reich Fuehrer SS for Croatia and his subordinate offices and units are tactically subordinated directly to the 2nd Panzer Army pursuant to the order of the Commander in Chief Southeast (Commander in Chief Army Group F)."

Now here, if your Honors please, referring back to that earlier statement that Dr. Laternser made, Oberbefehlshaber Suedost Oberkommando Heeresgruppe [F which](#), it is submitted, are the same and the reference I made in connection with the prior exhibit, the distribution to Weichs Exhibit 381, where the eight copy went to the Commander in Chief Southeast -- it is submitted that that means Weichs Army Group F; I submit that that was Weichs that they were referring to there, and this is certainly Weichs here. It can't be anybody else. It says, "Oberbefehlshaber Suedost (Oberkommando Heeresgruppe F)" and that is Weichs, is it not?

DR. LATERNSE: Yes, that is correct but when it was submitted formerly "Military Commander Southeast" was said and that is different, and that is why I objected. But previously it was said and then I protested that the Military Commander then was Fieldmarshal von Weichs and that was wrong.

PRESIDING JUDGE BURKE: Does that clear up any possible misunderstanding on the part of either or both of you?

MR. DENNEY: Yes, I just wanted to check on this Exhibit 381. A copy did go to Weichs. There is "OB Suedost" in the German which is Weichs.

PRESIDING JUDGE BURKE: Very well, Mr. Denney, You may proceed.

MR.DENNEY: "The police sector leaders subordinate to the Representative Reich Fuehrer SS for Croatia remain subordinate to him in every respect.

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They will be instructed to cooperate directly with the Command Authorities of the Wehrmacht and they will be informed that these command authorities are authorized in emergency cases to issue tactical orders directly to the police sector leaders. The Representative Reich Fuehrer SS for Croatia is to be informed at the same time.

"The purpose of this subordination is to unite all available German forces in the Croatian area for the period of the operation "CANNAE" with the aim of making more secure the vital traffic lines and economic objectives for troop movements and supply.

"To this end the Representative Reich Fuehrer SS for Croatia is requested to contact and to instruct, or either of them the police sector loaders to contact the Command authorities in the Croatia Area (Corps Headquarters Infantry Corps and Headquarters, 1st Cossack Division, Commander Syrmia, V SS Mountain Corps and XV Mountain Corps. By agreement with the Commanding authorities, he is to

employ all available forces in the first instance for the protection of vital railroads at the same time withdrawing them as far as possible from less vital objects.

The 69th Infantry Corps, Commander Syrmia, 5th SS Mountain Corps and 15th Mountain Corps on their part will immediately make contact with the competent Police Sector Leaders for the purpose of rapid and coordinated regulation of the Security measure. Completion of mission is to be reported.

"Representative Reich Fuehrer SS for Croatia is to report to the 2nd Panzer Army as soon as possible his forces of the available for security purposes as described under 2 and their planned commitment."

And this is from the 2nd Panzer Army. There is an illegible handwritten signature and there is a certification by one Schindler at the left as being a true copy.

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All these units that are set up here, the 69th Corps, the 5th SS Mountain Corps and the 15th Corps were all under the 2nd Panzer Army at this time and, if your Honors will recall, the first contact -the most recent report we have had from it is one to the 69th Corps. However, this communication would indicate that perhaps this first Cossack Division at this time is operating separately because they speak of it in the same breath with which they speak of the Corps.

Page 120 in the German, 77 of the English, [NOKW-948](#), which is offered as prosecution Exhibit 381 - PRESIDING JUDGE BURKE: 388.

MR. DENNEY: Thank you, your Honor; that is 388. I looked at the wrong page.

These are notes on a conference in which there participated the Commanding General and the Chief of the General Staff, SS Chief of Brigade, Fitzthum, who was referred to in an earlier exhibit, Colonel Peter, SS.Hauptsturmfuehrer, Wirth and Major von Thuengen.

It is dated 12 April. It speaks of the evacuation of billets for placing the SS Division "Skanderbag." This Skanderbag Division which was the 21st SS Mountain Division at this time was in the 21st Mountain Corps and at this date the 21st Mountain Corps was not yet commanded by the defendant Leyser but it was at this time under the 2nd Panzer Army which was commanded by the defendant Rendulic. I just wanted to make it clear that the defendant Leyser is not involved in this.

"Evacuation of billets for placing the SS Division 'Skanderbag' in the Kosovo area. It was decided that only 4 battalions of the 1st and 4th Jaeger Regiment were to remain in the Kosovo area as frontier protection. The Battalions have to evacuate the large billets and are to be put up in smaller places along the frontier.

"The transfer of the other Jaeger Battalions from the Kosovo area is to be carried out in an accelerated manner as follows:

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And then they list the battalions and where they go.

"Establishment of a concentration camp in Tetovo is to be carried out in an accelerated manner by the German General in Zagreb.

"SS Brigade Leader Fitzhum reported about his visit with Minister Neubacher.

"S.M. can be arrested outside of Tiranas and delivered to Semlin.

"The view of Corps Headquarters, that in the operational area no consideration need be taken of the Sovereignty of the neutral Albanian state, is confirmed.

"Appointment of Friqui Dino as 4th member of the government council is not tolerable.

"The evacuation of Serbs from the Albanian Kosovo area must be stopped immediately, as the capacity of the Serbian state is exhausted.

"Labor employment for these Serbs is provided for in the Reich.

"For the Special Commando Lange there is to be expected a new service direction of the OKW.

"The utilization of the SS Division "Skanderbag" outside of the Albanian area is mentioned briefly. The question is not acute at the moment and is to be set aside.

The Division will take the oath of the Fuehrer and the Albanian State."

And Your Honors' attention is just directed generally to the matters which were discussed. The Commanding General and Chief of Staff were here, and these SS people -- political questions, questions of forced labor, deportations, et cetera.

Now 1416, which is page 121 of the German, 179 of the English, is offered as 389. These are orders of the 15th Mountain Corps, which at this time commanded by the defendant Leyser. There are enclosures to the War Diary, various daily reports, et cetera. These are in most cases signed typed. However, there at the end there is one printed: "(Signed) von Leyser" which is certified to by a signature of Colonel Pfafferott whose signature we have seen before.

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The first entry is for 7 April 1944. It has to do with "Conduct of War on the Island."

"It is a prerequisite of successful defense at the enemy should learn from the population neither anything regarding the situation nor details concerning our positions and strength. Consequently blockedoff zones several kilometers in depth are to be set up near the bases on the occupied islands which are to be completely evacuated by and kept free of the population without any exceptions. The limits of these blocked-off zones are to be marked with warning notices. Any civilian encountered there is to be shot dead immediately. Execution is to be reported by 17 April.

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Then this is a teletype to 2nd Panzer Army, with copies at indicated for 16 April?

"7 kilometers southeast ROGOSNIA and area SINJ two bandits each shot dead while escaping."

Then one to the 2nd Panzer Army, 20 April, report of 373rd Division to the Croatian Unit under the 15th Corps:

"Due to interrupted radio communication no report operation Wiliam. Own convey attacked on supply road. Bandits repelled by concentrated fir. Pursuing Croatian combat group takes one machine gun and ammunition in booty. No losses of our own. Lines south of Nebljusi extended, one bandit shot dead, 3 band suspects arrested."

Then daily report to the 22nd again, the 2nd Panzer Army, and from the 15th corps. This is for the 382 Division, and this is the so-called Croatian Blue Division. We have it listed as being under the 21st Corps. However, the reports here are sandwiched between these of the 264th Division under the 15th Corps at that time, and the 373rd Division, which was also under the 15th Corps, and they were reporting because Colonel Pfafferett has signed the original:

"Keulenschlag": In the course of continued mopping up of the area west Dreznica at present inconsiderable resistance by minor bands. Five enemy dead, three prisoners, 2 deserts. Booty established up to now: 30 tons of infantry ammunition, 15 tons of artillery ammunition, machine gun and trench mortar material, five cubic meters Diesel, 60 tires, 100 bags of salt several cases of cigarettes and cigars, matches, 60 cart loads boards. I command hut and one medical hut were destroyed, also one printing plant. During the course of the thrust by Ustashi from Gospic towards the northwest - 10 enemy dead, 1 prisoner, 1 machine gun, 9 rifles, 1 cart with two horses. Reconnaissance patrol southwest of Ogulin brought in 8 prisoners, 3 enemy dead."

Then for the 373rd Division, they report the activities of a reconnaissance patrol, and again they use the term "deserters", even as they have in the prior sections of this report, and this bears the signature, "Pfafferett", and typed is "15th Mountain Corps, 1a". Then the next communication is for the 23rd of April, again to the 2nd Panzer Army, Section, 262th Division:

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"In reprisal for attacks on our trucks two villages 4 kilometers northwest of Tregir were partly burned down; 2 kilometers east of Tregir 2 soldiers shot down by bandits. Up to now 2 suspects arrested."

In 126 of the German, 84 of the English, report to the 2nd Panzer Army for 24th of April, 264th Division:

"Reprisal for attack band billets 4½ kilometers northeast of Primostern burned down."

The 373rd division:

"Operation "Klettersteig": In the course of forward thrust by the Third Battalion Division, (that should be the 383 regiment, Your Honors,) in the area of Turevac-Jelovac, bandits repelled, five villages burned down."

Then here is a communication to the 264th Division, and an information copy goes to the first Brandenburg Regiment. This bears, at the end of it, the typed signature, of the defendant, "von Leyser," certified to by "Pfafferett", and "Colonel, General Staff Corps."

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"The islands situated in front of the area of the 264th division serve the bands to a great extent as transfer points for supply. Of particular importance to the enemy are the islands."

and then they list them.

"Details concerning enemy situation will follow currently. Interference by enemy air-force and enemy naval forces must always be counted on.

"The 264th Division will mop up these islands. Supplies and installations of all kinds of benefit to the enemy are to be secured or destroyed. Enemy shipping is to be seized and the male civilian population capable of bearing arms is to be evacuated from the islands as far as possible; at least suspicious persons must be arrested."

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Page 128 of the German, 88 of the English, [NOKW 788](#), which is offered as Prosecution Exhibit 390.

--

PRESIDING JUDGE BURKE: Did you say, "390"?

MR. DENNEY: 390 I believe, your Honors, is correct.

PRESIDING JUDGE BURKE: You may proceed, Mr. Denney.

MR. DENNEY: This is a teletype from the 15th Mountain Corps to the 69th Reserve Corps, one of its subordinate units. It is dated May. At this time the defendant Rendulic commanded the 2nd Panzer Army, which was the higher headquarters of both units.

The 15th Mountain Corps at this time was commanded by the defendant, Leyser:

"In the Kerdun mountains an anti-Communist movement is organizing. Consequently suggestion; troops to be directed to be moderate in taking loot and in destruction."

This is all typed except for the handwritten part.

[NOKW 790](#), at 129 of the German, 89 of the English, is offered as 391. This is a combat report concerning the operation, "Schach" which was referred to before, which was being conducted by the troops of the 69th Corps, and this is from the 1st Jaeger Reserve Regiment.

The operation took place between the 26th and the 28th of May, 1944:

"The enemy occupied in strength the area Kestenjak from Sica to Bukovac with 1st Kordun Battalion: with elements on the other side of the Korana river the area north and south Veljun with one" and they list the units of the third Brigade.

"The area Primislje and the heights situated south and east of it with I. Brigade of the 8th Kordun Division.

In Rijeka 55th Reconnaissance Battalion had contact with the 1st Mountain Regiment. A document was captured by the 1st Cavalry Regiment which shows that the bandits had received written information concerning the commitment four days prior to the operation.

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In the course of combing through the terrain 4 trucks were captured (2 were out of commission, 1 was blasted, 1 was given over to the police." One evacuated hospital and numerous telephone lines, 1 print shop and 1 motor vehicle repair shop were destroyed and rations and some heads of cattle were secured."

Then they give the results:

"Enemy dead: 17 wounded, 100 estimated Prisoners:

2 officers Own losses:

2 dead, 5 wounded Destroyed:

1 hospital with furnishings (secured 7 quilted blankets, 6 pillows, 33 mattresses)" Signed by, "Hammerschmidt, Colonel and Regimental Commander."

Then we have the next thing from an element of the 69th Corps. which is [NOKW 789](#), which is offered as Prosecution Exhibit 392. This bears the stamp of the 69th Corps, and again this is in June, 1944, when the corps was still subordinate to 2nd Panzer Army. This bears at the end, the illegible signature of a Captain and Battalion of the 383rd Infantry Regiment:

"In Zirovac three well-furnished military hospitals with 200 beds are burned down."

"According to statements by prisoners the enemy is composed of the I, II, and III Banja Brigade about 3000 men in strength as well as of units of the Huske-Brigade."

Under the date of the 27th of May, which is at the top of page 136 of the German, 92 of the English:

"General: According to statements of prisoners the radio operators and the Artillery officers on the enemy side were Englishmen. Also an English-American Commission is alleged to have been with the VII Division. Tite himself was in Topuske on the 18th of May, and according to the unanimous statements of civilians and prisoners he was in the area of Raume Petrova Gera.

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Also according to statements of prisoners 2 Elite Companies were engaged for the attack on the ridges." and note:

"English uniforms and arms".

Signature illegible, "Captain and Battalion Commander". illegible initials.

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MR. DENNEY: Then, on Page 139 of the German and Page 93 of the English is Document No. [NOKW-1428](#), which is offered as Prosecution's Exhibit No. 393. These are two reports to the 2nd

Panzer Army from the 15th Mountain Corps, both in June, at which time the Corps was under the command of the Defendant Leyser, and the Army was under the command of the Defendant Rendulic. The first one, for the 5th of June:

"Bands have occupied the heights surrounding our support point on the road SUCEVICE-GRACAC and are pressing from the VELEBIT into the area West of ZRMANJA VRELO. Croatian combat groups have destroyed bandit hospital, Southeast of UDBINA. Thereby, 20 enemy dead (including two physicians in addition 95 wounded and sick killed. Northeast of CAZEN medium sized band repelled by Ustasha under leadership. Three enemy dead, 3 prisoners, 4 rifles. Line NOVI- BIHAC quiet." And it had 15th Mountain Corps typed at the end, and over to the left is Colonel Pfafferott's signature.

DR. LATERNER: Your Honor, I would like to point out and object that these Croatian combat units were never subordinate to the German Wehrmacht, so that this incident is a pure inner Croatian affair and was, therefore, only reported because it took place in the sphere of the office which had to receive the reports.

MR. DENNEY: Well, of course, we don't agree with Dr. Laterner's contention. We have seen hundreds of reports here going in from well, not hundreds, but we have seen numerous reports here going in from lower units about Cossack divisions and Croatian divisions. I don't object to his comment. I would like, in view of his comment, to put our contention on the report.

PRESIDING JUDGE BURKE: Ultimately, of course, it may be a matter for the Tribunal to make final decision, and after all, it is pretty much a matter of argument when the controversy really comes before us. I would however, suggest that, if possible, you refrain from giving conclusions on the weight of evidentiary offerings.

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MR. DENNEY: Well, if Your Honor please, I am certainly mindful of Your Honors' rulings, and I would just like, for instance, here, just to point out the term; that's all; I didn't say anything about it.

PRESIDING JUDGE BURKE: You intended to identify what you claim as the situation merely, and not as a statement of fact.

MR. DENNEY: Yes, Your Honor.

PRESIDING JUDGE BURKE: Very well.

MR. DENNEY: And then on the 9th of June, again from the 15th Mountain Corps, at this time under the heading of the 264th Infantry Division: "Mine sabotage East of PRIMOSTEN, West of DRNIS, 1 truck hit a mine. 2 suspects shot dead." And it is from the 15th Corps to the 2nd Panzer Army. And then on Page 141 of the German and Page 95 of the English is Document Mo.NOKW-1418, which we offer as Prosecution's Exhibit No. 394. This is a teletype to the Headquarters of the 15th Mountain Corps, and it covers the period 22 May to 2nd June: "Enemy Losses: 1525 counted 1347 estimated dead: 143 prisoners, 33 arrested 32 deserters. Booty: 1 Gun destroyed, 1 Antitank Gun, 2 Tanks, 4 Trench Mortars, 84 Machine Guns, 7 Machine Pistols, 2 Pistols, 2 Antitank Rifles, 242 Rifles, 624,600 Rounds

of Machine Gun Ammunition, 117,400 Rounds of Machine Pistol Ammunition, 6300 Rounds for 2 cm A.A., 1106 Kilograms of Explosives and Dynamite, 130 mines, 175 Hand Grenades, 129 Parachutes, 1 Rubber Raft, 4 Motor vehicles, 116 cans of Gasoline, 4 clothing depots, 3 cwt of sheepwool, 65 tons of grain." And then various kinds of livestock--horses, cattle, heeep--and the "1medical depot, 32 Mosquito Tents, 2 Typewriters, 17 Radio sets, 1 Transmitter, 4 Electric Stoves, 22 Generators, 1 Motor, 1 Film Apparatus, 1 Microscope. Destroyed: 2 small Ammunition Depot, 1 Depot of Explosives, 1 Engineer School, and Airfield, 2 Airplane Hangars, 1 Hospital." And still on the same document this is again from the 15 Corps, and is signed by the Quartermaster. It's dated 20 June:

"Special Instruction for the Supplying of No.: 91.

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4) Transfer of arrested indigenous personnel, Bandsuspects and Deserters to Employment in Reich.

The Croatian Government complains about the compulsory transfer, in opposition to treaty regulations, of male and female members of the population taken in band warfare, band suspects or deserters to employment in the Reich, Such measures are to be stopped immediately. In future the recruiting and collecting persons ready to work for the Reich may only be carried out through the offices set up for this purpose Plenipotentiary for the Four Year Plan (Plenipotentiary General for the Employment of Labor Croatian Office in Zagreb, Kulina-Banna 3. These offices are to cooperate with the competent Croatian offices and to observe the regulation of the German--Croatian treaty of 3 February to the camps provided for them as previously, where they will be treated according to the regulation in force.

.....

For the Headquarters The Quartermaster (signature) (illegible) Lieutenant Colonel" Then [NOKW 1445](#), at Page 144 of the German Document Book and Page 99 of the English Document Book, is offered as Prosecution's Exhibit No.395.

This is a series of extracts from the war diary of the 15th Corps, and it covers the period 1 January 1944 to 30 June 1944. The first entry is for 19 January: "Banja Luka: Upon request by 393nd Division." That is a division, which at the time was in the 21st Mountain Corps, "authorization is sought from Headquarters 2nd Panzer Army fro 392nd Division to draft men fit for military service and decision about further employment." Although we had the 392nd Division listed as being in the 21st Corps, it is clear here that they made an application to the 15th Corps and that the 15th Corps had forwarded their request to the 2nd Panzer Army. The Corps, at this time was commanded by the Defendant Leyser, and that 2nd Panzer Army was commanded by the Defendant Rendulic.

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"21 January: Final report to Headquarters and Army about the operation 'Brandfackel' (Incendiary torch). 131 enemy dead, Minor booty, 1 hospital and 2 ammunition depots destroyed." For the 17th of February: "in compliance with Army directive, the 264th and 392nd Division are ordered to evacuate the entire male population of the island fit for military service. The Germand Plenipotentiary General in

Croatia is requested to prepare measures to evacuate the entire population of the island and coastal area in the Restricted Zone, 'Red.'" And here again we see this Corps giving orders to the 392nd Division; so certainly, at this time, it is to be fairly assumed that they are under the Corps. 24th February: "In the area of the 264th Division evacuation ordered for islands close to the coast is proceeding. In order to evacuate the island, the islands have first to be liberated by fighting." 1st March: "Headquarters 2nd Panzer Army orders the island of RAB to be occupied as soon as possible and the evacuation of the male population fit for military service." 6th March: "Journey by the Commanding General to Split, conference with Seeke, Points of the discussion: Shipping space for the occupation of RAB and then for the mopping up of the island further away. Removal of the male population there. Blasting of harbor installations. Where shall mines be laid, off the coast? Mine fields in the straits between islands. Conference at 264th Division. Points under discussion: Company at NIN to be transferred to the Battery there. 1 Platoon to Petricane for coastal observation. Anti-Aircraft Artillery for Anti-Aircraft defense, to be employed according to point of main effort." And then there is an order of evacuation, and the Cetina question, and raid in the coastal towns for saboteurs. And for the 10th of March: "With regard to the evacuation of Split ordered, it has been reported to 2nd Panzer Army that about 5000 men fit for military service have to be evacuated from there." For the 13th of March: "in a letter by the German Plenipotentiary General in Croatia it is suggested to Corps Headquarters, with regard to the order by 2nd Panzer Army to draw upon the male population in the Dalmatian islands for work purposes, to establish mixed committees to apprehend the men born 1904-27."

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And again we have the same age groups referred to, from 17 to 40. "The current state of the evacuation (from islands 1128 men, 100 women, 150 children) will be reported to 2nd Panzer Army. Shall be evacuated from the coastal areas are about 150 to 200 thousand men."

PRESIDING JUDGE BURKE: Mr. Denney, I think at this point we will take a recess until 3:15.

(THE COURT RECESSED AT 1500 to RESUME AT 1515)

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THE MARSHAL: The Tribunal is again in session.

Presiding Judge Burke: You may proceed Mr. Denney, page 102 of the English Document Book.

MR. DENNEY: Thank you, your Honor. May it please your Honors, continuing with the entries from the war diary XV Mountain Corps for the first half of 1944, 15 March:

"Corps Headquarters reports that it intends to mop up and evacuate at a later time the islands situated off Sibonik.

"1 April 1944. On the basis of a directive by 2nd Panzer Army, 264th Infantry Division is ordered to carry out monthly raids at Split, since complete evacuation of all men fit for military service from Split cannot be carried out at the present.

5 April 1944 ...264th Division was given orders for evacuation measures concerning the men evacuated from the islands.

20 April 1944 ... To stop enemy supply traffic, especially across our own routes of supply, suggestion is forwarded to the Division and to 1st Brandenburg Regiment, to mine the roads used by bands, in addition to ambushes, local thrusts at transfer points, and evacuation of suspected villages.

30 April 1944 ... The evacuation of several coastal localities which is urgently necessary is requested.

6 May 1944 ... Army order: 2nd Panger Army – Evacuation of band-suspects from Split in large numbers now. Very soon 2,000 are to be sent away. Apprehension is the duty of the Corps, evacuation the duty of the Croatian Government. An order to that effect was given to 264th Division and Administration Sub-Area Headquarters at Split, and the German Plenipotentiary General in Croatia was asked for information since billeting within the Corps area or employment by the troops has to be refused.

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..

20 May 1944 ... Army gives notice (2nd Panzer Army) of the intention, corresponding to the proposal by Corps Headquarters, to evacuate additional coastal areas, but it reserves to itself the order fro its execution.

... 264th Division receives the order to carry out the most severe measures with regard to plundering and lack of discipline shown by the troops at ZARA.

31 May 1944...Lately it has teen proposed to Army to evacuate the pro-British population of the islands of ULJAN and PASMÁN.

The evacuation of Split, ordered by Army, is proceeding only very slowly since the personnel available from SD and Secret Field Police is insufficient for a thorough apprehension of a large number of persons and since the Croatian police cannot be used for this purpose and has orders to wait for the arrival of a Government representative. Here again they refer to the secret police in connection with their work, that is SD and field. – the work of the troops.

30 June 1944... Corps Headquarters orders 264th Division to evacuate speedily the unreliable elements from Split, and sends the 3rd Company of the 591st Field Gendarmes Battalion to 264th Division for faster apprehension. The possibility of employing the evacuated persons as a Labor Battalion on the road LAPAC – KNIN is to be examined by the 373rd (Croatian) Infantry Division, and again your Honors attention is called to the use of the term "Croatian" and this is signed by the then commanding General of the XV Corps,....

Fohn, who succeeded the defendant Leyser, who about this time went over to the XXI Mountain Corps which was also in the 2nd Panzer Army.

Then [NOKW 886](#) which is offered as Prosecution Exhibit 396, 150 in the German, 106 in the English.

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This is a report from the XXI Mountain Corps to the 2nd Panzer Army, 19 June. The 2nd Panzer Army, of course, was under the defendant Rendulic.

"SS-Division Skanderbeg: Up to now 3 dead have been confirmed of the group counter intelligence unit 202 which was attacked. 2 still missing." and then, handwritten, there appears, "In reprisal 3 communists from Djakovica were hanged."

And there is a signature Hansen.

[NOKW 836](#) at 107 of the English and 151 of the German, is offered as Exhibit 397. These are reports from the XXI Mountain Corps for July and August to the 2nd Panzer Army, 7 July:

"181. Infantry Division: In the area of Bar 10 hostages were shot to death. Headquarters XXI Mountain Corps."

Then on the 8th for the same units:

"In the area of Risan 7 hostages were shot to death in reprisal for raids."

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On 11th, reporting for the 10 July, the enemy lost, in the area of the corps, 20 dead counted, 50 estimated; 2 hostages were hanged.

And for the 181 Division: on of the Corps subordinate units:

"Assembly of bands (100) dispersed by trench mortar fire.

In unsuccessful raid on motor vehicle column, 1 enemy dead and 2 hostages hanged."

And again the 2nd Panzer Army. This has to do with the Operation "Falkenauge".

"Headquarters intends by rescinding the previous plan, to bring the enemy to battle again and to destroy him before he has been able to reorganize his forces. For this operation "Falkenauge" is being prepared."

And page 154 and page 110, [NOKW 837](#), which is offered as Prosecution Exhibit 398. This is a report for 11 July, which is the enemy within the Corps Area lost 15 dead, 32 prisoners, 5 machine guns, 25 rifles;

1 ammunition depot set afire by shooting, 2 hostages shot.

"Area Budua: 2 hostages shot to death in reprisal for telephone line Sabotage."

[NOKW 838](#), which is page 155 of the German and page 111 of the English, is offered as Prosecution Exhibit 399. This is a Situation Report from the 21st Corps, dated 13 July, and under paragraph 4:

"Arrests:

From 28 May - 5 July the SS Division -- " and that is, it is submitted, the 21st SS Mountain Skanderbeg Division, because that was the only one in the corps at the time, so far as we know.

"....arrested 510 Jews, Communists, persons aiding and abetting bands and political suspects. In the detention camp of the Division they were kept in security arrest and 249 of these inmates were evacuated to the Reich for labor."

And then a teletype of 11 August to the 2nd Panzer Army from the 21st Corps, commanded at this time by the defendant Leyser.

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"The SS-Division Skanderberg: During attacks East of Kukes-minor own and civilian losses, 2 trucks burned out. 6 hostages hanged at the places of attack."

There is an illegible signature; and then [NOKW 952](#) was offered, incidentally, Your Honors, this last exhibit was Exhibit 400, page 112, NOKW 952.

And the next exhibit is page 157 German and page 113 of the English NOKW 1008, and is offered as Exhibit 401. This is a report from the 21st Corps to the 2nd Panzer Army, and up at the top it says: "To Tank Army Supreme Command 2." Actually it is "Panzer Oberkommando 2", which is the 2nd Panzer Army. It is a poor translation, and I would be very glad to submit it to the translators to let them confirm that it is the same translation we have had for the 2nd Panzer Army before.

JUDGE BURKE: Very well.

THE TRANSLATOR: This is addressed to the "2nd Panzer Army."

MR. DENNEY: This again is the 21st Corps, and is dated 30 August 1944. The Corps at that time was commanded by the defendant Leyser. "Situation in Bitolj unchanged. The anti-aircraft battery, section Dossow which was surrounded near Prilep, has fought free. The enemy lost, in the corps area, on the 29th, 8.: 5 dead? shot? 1 Italian desertor, 14 prisoners, 20 bandits hanged."

And [NOKW 672](#), 158 German and 114 English is offered as Prosecution Exhibit 402. This is a memo of 1 August, from the Plenipotentiary General in Croatian:

"The retired Minister and State Councillor Doctor Petric informed us today that some time ago he spoke with the General about conditions on the island Solta and on other evacuated Dalmatian islands and that he begged that measures be taken to protect the property of the population. He presented the enclosed excerpt of a letter addressed to him by Bezic Fabijan, Split," And it gives his address:

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"former Head of Community (Gemeindehauptmann) of the island Solta, of 14 July 44. According to the statement of the State Councillor the island is occupied exclusively by the German Army. The entire civilian population was evacuated three months ago and left their entire property in the main on the island. The German soldiers stationed on the island are said to transport the property to the mainland at night time and to sell it there to the civilian population in Split and the surroundings. They are said to dispose of household articles, linen, crockery, oil, wine gin, Honey, sewing machines, shovels and essentially all objects representing any value. State Councillor Doctor Petric begs that those procedures

be examined by the competent superior Headquarters and that measures be taken immediately to protect the property of the population. He begs specially to see to it that the population were not deprived of the wine casks necessary for procuring a living later on. He considers the return, if possible of the women and children as expedient so that they themselves may protect their own property.

On the islands Brac, Korzula and Hvar the conditions in the evacuated villages are said to be similar. State Councillor Doctor Petric was commissioned by the Prime Minister for the dispersal and care of the evacuated civilian population and begs in this capacity that the wishes which have been expressed be carried out on the other islands too.

German Plenipotentiary General in Croatia".

And of course this is in connection with the evacuations which we seen ordered by the 2nd Panzer Army to its lower units at an earlier time.

Then the German General Plenipotentiary in Croatia for 16th August and this is dated, - and to the High Command, 2nd Panzer Army.

"Property of the Civilian Population in the Dalmatian Islands. "Forwarded herewith is a note on the inquiry by the former Croatia Minister, State Councillor Dr. Petric. The Minister has already been informed by this office that the descriptions he received were obviously exaggerated, because there are not sufficient soldiers at all in the islands to be able to carry off the entire property of the civilian population."

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"In addition, he was informed that the 1037th Administrative Sub-Area Headquarters had already carried out an investigation in the island of Solta and found that a large part of destruction of private property was caused by band warfare. Since in spite of this Minister Petric has requested that his complaint be investigated by a higher headquarters, this request is forwarded herewith.

For the German Plenipotentiary General in Croatia Wehrmacht Chief Administrative Officer As deputy.

And there is a signature, Senior Staff Administrative Officer.

And then page 160 German, and page 117 English, [NOKW 154](#), which is offered as Prosecution Exhibit 403. This is a request from the Corps, the 21st of the 2nd Panzer Army, with reference to the SS Division of the 21st Mountain Corps, and this original request of 7 September bears the signature of the defendant Leyser.

"Subject: Attack on the evacuation transport consisting of the female employees of civilian offices from Tirana on 3 Sept. East of Kukes.

To 2nd Panzer Army.

Enclosed please find the intermediate report by the German General Zagreb concerning the evacuation of the femal employees of civilian office from Tirana on 3 September.

Command of the Corps Headquarters:

1.) The evacuation was prepared and executed on the responsibility of the German General Zagreb.

Corps Headquarters considered the measures taken by the German General Zagreb sufficient and agreed to them.

2.) In addition, Corps Headquarters have interceded extensively concerning the security of the transport.

And among other things has caused the following measures to be taken:

a) An armored reconnaissance car to go along.

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b) Employment of the 2nd Battalion of the 522 Mountain Regiment for road security in the area Kukes for the transit of the column.

c) On the night in question, of all motor vehicles riding along that road to be grouped into one large scale convoy (total strength of this convoy 71 motor vehicles, 254 men, 4 Machines guns, 241 rifles and 2 machine pistols."

That, in the opinion of Corps Headquarters, was all that could be done under the given possibilities for the security of the convoy. However, absolute security with the available forces cannot be guaranteed because of the long distances involved and because of the terrain which is difficult to survey. In addition, it may be said that no attack on German soldiers or vehicles has taken place between "Kukes and Prizren since the arrival of German troops in Albania (in September 1943)" -- and the Court's attention is directed to the date of this letter which is a year later, September "The enclosed intermediate report shows the secrets of the attack.

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A detailed final report will be submitted.

"By order of Corps Headquarters, the following measures were taken after the attack.

"Extension of the protective zones on both sides of the main road Kukes-Prizren.

"Seizure of communists in Prizren as hostages by the 21st "Waffen-Mountain Division of the SS "Skanderbeg".

"Employment of confidential agents with the mission to find out where the kidnapped women were and, if possible, to affect their release.

"In conclusion, it must be stated that measures of our own could not have avoided the regrettable attack which took place, contrary to all probability and notwithstanding extensive security measures."

Signed: "von Leyser" and "Distribution: 2nd Panzer Army" and "Information" copies to the "German General in Zagreb. And then the enclosure dated 5 September:

"Telephone call from Major Frank via exchange Kukes.

"Major Frank has previously reported by radio that he has freed the road by fighting with two companies. 13 dead recovered, among them two women. Three women not yet recovered, about 30 wounded cared for. He stated that it was not so bad about the wounded since a vehicle carrying wounded was involved in the attack; thus the figure comprises 30 old and newly wounded. Oberfuehrer Schmidhuber has ordered Major Frank to burn down some villages near the locality of the attack and to kill the population.

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The approval of the Corps is still missing. Major Frank inquires whether the Corps agrees to the carrying out of these reprisal measures and asks for an immediate reply."

And it says: "Transmitted: Sergeant Bachold 181 Infantry Division" which is also part of the 21st Corps.

"Received then an illegible signature and "Captain " and then there is some illegible handwriting down below.

Page 162 of the German and 120 of the English, Document NOKW952, which is offered as Exhibit 404--- this is an extract from the WarDiary of the 21st Corps commanded by the defendant Leyser. It is a cover page showing that from 25 August 43 to 11 September 44 the Corps was under the 2nd Panzer Army and that from 11 September 44 to date it was under the High Command of Army Group E at Saloniki.

Then for 18 September 44:

"Corps Headquarters directs 21 Waffen Mountain Division SS 'Skanderbeg' not to carry out as yet the shooting to death of 50 hostages intended as reprisal measures for attacks which took place in the area of Kukes since negotiations for the release of the two German women kidnapped on 5 September may lead to a favorable conclusion and may be interrupted by such action."

And then is the matter which was referred to in the prior Exhibit 403; and then on the next page, [NOKW -071](#), which is offered as prosecution Exhibit 405, 163 of the German, 122 of the English, and this is from the Oberbefehlshaber Suedost in command of Army Group E. This is a typed order on a blank and is from the defendant Weichs in reference --- it goes to Army Group E and the 2nd Panzer Army. The reference is an earlier communication of his, "3812/44 top secret of 21 August.

"As a supplement to the order referred to, OKW has issued the following order:

"Subject: Combatting of crimes committed by non-German civilians in occupied territories.

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"By virtue of the Fuehrer Order dated 30.7.44 non-German civilians in the occupied territories who stab us in the back in the decisive stage of our struggle for existence do not deserve any consideration. This is to be considered as the directive for the interpretation and application of the Fuehrer Order itself and of the execution decree of the Chief of the OKW dated 18.1.44. If the war situation and the traffic situation made a transfer to SD impossible other effective measures are to be taken ruthlessly and

independently. Under such circumstances there are, of course, no objections against the death sentence and the execution of such sentences by summary court martial procedure."

And typed at the end: "Commander in Chief Southeast (High Command Army Group F), Chief of General Staff, by order Selmayr, Colonel General Staff Corps"; and over to the left there is a signature of certification by a Colonel.

[NOKW-1135](#) which is offered as prosecution's Exhibit 406; this is a report from the 21st SS 'Skanderbeg' Division and it bears the receipt stamp of "Army Group F." There is a signature which is that of the Divisional Commander Schmidhuber. There are 32 copies of which this is the 25th. It's dated "Received on 23 October 1944" and the date of dispatch appears to be the 2nd of October 1944. The Abridged Report concerns the initial organization and state of the 21st SS Mountain Division 'Skanderbeg.'

Page 3 of the original under paragraph 2:

"Organization of the Division:

"All these conditions primarily refer to Koseve, where the SS Division 'Skanderbeg' is being organized. Above all the initial organization of the division has come up against the invisible resistance of the BEG and AGAS which has showed itself in the passivity of the prefects and mayors belonging to the BEG and a whispering propaganda hostile to the initial organization.

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The greatest possible help was given to the division by the Deputy of the Reichsfuehrer-SS in Tirana, SS Gruppenfuehrer Fitzthum, who placed Police Officers and subordinate leaders at the disposal of the division as instructors and even a car able to traverse cross-country for the Division Commanders mobility, and gave his special support for supplying the Division with the requisite amounts of the country's currency.

"All possible support was given to the Division by the XXIst Mountain Corps, to which it was subordinated tactically, and also directly by the 2nd Panzer Army. The XXIst Mountain Corps also placed 1 officer and 12 NCO's at its disposal as instructors. Nothing could be expected from the 5th SS Mountain Corps, which has nothing itself."

The 5th SS Mountain Corps is a separate Corps and the 21st Mountain Division, the Skanderbeg Division was under the 21st Mountain Corps, which was commander at this time by the defendant Leyser.

"Employment" - under paragraph 3:

"In this connection it may be assumed that the commencement of the initial organization of the SS Mountain Division "Skanderbeg" was the cause of the increased furnishing of arms, medical equipment, and uniforms by the Anglo-Americans to the partisans in the Albania-Montenegro border area. This assumption is based on the experience gained during the first commitment where the enemy no longer consisted of bandits in the usual sense but of regular troops, disciplined, uniformly equipped with British

uniforms, and excellently armed, under very good and flexible leadership of superior strength. There were about 30 British machine guns for every German machine gun, and the enemy fired as many sub-machine guns as we fired rifles. The Anglo-Americans and Bolsheviks also benefited from having Montenegro nationals and not Albanians.

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..."

"The Division Commander Scamidhuber, SS-Oberfuehrer."

And then there is 166 and 127, [NOKW 1018](#) which are extracts from the War Diary of the Prinz Eugen Division with the reference to the execution of prisoners. This is offered as prosecution Exhibit 407. This division, if your Honors please, was under the 5th SS Mountain Corps and was --- which corps was first under the 2nd Panzer Army and, of course, at all times was under the Oberbefehlshaber Suedost Army Group F. These reports have to do with the period late in 1944 and in January 1945 and they are handwritten, and the unit here is the 7th SS Mountain Engineer Battalion which was again subordinate to the SS Prinz Eugen Division from August '44 to April '45.

"27 November 1944 the water tower was blown up by "E-Lange" at 1200.

"The bridge across the Ibar is being prepared for demolition. By order of the Commander the 7th SS Engineers, the town will be contaminated by 3rd Company and "E-Lange" on 28 November 1944. Demolitions at the railway station have commenced.

"16 January 1945. Enemy attacks. Supplies from Southeast. The bridge at Zvernik has been rebuilt by the Reds. Artillery and baggage columns are crossing it. By railway as far as Losnica. I German Armored train from Vinkovci till Tunia. 21 prisoners taken along to be shot, 2 escaped."

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And then the last document in this book, which is [NOKW 655](#), which is offered as Prosecution Exhibit 408, page 168 of the German, and 130 of the English, is a series of orders and reports for October and December 1944, from the Commander in Chief, Southeast, who was the defendant Weichs, and also from the Commander of the 2nd Panzer Army, which was under the Commander-in-Chief Southeast at this time.

The first one is 11 October 1944. This is directed to 2nd Panzer Army, and various other copies were forwarded to these indicated at the bottom of page 130, - about the middle of page 168 of the German, and this is sent by the Commander-in-Chief Southeast, Chief of the General Staff, "Winter", who at that time was Chief for the Defendant Weichs: "In the Croatian and Hungarian territory East of the line:

Drina Estuary - Erdevik - Ilok - Palanka - Kula the following measures are to be taken, depending on the development of the military situation:

Seizure of crops and cattle in areas abandoned by the inhabitants. Seizing cattle and harvest in return for a certificate of performance. Headquarters 2nd Panzer Army and Army Branch Serbian will provide the necessary labor and transportation with most extensive utilization of indigenous means.

The Executive officers of Headquarters 2nd Panzer Army and Army Branch Serbia in agreement with the Army Group Executive Officers will put aside those quantities of cattle and products of the country which are required for army supplies. It is to be endeavored to supply the forces completely from the country." Page 169 of the German, 132 of the English, this is from the 2nd Panzer Army, and the distribution list is contained on page 176 of the German and 138 of the English.

The 69th Corps get a copy, and the various other units listed there:

"The Commander-in-Chief Southeast has changed Headquarters 2nd Panzer Army with the seizure of cattle and harvest in areas abandoned by the inhabitants in Croatian and Hungarian territory East of the line Drina."

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and so forth, which were just referred to in the prior communication, "depending on the development of the military situation."

And this, of course, it is submitted, is sent down in accordance with the earlier request from the Supreme Commander Southeast, or the Oberbefehlshaber Suedest, defendant Weichs.

"Likewise Commander-in-Chief Southeast has exclusively empowered Headquarters 2nd Panzer Army to establish priorities and direct traffic by rail and the Danube in the Croatian territories.

Added to this it is ordered:

1) To carry out all clearing, evacuation and dispersal measures in the area designated above, Headquarters 2nd Panzer Army will establish a special branch at Runa. This is given the task of seizing and also transporting the harvest from this territory. Instructions of Section C-1 of the corresponding order #1 and paragraph A III of Order #11 apply to this branch" Lt. Kieson was in command of this branch.

Then further down, the last sentence before paragraph 3:

"Employment of his Army Economies Staff, or parts of the same, will be decided by Lt. Colonel Kiesow according to his own judgment.

This headquarters will have under its command;" and then there is a list of what the headquarters will have under its command.

Paragraph (b) is to be noted in connection with the seizing of foods and cattle 786th Administration company.

Down under (c):

"Local headquarters at Semlin and Ruma have to comply with orders given by this branch in all questions concerning evaluation as well as in all matters pertaining to bringing in the harvest."

Then paragraph (d):

"Possible requests for officers by the commander of this branch to head additional outer branches, or to settle special matters, will have to be granted by the tactical officer, if possible. Requesting officers engaged in important tactical employment is to be avoided.

"5) The branch has to help primarily in the evaluation of racial Germans from above mentioned territory. The evacuation plan of the German Element in Croatia will serve as a guide for this. Basically women, children, sick, and frail persons are to be removed first, and as far as possible, by rail or truck transportation.

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The male members will come last in marches; the order for their evacuation will be given by the Commissioner of the Reichsfuehrer SS in Croatia.

Those professional or agricultural trade groups of the German Element directly or indirectly working for the German Wehrmacht are to be treated according to instruction contained in letter Headquarters 2nd Panzer Army, Chief Quartermaster dated 8 October 1944. Members of the Home Guard can only be evacuated in agreement with tactical headquarters commands. All evacuated persons are to be directed to march to Esseg, from where their further removal will take place.

While helping the evacuation, contact is always to be maintained with the District Direction of the Racial Germans in Eastern Symria, and the Local Leader of the Racial Germans.

Indigenous inhabitants not of German origin, who do not want to submit to enemy rule and want to come along, especially families of members of the Ustascha Militia who are determined to fight on the German side until the end of the war, are to be taken along."

I should just like to direct the Court's attention to that direction, to the use of, "Ustascha Militia who are determined to fight on the German side until the end of the war."

Paragraph 6:

"If possible, simultaneously with the removal or departure of the the following is to be salvaged by the Branch inasmuch as it has not been taken along by it.

(a) All the cattle and poultry within the area of the Branch;

(b) All horses within the area of the Branch.

The following orders are in effect for the salvage of cattle and poultry."

It recites two orders for the salvage of cattle and poultry.

Down at the bottom:

"Beyond this, all horses and cattle are to be procured which are offered to the Wehrmacht, especially to the Ration Offices, by the population.

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7) In the evaluation and salvage measures mentioned in paragraph 5 and 6," these are the two preceding paragraphs.

"racial Germans and their property will be given priority over inhabitants of the country not of German origin."

I think that we can omit paragraph 8.

Proceeding to the top of page 136 in the English, which is about the top of page 176 in the German, I believe:

"After complete procurement of salvaged goods the entire harvest supplies are to be salvaged within the area of inasfar as they are not required to cover the personal needs of the remaining population until the next harvest, applying rigid standards of need. Preference is to be given in this matter to the sunflower harvest.

Inasmuch as harvest supplies are not directly taken over by Wehrmacht Ration Offices in Syrmia, the sunflower harvest proceeds are to be transported to the Reich, the remaining harvest in compliance with orders given by Headquarters 2nd Panzer Army, Chief Quartermaster, to Zagreb.

After carrying out this measure, the remaining military and economic evacuation goods, including agricultural machinery of the evacuated population, according to evacuation surveys on hand at Evaluation Sub-area-Headquarters, are to be saved and removed to the salvage area allocated to the Army in the Reich. Evaluation goods which are the property of the Croatian State or Croatian nationals are to be procured only if this is specially ordered or if they have been abandoned by the fleeing population.

Indigenous help and material are to be utilized most extensively for all salvaging and evacuation, in order not to occupy Wehrmacht forces in every case.

The Branch will ensure all necessary measures being taken by the competent tactical headquarters to prevent ruthless plundering, wild looting, and excesses during the salvage operations. Plunderers and unauthorized looters are to be arrested immediately and submitted to court marshal punishment without consideration."

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All Italian Military Internees and Prisoners of War located within the area of the Branch are to be brought to the Vinkovci branch for removal into the Reich, inasfar as they are not temporarily required by the troops for urgent military purposes. The area of the Branch is to be cleared ruthlessly of them. In the event of Italian Military Internees and Prisoners from Serbia moving through syrnia the Branch will assist the Commander in Syrnia most extensively.

All requests for transportation space of any kind are to be directed by the applicant within the area of the Branch to the latter."

Then dropping down to (15):

"The Branch will report the first time on 1 November 1944, and every ten days after that, to the Chief quartermaster, Headquarters 2nd Panzer Army:

- a) Number of racial Germans and indigenous personnel removed.
- b) Evacuation and salvage goods Procured, with breakdown according to type, number and quantity.
- c) Salvage goods of all types removed, with breakdown according to type, number and quantity.

The entire contents of this order are intended only for German headquarters, according to distribution list.

For Headquarters Panzer Army The Chief Quartermaster" Then there is a signature, and then the distribution list which follows.

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MR. DENNEY: Then next is a teletype which starts on Page 177 of the German, Page 138 of the English, to the German Embassy, dated 18 October 1944: "Departed from Kroelic on 15 October for Zagreb; early return is necessary. Disposition concerning cattle, pigs, and grain urgently required from Food Directorate. So far only 40 empty freight cars for the sunflower shipment have arrived. Supposedly according to instruction from Ganzenmueller, flow of empty freight cars to the Southeastern area has been stopped. Request clarification since reloading has been interrupted by lack of freight cars. New list of reloading stations and quantities, will be forwarded upon completion. For the transportation of racial Germans so far neither complete outfits nor food or sleeping cars have arrived. Increase in cattle transports possible if Croats furnish empty freight cars, crews and escort for Ruma and Vinkovci, 150 men each. Signed Claus." And it is certified to by a signature which is illegible, by a first lieutenant -- rather an Oberfeldintendant, not a first lieutenant. And then there's a teletype which is to the 2nd Panzer Army Quartermaster, dated 1 November 1944 and Defers to an earlier teletype. "The railway shipment from Vrpolje to Vienna for grain contains; 63 tons sunflowers, 29 tons grain and corn," And it is from the Commander in Syrmia, and there is also listed a code number. And then there's a teletype of 31st October to the 2nd Panzer Army Chief Quartermaster, stating that, "until 30 October 1944 the following were removed." And then animals are listed. "Animals taken in marches from Vinkovci to Brod, 2200 head of cattle, 100 sheep; by rail: from ESSEGG to E.V.M. Vienna: 780 pigs; from Ivankovo and Ilaca to the Reich Office for Grain, Vienna: 510 pigs." And then it gives the various listings of cattle, sheep and pigs and "340 tons sunflower, 40 tons of grain; by tug on the Danube from Vukovar: 43 tons sunflower." And on Page 180 of the German and Page 142 of the English, from Brigadier General Braumueller to the 2nd Panzer Army.

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This is for 2 November 1944; "By order of the OKW/Economics Office and instruction by Four-Years Plan, Agriculture Department, and Agricultural Section will be established with me for uniform orientation of all Agricultural Commanders employed or to be employed in the area to procure and remove agricultural goods. Therefore, request that it should be ascertained immediately, and that I should be notified of, all Agricultural Commanders already employed by Headquarters 2nd Panzer Army, with indication of name, rank, place of employment, and present subordination. Simultaneously request transfer that of Army Economics Office, since it cannot function in its present location and is without contact." That, again, is a teletype, and there is some illegible writing at the bottom. It is signed Braumueller, Brigadier General, which is typed. And then on Page 181 of the German and still on Page 143 of the English. This is a report on the "Official Journey by Oberfeldintendant Kaldrack and Captain Wagner to Brod, Vihkovci, from 4-7 November 1944". Question of transfer shipment for Sarajevo was discussed with the Commander of the 787th Administration Company". And later oh with Major Profit. "Group E was discussed by telephone with the Executive Officer of Army Group E." And then various other installations are discussed and inspections, and transportation of the SS "Handcar" Division. And turning to Page 181 in the German and Page 145 in the English: "To increase the Italian Military Internees employed in transferring by 100 men. To move the two Platoons of the 6th Company of the 118th Supply Battalion, still stationed at Vinkovci, to Brod. Major Profit reported that the available tonnage amounts to about 400 tons supply column space for Sarajevo and the retraining 200 tons for transfer shipments from Broad to Bosn. Broad of ammunition, gasoline, and rations."

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It's on Page 13 of the original, Page 181 of the German, and Page 145 of the English.

MR. JACOBSON (German-English Interpreter): Where did you start?

MR. DENNEY: Starting with Stabsintendant Hopp. "Stabsintendant Hopp has so far received in treks the following evacuation goods: 322 head of cattle and 184 sheep; about 800 head of cattle; by rail once 7 and on 3 November 2 freight cars with pigs." And then, turning over to Page 182 of the German and Page 146 of the English, they refer to a conference with the Quartermaster of the 68th Corps, which at this time was withdrawn. And then on Page 184 of the German, Page 147 of the English, there is discussion about receiving flour supplies promised by the Croatian Government. And down in subparagraph "a": Gruppenfuehrer Kammerhofer will be given the Northwestern sector of LXVIII the Corps area with Esseg and Djakovn as his territory to evacuate according to instructions of the LXVIII th Corps. Gruppenfuehrer Kammerhofer will make his police "units available without restrictions in the remaining area of LXVIII the Corps and on his part will have "Wehrmacht units within the evacuation area assigned to him for evacuation measures."

As before, Lt Colonel Kiesow as deputy of the LXVIII th Corps will maintain supreme command over the removal of all salvaged evacuation goods.

Gruppenfuehrer, Kammerhofer, according to the desires of Major Heiden, agreed to give temporary leave to 60 members of the German Element called up for the Home Guard who are at the moment housed for evacuation measures of the LXVIIIth Corps. They are to be employed to salvage goods left

by the evacuated racial Germans plundered by indigenous inhabitants of other origin. Gruppenfuehrer Kammerhofer was informed that evacuation was now extended also to the property of the non-Germans in agreement with General Gustovic.

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He pointed out that he had been assigned a new mission by the Reichsfuehrer SS, the execution of which he would undertake soon." And over on the top of Page 149 of the English, Page 186 of the German: "Chief Paymaster Langhammer was instructed to place the 10,000 liters Sliwowitz at the disposal of the LXVIIIth Corps as Post Exchange merchandise." It is Page 186 of the German, Page 149 of the English; it is on Page 17 of the original document if that will help you any. And then: "Organization Todt-Oberstabsfuehrer Griessler, with when matters pertaining to the Italian Military Internee-treks were to be discussed, was not there, nor could he be reached by phone." And dropping down to the last paragraph on Page 149 -- that starts with "The Corps Executive Officer stated that, after the inclusion of the non-Germans in the evacuation, demands made by him at Kiesow's Branch were settled for cattle to be slaughtered. It was pointed out to him that the Brandenburg Division was to supply itself mainly from Hungarian stocks. He was informed of the allocation of 10,000 liters Sliwowitz as Post Exchange Merchandise."

PRESIDING JUDGE BURKE: Mr. Denney, at this point we will resume tomorrow morning at half past nine.

THE MARSHAL: The Court will be in recess until 9:30 tomorrow morning.

(The Court adjourned at 1630 to resume session Thursday, 7 August 1947 at 0930).

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, Defendants, sitting at Nurnberg, Germany, on August 7, 1947, 0930--1630, Justice Wennerstrum, presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

THE HONORABLE, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United states of America and this Honorable Tribunal.

There will be order in the Court.

DR. LATERNSE: Your Honors, because the Tribunal is to rule regarding the motion put by the defense that two of the defendants can go to Washington, I would like to ask the Tribunal to accept a reply to the ruling on the motion. I believe such a reply is necessary, and such a reply is in accordance with the principle that the person who had asked for something is in the position to answer the decision. Your Honors, may I do this now, or may I submit it later to the Court?

THE PRESIDENT: I believe it would be better, Dr. Laternser, if you would prepare it in writing.

DR. LATERNSEER: Certainly, I will submit it today.

THE PRESIDENT: Before we proceed further, will the Marshal ascertain and report to the Tribunal whether or not all the defendants are present.

THE MARSHAL: May it please Your Honors, all the defendants are present save the defendant Weichs, who is absent due to illness.

THE PRESIDENT: The Tribunal has received a certificate from the prison physician as to the defendant Weichs, and I am handing it to the Deputy Secretary General. The proceedings will continue in the absence of the defendant Weichs without prejudice to his interest.

Are there any matters you wish to raise at this time before proceeding with the presentation of the documents, Mr. Denney?

Page Unlabeled

MR. DENNEY: With reference to Dr. Laternser's reply, I take it the Court does not expect us to reply to his reply, to our papers of op -1546 A position?

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THE PRESIDENT: No, we don't expect it nor would we anticipate it, or want a reply.

DR. LATERNSEER: I object to what the Prosecution has just said that it is going to reply to our reply.

THE PRESIDENT: Mr. Denney did not say he was going to reply. He merely inquired of the Court and the Tribunal as to whether or not the Tribunal would expect a statement from the Prosecution, and I advised him we did not, nor would we wish it.

You may proceed with the presentation of the evidence, Mr. Denney.

MR. DENNEY: We were on Exhibit 408, in evidence, your Honors, which is [NOKW 655](#), and we were in the middle of the report which was submitted by one Wagner and Kaldrack, with reference to the over-all plans for the evacuation of Croatia and Serbia. We were at page 187 of the German and page 150 of the English, and it starts with the sentence: "General Gustovic was requested to approve the following requests:" It is about 15 lines up from the bottom of page 150 in the English.

"General Gustovic was requested to approve the following requests:

- a) Furnishing of teams for removal of evacuation goods to the railway lines.
- b) Furnishing of labor for salvaging and reloading evacuation goods.
- c) Extension of evacuation measures to Croatian, Serbian, and Hungarian elements of the population in the evacuation area.

General Gustovic promised to fulfill these requests and stated that he was going to issue appropriate directives to his subordinate headquarters offices. Likewise he indicated his readiness to inform the Croatian Headquarters about the agreements reached concerning the taking over of evacuation goods by

the German Wehrmacht. It was arranged with him that the owners, in place of cash, were to be compensated with certificates of performance in the form of receipts. He requested a sample containing the text in German and Croatian language be forwarded to him.

General Gustovic was requested to see that flour deliveries to the German Wehrmacht promised by the Croatian Government be made by the individual mills.

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He agreed to give appropriate directives and showed thereby, as throughout the whole conference, full understanding for the necessity of drawing from the country to ease the supply situation.

It was decided that the civilian population, also outside of the 5 km Zone behind the Main Line of Resistance, should hand over all harvest proceeds which were not required for their own use, to feed the cattle, and as seed for the next crop.

General Gustovic shared the opinion that in taking the tribute the Croatian administration is to show itself in public as far as possible.

District Leader Dr. Flicker stated that the Croatian population would willingly submit to the evacuation measures, but that resistance was to be expected from the Serbian element.

An agreement was reached that, as an incentive to comply with the duty of turning in foodstuffs, rewards would be given during the evacuation in the form of salt and possibly other monopoly goods.

In conclusion it was agreed to compile a record of the conferences, which General Gustovic requested to have forwarded to him.

His activity, on the basis of the results of conferences so far, was once more discussed with Lt Colonel Kiesow. He explained the measures he intended for the immediate future and gave a survey of the results of his work so far. Furthermore he stated he would not call on "Demeter" trains any more until further notice and would expedite for the time being only Croatia trains to ensure first of all the Croatian share of the evacuation proceeds. He was informed that the Corps Executive Officer of the LXVIIIth Corps believed he could be able from his own evacuation measures to satisfy his announced needs for cattle to be slaughtered."

And I don't think we need to read the rest of it. It is mostly administrative detail. It is concluded at page 153.

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Turning then to page 154 and 191 of the German, there is a list dated 14 November to the Army Executive Officer Headquarters 2nd Panzer Army. It bears the receipt stamp of the 2nd Panzer Army, "Certified Correct" signed by a "Lieutenant" and typewritten signature by Dr. Richter; and it lists various heads of cattle for periods in March 44 and one entry for November for cattle and sheep with totals given.

And then on page 192 of the German, 155 of the English, 6 November 1944, the operational setup as to the various districts of the evacuation staffs. I don't think we have to cover what is in paragraph 1. It is to be noted that in sub-paragraph "c" that Gruppenfuehrer Kammerhofer at Esseg had one of the evacuation staffs; and then, starting at II, at the bottom of 155 in the English and 192 in the German:

"To be procured are:

"1) In the Combat Zone: Goods not taken along by the evacuees (racial Germans and other components of the population).

In the Rear Area:

Goods not taken along by the evacuated racial Germans.

All products and raw materials (excess goods) which are not required by the population or the forces. Precise detailed instructions will be given for this. In return for property of racial Germans procured a certificate of performance will be given (sample enclosed). The issue of Certificates of Performance for goods procured from members of other components of the people is still being decided on."

And then down under "a" under "III", it speaks of "Procurement":

"In the combat zone teams will be furnished by the population. Empty vehicles will be furnished by the troops and labor will be provided by population and troops.

"b) In the Rear Area: Teams will be provided by the population. Supply column space (in exceptional cases) will be furnished by the troops. Railway transports and labor will be furnished by the population."

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And then over on page 193 of the German, 157 of the English, the second paragraph on the page:

"The following authorizations are requested from General Gustovic, which upon receipt will be forwarded immediately to the Evacuation Staffs: for removal of Croatian goods, for employment of indigenous labor, to furnish teams."

And it is signed: "For the Corps Headquarters" by "The Chief of Staff." and then the distribution list on the following page.

And then there is an order starting on page 195 of the German, 158 of the English, 21 November, from the 2nd Panzer Army to the Corps Group Kuebler who was one of the evacuation groups:

"The order referred to does not contain the entire results of the conferences on 5 and 6 November, which decided on further salvage measures to between representatives of the Army on the one hand and the Quartermaster of the 68th Corps together with Lt. Colonel Kiesow, the Quartermaster of the Commander in Sarmia and General Gustovic on the other. In view of the importance of the salvage measures for the German Reich as well as for Croatia, there must be complete clarity at all headquarters employed in the measures about their duty to procure the salvage goods completely and about the manner of carrying out the salvage measures. Therefore, once more the instructions at present in force for salvaging are made known."

And then he repeats the instructions which were contained in the memorandum of Wagner and Kaldrack; and I don't think we need to reread them here; and that takes us over to the conclusion of this particular part of the exhibit: "For the Headquarters of the 2nd Panzer Army, The Chief Quartermaster" initialled, and the various copies which appear on page 163 of the English and 199 of the German.

And on page 200 of the German and 164 of the English starts the first of a long series of reports of the various material that was evacuated. I would just like to direct the Court's attention to the items and the amounts and the dates, page 164; Wheat, barley, oats, rye, corncocks, sunflower, beans, linseed, hemp, vetch, hops, poppies, pigs, cattle, paper, packsaddles, driving belts, artificial fertilizer, malt, accommodation equipment, empty barrels, copper ore, printing presses, oils, alcohol, used buna-rubber, soot, soap, stones, soap powder, and then over on the next page colts and horses, machinery, rations, textiles, weneers, stallions, bucks, tractors and ploughs.

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And then there is a note down, handwritten, that: "This does not include 46 trains sent directly from our headquarters at 5 trains a day." and then another handwritten note: "In addition provisioning the troops from the country."

And then, turning to page 201 in the German and 166 in the English is a further communication from headquarters 2nd Panzer Army. Of course, at this time the defendant Rendulic was no longer there. He had left for other parts, but the 2nd Panzer Army was still under the defendant Weichs and this has to do with evacuation measures in Syrmia and again it talks about the changing of the Kiesow Group and the duties of the Kiesow Group being assumed by the Group Kuebler; and paragraph "3", page 202 in the German, 166 in the English, last paragraph in the page:

"Further salvaging measures are to be carried out in accordance with the 2nd order referred to. Group Kuebler will arrange further participation of SS Gruppenfuehrer in salvaging measures."

Next page:

"The branch will give a final report at once on the results of its last 10-day report. Additional 10-day reports, in compliance with the 3rd order referred to, are to be submitted by Group Kuebler to Commander-in-Chief Southeast (High Command Army Group "F" -- that is the defendant von Weichs -- and the various copies, one going to the "Commissioner of the Reichsfuehrer SS in Croatia."

And then, starting on the next page, we have several more pages of what they were evacuating.

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I think the pages are self-explanatory and I don't need to read them into the record but the columns generally have: types of goods, quantity and weight, number of freight cars and the shipping ticket number, the date of the departure, place of origin, and who dispatched it; and then, on the first two pages, it is to be noted that everything was dispatched by the 2nd Panzer Army.

Over on page 172 of the English, 205 of the German, the 2nd Panzer Army seems to have done most of it but there is a few entries of dispatches by the Police and these lists continue on over to page 190. I would just like to direct the Court's attention to the items again, the dates and who sent them -- and the amounts.

And on page 226 of the German and 190 of the English, another short report to Headquarters 2nd Panzer Army, Quartermaster Section, and Corps Group this is for 14 December 1945, signed by Kiesow. I don't think there is any necessity to read it.

And then we have several more pages of listed material similar to that which we have seen before and that concludes the document.

Before Mr. Rapp starts -- excuse me a moment -- that concludes Document Book XVI, if your Honors please, and Mr. Rapp will take over the presentation of Document Books XVII and XVIII.

MR. RAPP: Your Honors, we are turning now to Document Book XVII. The first document we submit, [NOKW-861](#), which is submitted as prosecution Exhibit 410 -- I beg your pardon, your Honors -- it is 409; this exhibit is an affidavit from the defendant Wilhelm Speidel who swears, states and deposes:

"I should like to make the following statements regarding my personal history: on 8 July 1895 I was born in Metzingen (Wurttemberg). From 1895 to 1901 childhood in Metzingen ... education in parental home. 1901 to 1903 elementary school in Stuttgart. 1903 to 1913 Humanistic Gymnasium. 1913 in June, Abitur Secondary School (graduation). Chose to become a professional officer. On 25 June 1913 entered the Army as officer candidate (Grenadier Regiment, 123 in Ulm)."This should be 26th of June, your Honors.

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The month has been forgotten in the English translation -- "26 of June, 1913."

"As officer candidate I attended military academy in Metz in 1914. In 1914 I was promoted to Lieutenant. 1914 to 1918 I was platoon company commander on the Western Front in the Grenadier Regiment 123. I was promoted to 1st Lieutenant on 22.3.1918. (Decorations: Iron Cross IInd and 1st Class, Knights Cross of the Wurttemberger Military Merit Order, Silver Wound-Badge for being wounded four times).

"In 1919 adjutant of the District Command Schwaebisch-Gmund. 1920 adjutant of a Reichswehr Battalion (Infantry Rgt.26) in Ulm. 1920/21 served with the troops with the 13th Grenadier Rgt. in Ulm and Ludwigsburg. 1921 Adjutant Garrison Hq. Stuttgart. 1921/22 1st course of the "Training of the Assistant Staff Chiefs" in Wehrkreis VII, Munich. In 1922 second course of the "Training of Assistant Staff Chiefs" in Wehrkreis VII, Munich. (Interrupted due to brain concussion and broken skull.) 1923 staff officer with Staff Wehrkreis V, Stuttgart. 1924/25 2nd course "Training of the Assistant Staff Chiefs" in Wehrkreis V, Stuttgart. 1926 service with troops with Infantry Regiment 13 in Stuttgart. Promoted to Captain in 1926. 1926/27 3rd course "Training of the Assistant Staff Chiefs" in the Reichswehr Ministry, Berlin. 1.10.1927 transferred to the General Staff of the Reichswehr

Ministry. 1927 to 1933 in the Reichswehr Ministry Organization Department, interrupted by the following service abroad: 1928 detached for 5 months to the "Red Air Fleet" in Russia; 1929/30 for 1 year to the U.S. Army Air Forces "in the U.S.A. Promoted to Major 1.4.33; 1933/1934 transferred to the Reich Air Ministry, Organization Department.

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1935/36 commander of a "Combat Group" (Bomber Unit) in Giebelstadt. Promoted to Lieutenant Colonel 1.9.1935. 1.4.1936 chief of the General Staff, Luftkreis Command III, Dresden. Promoted to Colonel 1.10.1937. 1.4.1938 Chief of General Staff, Luftflotten Command 1. 1939 campaign against Poland. Promoted to Generalmajor (Brigadier General) 22.9.1939. (Decorations: bars for the Iron Cross, IIInd and 1st Class). 1939/40 Chief of the General Staff, Luftflotten Command 2. 1940 campaign against the Western Countries and England. Promoted to Generalleutnant (Major General) 19.7.1940. From October 1940 to 1942 "Commanding General and Commander of the German Luftwaffe Mission in Rumania" (Several Rumanian and Bulgarian decorations). 1.1.1942 promoted to General der Flieger. May to September 1942 ill with malaria in Germany. 9.10.1942 "Commander South Greece". September 1943 "Military Commander Greece". June to September 1944 without assignment in Germany. 1944/45 "Commander of the Liaison Staff Luftwaffe High Command Southeast." ("Reception Organization". March 1945 to the capitulation: Commander feldjaegerkommando III (special field Police regiment) on the Western Front, Prisoner of war since the capitulation in 1945.

Other remarks: 1. Married 9.10.1940 to Inge von Buelow. 1 son born 25.4.1945. 2. Relationship to the NSDAP (Nazi Party): I was a monitor for ½ year in 1922. I do not know my number. After 9.11.1923 violently against the Party.

I have read the above statement, consisting of 2 pages in the German language and declare that to the best of my knowledge and belief it is the full truth. I have had the opportunity to make changes and corrections in the above statement. I have made this statement voluntarily and without any promise of reward and I was neither threatened nor compelled to do so."

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The next document being offered your Honor is [NOKW-174](#). I believe that is erroneously marked in your document book, your Honors, as page 52. Is that correct? I believe it is marked page 52 though actually it is right after the document I just have read into the record No. 174.

PRESIDENT WENNERSTRUM: Document 174 in my book is at page 52.

MR. RAPP: At page 52 then. Very well, your Honors. The next document you have in your book now is [NOKW-1735](#)? Is that correct?

PRESIDENT WENNERSTRUM: It is in my book. I do not know whether that is true -

MR. RAPP: In some of the English books, the first two pages of NOKW-1735, you will find on page 48 of one English. I believe you will recognize it there, -- marked 1735.

PRESIDENT WENNERSTRUM: That seems to be correct. Your statement is correct so far as my book is concerned. I am advised that is also correct as to the other members of the Tribunal.

MR. RAPP: Yes.

Now this document, your Honors, we would merely like to have marked for identification as Document 409a. We will not read it into the record, or offer it as an exhibit; it is merely to be marked for identification as Document 409a. That is a rather voluminous document. I believe it goes all the way through to about page 53.

PRESIDENT WENNERSTRUM: And it is not offered as an exhibit?

MR. RAPP: It is not offered as an exhibit, your Honor, it is merely to be marked for identification.

DR. LATERNSEER: Your Honors, I do not know what the prosecution intends, if it just submits documents, or introduces them by way of document books, just for purposes of information. We are here in the stage of evidence, and the prosecution has to produce evidence. I do not understand this procedure, because there is no information for the court; rather one has to submit evidence to the court at this stage.

Page 1,556

I request from now on just to accept documents, only for evidence and not for information.

MR. RAPP: If your Honor please I don't think Dr. Laternser had his ear phones on when I was addressing the Court, I did not offer this exhibit for information. I merely said that I would like to have this particular document marked for identification only, and I believe your Honors will believe that is all I have said. I did not call the court's attention for any information purposes, for evidence or for any other purposes.

PRESIDENT WENNERSTRUM: Is there any further statement you wish to make?

DR. LATERNSEER: No.

PRESIDENT WENNERSTRUM: The record then is that this particular exhibit, No. [NOKW-1735](#), is marked 409a, for identification purposes only, and is not offered as an exhibit, and under such conditions it will not be considered by the court as an exhibit.

MR. RAPP: That is correct, your Honors.

PRESIDENT WENNERSTRUM: Very well. You may proceed.

MR. RAPP: Your Honors, the next document to be offered is [NOKW-174](#), which is being submitted as Prosecution's Exhibit 410 I believe your Honors will find this in the English Document Book on page 52.

Now in reading those documents, I would like to call the Tribunal's attention only to one fact. I would like to ask you to notice the dates of these documents, I am about to read into the record, because they extend into the fall of 1943 and into the winter of 1944.

This document we have before us is a letter to the Army Group [F by](#)courier, enclosure 10, War Diary, for information of 2nd Panzer Army German General Plenipotentiary in Croatia. Daily report of 2 August '43, Serbia, 1st and 2nd SS Panzer Grenadier Regiments:

Page 1,557

"21 suspects shot," partly in flight, 1 DM Officer arrested by SS Police Fighter Detachment.--

Do the interpreters have this document? Has it been distributed to you?

INTERPRETER: Could you kindly give us the German Document Book number?

MR. RAPP: He is bringing it right there to you.

INTERPRETER: Thank you.

MR. RAPP: I repeat for the record only:

"21 suspects shot, partly in flight, 1 D.M. Officer arrested by SS Police Fighter Detachment during search operation N.W. of Lajkovac.

.....

Greece.

.....

2.) Shooting of 50 workers threatened on account of arson in the streetcar depot at Collithea, in case the perpetrators do not surrender.

.....

Croatia.

Political situation in the main unchanged. Growing unrest in the Zagreb area. In the city area delivery of communist orders to report for active duty, under the threat that members will be killed in case of disobedience and their possessions destroyed. The population of the neighborhood of Zagreb is forbidden by the bandits to bring provisions into the city under penalty death."

It is certified, to "Wheade, 1st Lieutenant". Signed, "Military Commander Southeast, 1a, No. 17/43, and then it is typed in the signature of the defendant, "von Geitner".

The next order is dated the 2 September 1943, still the same document to the 610th Administrative Sub-area Headquarters, and refers to 50-to-1 execution of "400 Draja Mahailovich reprisal prisoners are to be shot as revenge for the surprise attack on the security detachment of the 21st Auxiliary Police Company in Stragari, in which 3 members of the company were killed and 5 missing who did not return after expiration of the established time period.

Page 1,558

Reprisal prisoners lacking are to be furnished by the Commander of the Security Police.

The burning down of Stragari as a reprisal measure is to be reported in the proclamation.

Completion of the action is to be reported. Certified: 1st Lieutenant. After transmission to: Senior SS and Police Fuehrer, Military Commander Southeast Ia No. 33/43 Signed Felber.

Page 1,559

MR. RAPP: On the next page, Page 54 of the English and Page 40 of the German, it states: "To: 809th Administrative Sub-area Headquarters, for the information of: 1st Royal Bulgarian Occupational Corps through the German liaison Staff, 2 September 1943, 2nd Pazer Army." Hear is an order pertaining to a ratio of better than 40 to 1. It states:

"A total of 450 communist suspects are to be shot and one bandit village is to be burned down, after safeguarding of the detachment at Crkvica (20 km. W. of Leskovac) on 1 Sept 43 in which 7 German police were killed and 4 wounded. The reprisal measured are to be carried out if possible by German police in the course of the operation at present underway in the area W. of Leskovac and is to be make public after completion. Completion of the action is to be reported.

Certified:

Bode First Lieutenant after transmission Senior SS and Police Fuehrer Military Commander Southeast Ia No. 31/43 sgd.

Felber On the next page, Your Honors, is another 40 to 1 order "To: District Administrative Headquarters 1/823, Reference:

Your communication Ic No. 9185/43 of 2 September 1943." This communication is dated 4 September 1943.

"As revenge for the surprise attack on the village of Duplja west of Weisskirchen on 30 Aug. 43, in which 3 Voldsdeutsche members of the Banat State Guard and one community official were murdered and the community records were set on fire, 160 communist reprisal prisoners are to be shot. The utilization of bandit members confined in the Gross-Betschkerek hostage camp for execution and of women, so far as they ave convicted bandit helpers, is approved.

Page 1,560

Completion of the action is to be reported by enclosure of one copy of the publication.

Certified:

Bode First Lieutenant After transmission to Senior SS and Police Fuehrer Military Commander Southeast Ia No. 44/43 sgd.

Felber And on the bottom it says "To: 610th Administrative Sub-area Headquarters."

On the next page, Your Honor, "Subject: Reprisal Measures." I believe the first paragraph figures out something like 37 to 1. It says: "As retaliation for the surprise attack on a truck of the German customs border guard at Bajina Basta on 13 September 1943 by a DM band, during which 4 German customs

officials were shot and 4 wounded, 300 DM followers are to be shot." The next one, I think, is plain 50 to 1 it says. "As retaliation for the surprise attack on a German harvesting detachment at Banja (5 km. S.E. of Arandjelovac on 4 September 1943 during which 2 German police sergeants were killed, 100 communists are to be shot." The next one is 2 to 1.

"A retaliation for the surprise attack on the Serbian State Guard Detachment in Gojna Gora (20 km. N.NE. of Pozega) on 14 Aug. 43, in which 4 Serbian State Guard men, among them one officer, were kidnapped and murdered, 10 D.M. followers are to be shot; then is:

As retaliation for the surprise attack on an automobile of the SD of Uzice at Serozva (6.5 km. S.E. of Uzice) on 8 Sept 43, in which one SD man was wounded, 25 D.M. followers are to be shot.

The execution is to be effected by the Commander of Security Police central, as far as reprisal prisoners are not at the disposal of the Administrative Sub-area headquarters.

Completion of action is to be reported by 25 Sept 43.

Page 1,561

Military Commander Serbia Ia No. 101/43 sgd.

Felber Certified:

1st Lieutenant After transmission to Senior SS and Police Fuehrer And this is signed by the Military Commander Serbia, Ia. Your Honor' attention is invited that during this period the Defendant Geitner was Chief of Staff to this man Felber who signed these orders.

The next document, Your Honors, you will find on Page 58 and Page 43 of the German Document Book. It is [NOKW-157](#), being offered as Prosecution's Exhibit No. 411. This document is dated 4 October 1943. It has a rubber stamp and various pencilled noted on top. It is addressed to Army Group F, at that time headed by the Defendant Weichs, (by messenger), for the information of 2nd Panzer Army, the Defendant Rendulic, German General Plenipotentiary in Croatia.

"Daily report of 4 Oct. 43 Serbia Communist surprise attack (100) on National Economic school in Leskovac, building burned down, crops stolen.

Bulgarians did not enter the attack.

In operation with Bulgarians and German Field Gondarmerie East of Uzice, 1 DM bandit shot, 28 captured houses burned down.

In Cacal on 1 Oct., 263 DM reprisal prisoners and 43 Communists shot as revenge for a series of surprise attacks in the area of the 610th Admin. Subarea Hqs., in which German and Bulgarian Wehrmacht members were killed.

Certified 1st Lt.Mil.

Co. Southeast La No.772/43 secret Signed von Geitner" And it is 3 War Diary Supplement 87.

Page 1,562

On the next page, Your Honors, Page 59 under document, we find "For the Information of: German General Plenipotentiary in Croatia, 2nd Panzer Army, Daily Report 17 October 1943." Then, "Serbia: As revenge for surprise attacks on German customs and police patrols in the area of the 610th Administrative Sub-area Headquarters, 100 DM and in Belgrade, 150 Communist reprisal prisoners shot." Signed, Military Commander Southeast, Ia No. 1041.43 secret, Signed Steiger, Major." And the certified by a first lieutenant. If Your Honors turn now to Page 60 of Your document book, defense counsel will find this on Page 46, we submit [NOKW-162](#), to be Prosecution's Exhibit No. 412. This, Your Honors, is again a report, and it says: "Arrest of suspects from Petrovo Selo as hostages approved up to 50. Only such persons may be arrested who, if necessary, may be shot to death also.

Safekeeping must be guaranteed. The liability of the hostages is to be announced publicly." The next document, Your Honors, you will find on Page 61. It is [NOKW-166](#), to be offered as Prosecution's Exhibit No-413. I believe defense counsel will find this on Page 47. There is again a report by the Military Commander Southeast, to the 816th Administrative Sub-area Headquarters, and the subject is some reference to a teletype message of the 23rd of October 1943: "The arrest of hostages petitioned with the teletype referred to above is approved for a period of 4 weeks. The reason for the arrest is to be made public. Only those persons are to be arrested who can also be shot, of the occasion arisen." On Page 62, Your Honors we offer [NOKW-170](#), which becomes Prosecution's Exhibit No. 414. Defense counsel will find this on page 48. Here is a report from the Military Commander Southeast, and it is distributed to the 599th and 809 Administrative Sub-area Headquarters. It states, Subject: Reprisal Measures."

It is dated 29 October 1943.

"In reprisal for the attack on 2 German soldiers by DM Chetniks near Tekija on 17.10.43 for a further attack 21.10.45 near DI. Milanovac and for the attack on tug drawn barges on the Danube near Izlaz on 26.

Page 1,563

10.43 150 DM followers were shot on 29.

10.43. Publication issued by the Propaganda Section Southeast in cooperation with competent Kreis Kommandantur (District Ho.) in Pozarevac and Zajecar and of the unit employed on the Danube which will receive the proclamation shortly.

For the Military Commander Southeast The Chief of the General Staff by order of and sgd.

Major On the next page, Your Honors, Page 63, still Page 48 of the German Document Books we find an entry in the War Dairy, the Propaganda Section, Ia. and it States:

"Feldkommandantur 610 The murder of the 2 customs border police near Selac has been compensated for by the operation of the VI Auxiliary Police Battalion on 19 and 20 October 1943, in which 7 Serbian villages were burned down and a considerable number of persons shot to death.

The result of the operation is to be published as a direct reprisal measure for the murder of the 2 German customs border police.

Military Commander Southeast La/No.264/43 dates 27.

10.43 signed FELBER" And then some illegible initials, and it's certified to be a true copy and it again goes for information "After release:

"SS und Polizei Fuehre, Liaison Official of the Customs Border Police." This Concludes [NOKW-170](#)
The next document, your Honor, you will find on page 64.

Page 1,564

It will be page 50 of the German document book. It is [NOKW-1420](#), to be submitted as Prosecution Exhibit 415. This is a report from the Commander-in-Chief Southeast, High Command Army Group F. In other words, the defendant Weichs. To the OKH and OKW pertaining to the execution of 100 Draza Mihailovic and 150 Communist retaliation prisoners in Belgrade. The first page merely states that this particular TWX has been addressed to Army General Staff, Operations Branch, daily report from the Wehrmacht Commander Southeast, 4 October 1943.

On page 65 we find: "In Cacak, 1 November, 283 DM hostages and 42 Communists shot to death in reprisal for surprise attacks, in the course of which members of the German and Bulgarian Wehrmacht were killed." It is signed by the Wehrmacht Commander Southeast.

On Page 66 the Army General Staff, Operations Branch, received this TWX 18 October 1943, and it says under Serbia: "Diminishing band activity in reprisal for attacks on German border patrols in the area of 610 Administrative Sub-Area Headquarters, (SABAC) 100 DM and in Belgrade 150 Communist hostages were shot to death."

And then on the other page, your Honors, it is signed Wehrmacht Commander Southeast, High Command, Army Group F, I C/ AO No. 3120/43 Secret, dated 17 October 1943.

On page 63 we find the same type report in TWX form. We find this on page 68, page 52 in the German Document Book, and it pertains to the administrative area headquarters 395, and on page 69 it says:

"Enemy losses 2205 prisoners, 37 dead, 42 wounded, 13 depots. Ammunition rations and clothing were taken in booty and destroyed, 3 villages were razed to the ground. Own losses, 2 dead, 3 wounded. (Signed) Wehrmacht Commander Southeast (High Command Army Group F) 20 October 43."

The next page, your Honor, page 70, I believe this is page 53 of the German document book, the same type TWX report, this time dated 1 November 1943. "Daily report from Wehrmacht Commander Southeast. SERBIA: Final report concerning combat actions in the area of Lebanic.

Page 1,565

.." That is on the other page, your Honor. "...more than 150 enemy dead. - Bulgarian losses: 30 dead, 8 missing. - On the lower Drina River, Communist bands entrenching. Intentions: Reconnaissance thrust

on West Drina bank. 42 DM reprisal shootings. 'Hammelbraten', 25 South of Cacak encountered strong DM band....

"(Signed) Wehrmacht Commander Southeast (High Command Army Group F)" This, your Honor, concludes Document 1420.

JUDGE CARTER: To whom are these last reports directed?

MR. RAPP: They were reports from the Commander-in-Chief Southeast, and at the same time Commander-in-Chief Heeresgruppe [F](#) to the OKW--OKH in this case, the High Command of the German Army.

Your Honors, if you turn now please to page 72, you will find NOKW-165 which is submitted as Exhibit 416. This is a letter of the Military Commander Southeast to the German Plenipotentiary General in Croatia pertaining to the recruitment of labor. It states:

22 October 1943, to:

German General Plenipotentiary in Croatia:

For purposes of provisioning the Army and the Luftwaffe, and for the General of the Transportation Corps, labor forces are to be recruited and in Croatia 3,000 workers. The recruiting is to be carried out with dispatch. On account of the working conditions (salary, provisioning of the workers with food, provisioning of the families, etc.) liaison is to be set up with the Chief Administrative Officer of the Military Commander, Southeast.

It is signed: Military Commander, Southeast Ia, No. 1156/43 Secret And it bears the initial "G" and is dated 23 October '43. At the bottom of this document, it says:

After transmissions, Chief Administrative Officer and Chief of Military Administration and To: OKW/WFST Qu. Branch.

Page 1,566

The procuring of labor forces from Serbia is meeting considerable difficulties at the moment. Forceful measures were declined up to now by Minister Neubacher, since the new political order should not be disturbed. Neubacher informs us from Berlin that the Reich Foreign Minister would agree to the commitment of 12,000 Italian prisoners as workers in the Serbian area. It is requested that the approval of the Reich Commissioner for Labor Employment, Gauleiter Sauckel, and Reichsminister Speer be obtained.

(Signed) Military Commander, Southeast from Ia No. 275/43, 29 Oct.

'43.

And then it bears the initial B. And then it gives the distribution, After transmission, by writing to:

.....

The next document, your Honor, you will find on page 74. German defense counsel will find this on page 56. This is [NOKW-159](#); it is being offered as Prosecution Exhibit 417. This is an order of the Military Commander Southeast Felber to Higher SS and Police Leader for the execution of Communists and Draza Mihailovic hostages. It is dated the 23rd October, 1943.

.....To the Senior SS and Police Fuehrer for the information of:

809th Administrative Sub-area Headquarters German Liaison Staff with the 1st Royal Bulgarian Occupational Corps

1) As revenge for the surprise attack on the cattle purchasing detachment at Sljivar, by a DM and a Communist band, through which 8 German and Bulgarian Wehrmacht are Police members were killed, 8 German and Bulgarian Wehrmacht members were wounded, and 2 German military Police were missing, 100 DM prisoners and 300 Communist reprisal prisoners are to be shot under consideration of the reprisal measures which have already taken place, consisting of burning of houses and the losses which the bandits suffered in this operation.

Page 1,567

2) As revenge for the surprise attack on the collecting detachment of the 8th Auxiliary Police Battalion on 6 Oct. '43 at Jelasnica by a DM band, during the course of which 3 auxiliary police men were killed, 8 were heavily wounded and 9 were slightly wounded, 100 DM reprisal prisoners are to be shot.

The Senior SS and Police Fuehrer is charged with carrying out the execution. It is to take place in the Zajecar district.

In the publication of the reprisal measures relating to 1) reference is to be made to the horrible treatment of the wounded who fell into the hands of the bandits and the mutilation of the corpses; in the proclamation concerning 2), it is to be expressed that the reprisal quota would have been considerably higher if the wounded had not been decently treated."

Then below, on page 75, and I think on defense counsel page 57:

..... To 809th Administrative Sub-Area Headquarters As revenge for the surprise attack on the cattle purchasing detachment at Sljivar 100 DM followers and 200 Communists were shot on 29 Oct.

'43 in Belgrade.

As revenge for the surprise attack on the collecting detachment of the 8th Auxiliary Police Battalion at Lelasnica 100 DM followers were shot on 29 Oct.

'43.

The reprisal measures are to be published in the Zajecar District. In the publication reference is to be made expressly to the horrible treatment of the wounded who fell into the hands of the bandits and the mutilation of the dead in Case 1.

An enclosure copy is to be sent here. Military Commander Southeast and then on Ia No. "Secret".Your Honors, turn now to page 77.

Page 1,568

Defense counsel will find this on page 58. We find document [NOKW-044](#). It is being offered as Prosecution Exhibit 418. This is a series of teletype messages in the form of daily reports by the Military Commander Southeast, addressed to various echelons above him and sometimes at the same level. This one is dated 24 December 1943. It was sent on the 23rd of December, 1943.

..... Serbia:...

40 farmers, among them women also, suspected of being Communists killed by Chetniks in a village 10 km Southeast of Obrenovac..... German Plenipotentiary General in Croatia:

German patrol in Zagreb arrested 60 suspects. 16 leading Communists hanged by Croatian authorities on the outskirts of the city of Zagreb as a reprisal measure for the blasting of an ammunition dump on 18 December.

.....

Copy of Teletype dated 1.12.43 - Daily Report, Military Commander Southeast.

Serbia:.....

27 Communist hostages shot in retaliation for the attack on the train Negotin-Nis (see daily report 27.10.).

.....

Page 1,569

Next page, your Honor, is a copy of teletype dated 24.11.43.

"Daily report, Military Commander Southeast dated 24.11.43.

"Serbia:

Our losses: 25 dead, 120 wounded. Enemy losses unknown. Of 30 captured Italians and Communists, 13 were shot to death immediately. Chetniks stopped North Cacak passenger train and robbed the money transport of the Serbian State Guard. (6.5 millions dinar), German Wehrmacht was not molested."

Then a copy of teletype dated 18.11.43.

"Serbia:.....

During mopping up operations of combined German Serbian forces south of Zajecar 6 Communists and 180 men capable of bearing arms were arrested. The latter were delivered to Bor for compulsory labor... Counter intelligence reports mention the disintegration of the DM movement due to differences with England. Simultaneously conditions set by the DM for discussions with Germany are made known, which demand taking over the DM men into Nedic units."

Now, let's turn to next page 59 and 60 of German Document Book. It's again these daily reports from Felber dated 17.10.43.

"Serbia:

Slackening band activity. According to information from Ministerpresident Nedic offers come to him daily from DM officers who say they are prepared to enter his service. Near Trstenik DM leaflets urge the people to protect themselves against Allied air bombing.

"In retaliation for attacks on German customs and police patrol, 100 DM in the district of the F.K. 610 (Admin. Sub-area H.Q.) and in Belgrade 150 Communists hostages were shot to death."

Below that, we find a copy of a teletype sent 14.10 and it is again, a daily report.

"Serbia:

DM band burning down farms in West Cacak belonging to farmers who do not obey mobilization orders.

Page 1,570

"During the mopping up operations on both sides of the railroad and the road Uzice-Mokra Gora slight contact with small bandit group. 1 single-barreled machine gun and 4 rifles captured. Number of arrested up to date 114 suspects. Bodies of 7 German military police and customs officials disinterred. In reprisal farms belonging to members of the band were burned down."

The next page, your Honor, page 80 and page 60 of the German, these daily reports from Felber. On 4 October he reports:

"Serbia:

1.) Communist attack (100) on agricultural institutes in Leskovac. Buildings burned, grain stolen, Bulgarians did not intervene.

2.) During operation in cooperation with Bulgarians and Germany military police of Uzice 1 DM bandit was shot to death, 26 were captured houses were burned down.

3.) 283 DM hostages and 42 Communists shot to death in Cacak on 1.10. in reprisal for a number of attacks in the area of the FK 610 (Administrative Sub-area Headquarters) during which German and Bulgarian members of the Wehrmacht were killed."

At the bottom, the report from the 29th of September:

"10 DM hostages shot to death in Jagodina for the murder of the district supervisor."

Your Honors, turn to page 81, 61 of the German Document Book. These reports continue. This one is dated 27.2.43. It's called a supplementary report:

"During relief operations for the Serbian Volunteer Corps Combat Group encircled in Kosjerici, Northeast of Uzice, 40 DM bandits were killed, and 250 houses burned down by Bulgarians.

"During the operation of the Bulgarian and German auxiliary police in connection with the attack on the reinforcement Kommando for Group Buerger, near Duga Poljana, 21 bandits dead, and their village Stavalj burned down."

At the bottom of the page, it says:

Page 1,571

"42 anti-German persons taken hostages by the SD in several villages in the Banat."

The next page:

"Serbia:

10 DM hostages shot in Sabac."

Below and paragraph 7. Under 19 August:

"25 and 22 DM hostages shot to death in Uzice and Valjevo respectively, in retaliation for attacks on German customs border guard and Serbian State Guard officers.

"Greece:

Part of the Italians welcome new Republican Fascist Party. Officers remaining indifferent. Greek police in Piraeus armed with pistols in order to be able to oppose Communist terror groups."

Next page, your Honor, on the top, Felber still continues his daily reports:

"10 Communist hostages shot in Zajecar."

"5th/SS Mountain Jaeger Regiment 18, and units of the Italian militia regiment Po, 200 men strong, encircled by band (1000) between Delphi and Abrachova. Relief brought by units SS Panzer Grenadier 2, from Lamia."

And below:

"19 suspects arrested and 10 houses burned down by the Bulgarian Jagdkommando 18 during searching operations in connection with the plot on the main road Belgrade. - Nis, West Aleksinac, reported in the daily report dated 3.9. 20 Communists and 24 DM people shot to death, the latter by the Serbian Volunteer Corps, for sabotage on the railroad Knjazevac - Zajecar and the murder of a Serbian district supervisor."

The next page, dated September 4, page 63 and 64 of the German:

"Near Boljevac (30 West Southwest Zajecar a band 100 men strong burned records of the community and incited the population to revolt in the Rumanian language.

"Search for weapons by SD kommando East of Arandjelovac still under way.

Page 1,572

Operation probably unsuccessful due to delayed arrival of Bulgarian battalion."

Below, and at that time the defendant Speidel was Military Commander in Greece:

"Greece:

"A new strike broke out in the tobacco industry. Arrest of 39 hostages without effect. Lockouts of the entire tobacco industry ordered. Because of ammunition found in Ampfissa and in Gravia 10 hostages each arrested. From munition dump construction office Tatoi 90 kilograms explosives taken. Several culprits participating in sabotage Kallithea arrested. 50 hostages kept under arrest until conclusion of the investigation."

The next page, your Honor, page 64 and 85:

"West Leskovac grain confiscation kommando attacked by Communist band (3000. Our Losses: 7 dead, 4 wounded. Cooperating Serbian State Guard had 3 dead, 2 wounded. Band is being pursued by Bulgarian and German police reinforcements. Shooting to death of 450 Communist suspects in the course of the operation starting tomorrow in this area have been ordered.

"According to report of the Danube Security Staff Rumanian and Czech deserters are forming bands on the Rumanian bank of the Danube.

Three Serbian couriers have been arrested by the Rumanian Frontier Guards.

"Croatia:

"70,000 Dalmatians interned in Italy are to be transferred to Croatia in the near future, but are not to be permitted to enter Italian occupied territory."

The next page, your Honor:

"Serbia:

"Royal Bulgarian Occupation Corps:

"SS Police Panzer Grenadier Regiment 1 and 2: During searching operation Northwest of Lajkovac by SS police Jagdkommando 21 suspects killed part while trying to escape, 1 DM officer arrested.

Page 1,573

"During searching operation by Russian Protective Corps with auxiliary police, 2 Communists killed, 7 suspects arrested.

"Croatia:

"Increasing disquiet in the area of Zagreb. Within the city area also Communists notifications to report for military duty were delivered with the threat that unless they are obeyed members of the family will be killed and their possessions destroyed. The bands are prohibiting the bringing of foodstuffs into the city by the population of the area around Zagreb under penalty of death."

Let's turn to the next page, this one is date 18 December. It's a daily report, Commander in Chief Southeast. LXVIII Infantry Corps. Reports:

"As reprisal for blasting of bridge and murder of a German soldier in the area of Tripoli, band village destroyed, 30 Communists shot."

This 68th (LXVIII) Infantry Corps, at that time as you will notice on the chart, was not commanded by the defendant Felmy. Yes, it was commanded by the defendant Felmy. He, at that time, already had taken over. He took over the 6th of June 1943 until 10-44. He was there at that time.

The XXII Mountain Corps reports: (That was the defendant Lanz.)

"In reprisal for attack on truck North of Agrinion, reported yesterday 3 band villages destroyed. Telephone sabotage in the area North Preveza and North Philippia."

That is Commander in Chief Southeast, High Command Army Group F.

The next one is again a report of the corps, at that time commanded by the defendant Felmy, and a daily report from the Commander in Chief Southeast and it states:

"During the course of reprisal action in the area of Kalavrietha, 1 village and 2 monasteries destroyed. During local operations in the area of Levadaia by Polish Regiment 18 after contact with the enemy in Evangelistra, village burned down."

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This "Polish" is obviously a mis-spelling and should be "Police Regiment 18" not "Polish Regiment 18", but "Police Regiment 18".

THE PRESIDENT: We will take our morning recess at this time.

(A recess was taken.)

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THE MARSHAL: Persons in the courtroom will please find their seats.

The Tribunal is again in session.

MR. RAPP: If the Tribunal pleases, there may be a possibility that the Prosecution today, before recess this afternoon at 4:30 will get through with Document Book XVIII which will be offered as soon as we get through with Document Book XVII.

Therefore, we would like to ask the Court's permission to ask that the witness, Hans Felber, the former General Felber who was the Military Commander Southeast, be called, possibly already late this afternoon if we get to it, as a court witness.

Now, the purpose for calling him as a court witness is simply that Felber, if I am correct, I believe since about the 26th of April 1946 has been promised by the United States authorities to be extradicted to Yugoslavia. Of course, at that time the first case was still in trial and there was a possibility that Felber, in connection with the General Staff at that time, was to be called either as a witness for the prosecution or the defense and the extradition, with the agreement of the Yugoslavian Government, was postponed month after month.

When the first case was over, your Honors, the American Historical Division of the United States Army asked that General Felber be held for a longer time in custody of the American authorities for the purpose of exploiting him in that direction.

Felber, at one time toward the end of the war, commanded an army and they wanted to get their records straight. They are writing the history both of the German and American Army and they needed him for that.

Then this case right now was started in the preparatory state by the prosecution and we found out that Felber was a very important man and that he had a lot of information which we would like to get and we asked again the Yugoslavia government at that time through channels to please leave this man here for a few more weeks or a month.

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Now, Felber was about through in April or May of this year and we were practically ready to go on with the case within a month of that time. For various reasons this case was postponed. Meanwhile we had received, both from the American ambassador Murphy's office in Berlin and also from General Clay's office, practically direct orders that now the time had come that Felber must be extradited to Yugoslavia, come what may, and this, of course, we were in no position to refuse inasmuch as the United States Government already had promised General Felber by now more than a year and a half ago.

We have not talked --- that is, the prosecution have not talked --to General Felber nor have we seen him --- nor any members of the prosecution, I believe, since about the very early days of May. This is August now.

Felber is going to be indicted in Yugoslavia and we have seen some of the charges Jugoslavs propose to bring against him. It is for that reason, your Honors, that we suggest to you to approve that Felber be called as a court witness rather than as a prosecution witness because as a prosecution witness he may have to testify to matters which may incriminate himself later on at his trial before a Yugoslavian tribunal.

Now, before the military tribunals in Nurnberg we had a similar precedent case. In the medical case, Judge Beals presiding, there was a witness by the name of Walter Neff who was also called as a court witness in lieu of a prosecution witness because the prosecutor McHaney at that time felt that Neff possibly would be tried at a trial in Dachau and therefore, he may like to refuse to answer questions which may possibly incriminate him in relation to his trial later on. It is for these reasons, your Honors --- and we also don't know (I may mention this parenthetically now) -- what after so many months Felber may testify to at this time, knowing very well that he is going to be extradited to Yugoslavia --- that we would like to ask your permission to call Felber as a court witness, possibly late this afternoon if we get to it; that is, that the Court will call Felber as a court witness and so instruct him as to his rights on account of his possible trial before a Jugoslav tribunal.

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DR. LATERNER: Your Honors, at the moment I would like to object to the following, and that is that the witness, Felber, should be called as early as this afternoon. In this particular case I have to refer to the following fact in particular, that the 24-hour notice before a witness is to be called will have to be maintained because the defense will have to prepare a possible cross-examination. For this reason alone it will not be possible to summon the witness this afternoon. That is to begin with.

I further object against, -- that the prosecution moves this witness is to be heard as a court witness for the following reasons: Alone for the motion of the prosecution -- the motion of the prosecution that this witness, -- that it wants to examine this witness, --- that shows that the prosecution needs the witness.

A further principle is, as to my knowledge of the Anglo-American proceedings, that the one who asserts something has to prove it. If, therefore, the prosecution is interested in this witness, --then it has to call him. After all, your Honor, that court witnesses are called in cases when the court is of the opinion that a certain item is still doubtful.

The prosecution at the moment is presenting its case in chief, and if there is anything doubtful here, then the defense will endeavor to clarify it. Only at a later stage of the proceedings will, therefore, be the possibility that the court itself calls a witness. The prerequisites, therefore, that a court witness at this stage of the proceedings is called, are not given here.

I rather assume that the prosecution believes that there is a certain risk connected with this witness; that risk will have to be borne by the prosecution, and that is by the prosecution themselves, if they think they need the testimony of this witness.

The danger which was indicated by the prosecution earlier, that the witness may incriminate himself, in view of his own pending trial is also there, when the court calls the witness and examines the witness, and when the prosecution and the defense subsequently have the right to cross examine the witness.

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The witness in that case would have to have pointed out his rights by those parties who call him. You have to tell him that he can refuse to answer questions which incriminate himself.

I summarize. According to the rules of the Anglo American proceedings at this stage of the proceedings, there is no legal possibility to call a court witness, since only after the prosecution has ended its case in chief, and the defense has also endeavored to clarify certain points, -- if then doubtful points have remained, at that stage only, according to my knowledge of the rules of proceedings, the possibility exists that the court itself calls a witness.

Your Honor, alone from the motion of the prosecution, the Court should call a certain witness, you can see that the prosecution wants to prove something with this witness. Therefore, this witness is a prosecution witness, and the prosecution has to decide whether they want to call him as a witness or not.

I object, therefore, against the motion of the prosecution that this witness be called as a court witness.

MR. DENNEY: May it please your Honors, the notice was sent on 4 August, and I believe today is the 7th, so 72 hours have elapsed. It is out of our hands, and we delivered to the Secretary General to the effect that Felber would be called as a witness. With reference to Dr. Laternser's statement that there is no precedent for this, I appreciate his dissertation on Anglo-American law. However, I refer him to the case of the United States vs. Karl Brandt, et al, before Military Tribunal I of these Tribunals, transcript for the 16 of December 1946, pages 493 and 494, where Mr. McHaney made his application for the witness, and the transcript in the same court for the following day, December 17. Judge Sebring, speaking for the Tribunal pages 546-547, made his ruling.

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At that time they were at approximately page 600 in the record, to be specific, 595, - in the government's case, when the witness Walter Neff, testified pursuant to the court's ruling. As Mr. Rapp has pointed out, we have not talked to Felber for several months. He is going to be extradited, and we feel that his testimony is informative. He was Military Commander Southeast, and Military Commander Serbia from August of 1943 to October of 1944. He was the immediate superior for whom the defendant, Geitner, was chief-of-staff during that period.

We frankly do not know what he is going to say, and we are asking the court to bring him in as their witness so that we can proceed to lead him, and if necessary, impeach him, and the same rights are available to defense counsel.

PRESIDENT WENNERSTRUM: Mr. Denney, I take it that you are standing here as the prosecutor and it is dependent upon the prosecution to make its own case, and not for the court. The court stands here as an impartial Tribunal.

MR. DENNEY: We appreciate that, your Honor, and we are just making a suggestion in view of the precedent which we have, and perhaps your Honors would like to consider it. It does not have to be decided now.

PRESIDENT WENNERSTRUM: After Dr. Laternser, if he wants to, makes a brief statement, the Court will reserve the ruling until one-thirty. However, I do not wish to shut you off, Mr. Denney.

MR. DENNEY: I appreciate it, your Honor.

PRESIDENT WENNERSTRUM: If you have anything further to say, we will entertain it.

MR. DENNEY: The reason, in addition, that the witness is sought to be called at this time is the fact that as Mr. Rapp pointed out, it has been quite some time since that order of extradition has not been complied with, and in view of the fact that he is here, it is submitted that we now have him, and when he does leave there may be some difficulty in getting him back.

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PRESIDENT WENNERSTRUM: It also ought to be kept in mind that when he comes into court he becomes under the jurisdiction of the court.

MR. DENNEY: Oh, yes, your Honor. We are not in any way questioning the Court's jurisdiction.

PRESIDENT WENNERSTRUM: Regardless of what department the United States says they want him, if we have any authority at all, he is under the control and jurisdiction of the Tribunal.

MR. DENNEY: Yes, your Honor.

PRESIDENT WENNERSTRUM: Subject to such orders as we may make, I think, and when he shall be released.

MR. DENNEY: Yes, Your Honor, we are quite in agreement with that.

PRESIDENT WENNERSTRUM: Do you have anything further?

MR. DENNEY: No, your Honor.

PRESIDENT WENNERSTRUM: Dr. Laternser, do you have anything further to say?

DR. LATERNSE: Your Honor, to begin with, to the point that the prosecution intends to hear the witness as early as this afternoon, the prosecution has just announced that already 72 hours ago, the Secretary General was notified that the witness was to be called as such. I state that the defense has not been informed of this fact as yet, and according to the rules for these proceedings, it is a prerequisite that the evidence is to be announced 24 hours in advance. In the case of this witness this has not been done, and for this reason alone the interrogation of the witness this afternoon cannot be had.

To the motion itself, I would like to say the following. The prosecution maintains that lately, during recent months, they have not talked to the witness I knew however that they at least during the course of the month of February, talked to him, and that at several times he was interrogated by the prosecution.

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The witness is, as I may assume, because of the request by the prosecution here, and this fact cannot be cited as reason that he now should be called as a court witness; the prosecution has every possibility to call him any time; this fact cannot be cited that because he just happens to be here now, that now the court should call him.

Also the assertion of the prosecution that they do not know what the witness is going to testify to does not apply, for the prosecution from earlier interrogations knows clearly the attitude of the witness.

PRESIDENT WENNERSTRUM: The ruling will be reserved until onethirty this afternoon.

MR. RAPP: If Your Honors will recall, the last document we discussed was [NOKW-044](#), Prosecution Exhibit 418, and I believe we stopped on page 88 which was read into the record. It was on pages 66 and 67 respectively, of the German document book.

Your Honors, this is a report of the area Commander-in-Chief Southeast, -- I believe it should be, "Army Commander Southeast", and the first report is about Army Group E.

This report is dated December, '43, and at first refers to the 67th Infantry Corps. I would just like to check in the original document, with your permission, your Honors, whether or not this is not a misspelling. I would like to take a look at the original document.

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MR. RAPP: If Your Honors permit, we will refer to this document in just a few minutes after the defense counsel for the Defendant Felmy has convinced himself whether or not this should actually be the 67th Infantry Corps or not; and we will come back to this page in a minute and read it into the record. If Your Honors will turn now please to Page 90, there we have the 22nd Infantry Corps, under the 9th of December 1943. This particular Corps was commanded, at that time, by the Defendant Lanz, and it says: "As reprisal measure for cable sabotage Sarande-Korfu a few hostages were shot." And it was signed "Commander in Chief Southeast," the Defendant Weichs, "High Command Army Group F." The next page, Your Honor, Page 91, is a Daily Report, Army Commander in Chief Southeast, dated the 8th of December 1943. Pertaining to Army Group E, 68th Corps, and it states: "As reprisal for hand attack Southeast of Gythion 25 hostages shot." And if Your Honors turn to the next page, Page 92, we have again the 68th Corps, reporting under the 7 of December: "Reprisal measures for attack on railroad base Southeast of Tripole 50 hostages hanged." If Your Honors please, we can now go back to Page 89. Defense counsel just informed us that this actually should be the 68th Corps. So, if Your Honors and also the German Document Book, the Roman numeral LXVIIth Infantry Corps to read Roman numeral LXVIIIth Infantry Corps, which, at that time, was commanded by the Defendant Felmy.

THE PRESIDENT: May I inquire of the German counsel as to whether the change of this, from the 67th to the 68th corps, meets with his permission and whether he consents to it.

DR. MUELLER-TORGOW: Dr. Mueller-Torgow for the Defendant Felmy. Your Honor, this document contains obviously a typographical error. Instead of 67th Corps it should read 68th Corps. I, therefore, agree with an alteration to the effect.

THE PRESIDENT: Very well.

MR RAPP: On the same page, Page 92, Your Honor, we find again the 68th Infantry Corps, saying, "In Aighion 50 hostages shot to death.

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O.F.K. 395 (Admin. Area HQ) klissura-Pass (20 West Ptolomaeis) operation against bands under way." and then a "Copy of Teletype Commander Chief Southeast dated 1.12.43." On the next page, Your Honor, Page 93, and Pages 68 and 69 of the German defense counsel's Document Book, we find "Area Commander in Chief Southeast." It should be "Army Commander in Chief Southeast."

"Area Army Group E:

Assault Division Rhodos:

Reconnaissance at Nisiro and Poskop without special developments. Reconnaissance Nisiro reports that on 23 November an English assault detachment on Nisiro blasted an H'glider carrying freight for Rhodos and that it forced another glider with some Italians to leave the port for Turkey.

XXII/ Mountain Corps.

During reprisal operation against bands in the area of Korea 1 village taken with some resistance. All men capable of bearing arms shot to death. Village destroyed."

That Corps, at that time was commanded by the Defendant Lanz. On the next page, Your Honors, we have the former Felmy Corps stating, "As reprisal for band attack Road Tripole-- Sparta 100 hostages shot at the place of the crime. During search of Corinth numerous hostages arrested. Arms and propaganda material secured." It was the 68th Infantry Corps. "Serbia: Railway bridge area Zajezar .. Knjazevac damaged by Communists and a number of residents of Nationalist views murdered. Commander in Chief Southeast (High Command Army Group F)." This dated 4.11.43. If Your Honors turn to your next page, we have Area Commander in Chief Southeast; the Assault Division Rhodes reports: Four armed Italians arrested and shot to death. Combat Group Simi returned without losses to Rhodes leaving small security forces behind. Commander in Chief Southeast." And this particular message does not mean to bear a date. Below, however, it states "Excerpt from Daily Report, Commander in Chief Southeast, dated 20.10.1943. Army Commander in Chief Southeast: Army Group E: F.K. 395."

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And it says on the next page, "Final report Ossa operation. Enemy losses: 205 prisoners, 37 dead, 42 wounded, 13 dumps of varying sizes containing ammunition, rations and clothing captured or destroyed. 3 villages (among the Spelia) razed to the ground. Our losses: 2 dead, 3 wounded," Below, "Italian prisoners shot in the Ossa mountains. Operation continued. Near Trikkala Greek paymaster with voluminous records pertaining to band organization arrested. In reprisal for attack on Engineer Company several properties near Elassen were destroyed." The next page, Your Honors, Page 97; that's Pages 70 and 71 of defense counsel's book, Under the 15th of October we find "Army Commander in Chief Southeast: Ossa operation with local enemy resistance according to plan. Italian participation proved. More band camps destroyed at Spelia. The village of Pirgetes destroyed. 24 band suspect arrested at Trikkala." And below, the 68th Infantry Corps reports, "The Prefect of Kalamta murdered. State of emergency declared. 50 hostages arrested." On the next page, Administrative Area Headquarters 395: "Band center Spelia (Ossa Mountains) taken by combat lasting several hours. Village destroyed... In reprisal for attacks made lately in the area of Larissa, 2 villages burned down. 65 suspects shot while trying to escape." Under Roman paragraph 11, under the 25th of November 1947, it is reported, Army Group E, the 68th Infantry Corps, Felmy reports: "In reprisal for band attack on Aighion 20 Communists shot to death. Serbia: Lebane said to be threatened by 2,000 Communists." On the next page, Your Honors, Page 99, under the date of the 10th of October; the date is recorded at the bottom of Page 98. We find a report from Serbia, saying, "In Cacak on 1/10. 283 DM hostages and 43 Communists shot in reprisal for attacks which cost the lives of members of the German and Bulgarian

Wehrmacht. Commander in Chief Southeast (High Command Army Group F)." Then, below, we find a teletype message dated the 5th of September, still on the same page, "Serbia: In reprisal 20 Communists and 24 DM people shot. In the area of Arandelovac attack on grain confiscation kommando." Next page, Your Honor, "Copy of teletype dated 3.9.43." That's Page 100. It days was at the bottom, "Reprisal measures area Northwest of Sarajevo: 124 arrested, secured 700 head of cattle."

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The next page, Page 101, and in the German it is Page 73 I believe, there's a Daily Report, Commander in Chief Southeast, Army Group F, 2.9.1943., handwritten (it says on there), "To 2nd Panzer Army, Area Second Panzer Army", and then, under "b" it states: "Serbia Bands forming of Rumanian and Czech deserters on the Rumanian bank of the Danube. 450 Communist suspects ordered to be shot to death in the course of operation on the area of Leskovac starting on 3.9." Then, "Copy of Teletype, Commander Southeast, dated 22.11.43," Page 102, "Serbia: According to Serbian sources no signs of DM and circles close to him breaking with the allies are recognizable. The continuous attacks on German Wehrmacht automobiles on the main road Northwest of Kragujevac are carried out by Chetnik bands which wish to force the release of band members captured by the Serbian Volunteer Corps. These will be hanged on the spot in the course of reprisal measures." Below this, under the 31st of October, we find "Daily Report, Commander in Chief Southeast, dated 31.10.43, Serbia : In Belgrade circles a rumor is being spread according to which Stalin has demanded from officers that the Yugoslav Government in Cairo depose DM and deliver him over to Tito. DM is to be convicted as a war criminal. In Belgrade 3 arrest by the SD, 2 of them activity in the DM communications staff." And on the other page, Page 103 in the English, which is the last page of this particular document, it says, "42 DM hostages shot to death in reprisal for attack on Bulgarian patrol." This, Your Honors, concludes Document No. [NOKW-044](#).

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Court No. V, Case No. VII.

The next document will be [NOKW-1438](#) to be submitted as prosecution Exhibit 419, Your Honors. You will find this document on page 104 and German defense counsel will find this on page 75. This is a directive from the OKW for the higher SS and Police Leader in Greece.

"Commander-in-Chief Southeast High Command Army Group F Group 1c/AO Counter Intelligence 111 (stamp DRAFT SECRET Local Headquarters 11 Oct 1943 (handwritten) Diary SUBJECT:

Standard order of procedure for the Senior SS and Police Leader in Greece.

To the Chief, Field Police Enclosed please find standard order of procedure for information and for your files.

For Commander-in-Chief Southeast High Command Army Group F Chief of General Staff per Lt. Colonel."

At that time the Chief of General Staff was, of course, the defendant Foertsch. And on page 105, we find now the procedure and it says:

"1. By agreement with the Chief of OKW, the Reich Fuehrer SS, and Chief of the German Police appoints a Senior SS and Police Leader for the Area of Military Commander Greece.

"2. The Senior SS and Police Leader is an office of the Reich Fuehrer SS and the Chief of the German Police, which is subordinate to Military Commander Greece for the period of its employment in Greece.

"3. In the area of the Military Commander Greece, the Senior SS and Police Leader embraces all duties which are incumbent on the Reich Fuehrer SS and Chief of German police in the Reich.

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He has authority to direct and supervise the Greek authorities and police forces within the sphere of these duties.

4. The primary duty of the Senior SS and Police Leader is the command of the SS and Police units (excluding Waffen SS units subordinated to Army Group E) in their combat against bands of sabotage, pursuant to the general directives of the Reich Fuehrer SS. For this purpose, definite combat areas under their own responsibility are to be assigned to the by the Military Commander.

The Military Commander regulates command authority and assignment of forces in the event of combat missions outside of regularly assigned combat areas.

5. In all affairs concerning police matters and service matters, Senior SS and Police Leader is the superior authority of the SS and Police Forces employed in Greece.

The military commander is authorized to employ units of the Ordnungs Police only if the fulfillment of the tasks set to the Senior SS and Police Leader by Reich Fuehrer SS permits it."

"6 The Military Commander is authorized to issue directives to the Senior SS and Police Leader which are necessary to avoid interference with Wehrmacht operations and duties. They take precedence over any other directives.

7 The Senior SS and Police Leader will receive policies and directives for the execution to these duties from the Reich Fuehrer SS and Chief of German Police. He will carry then out/ concurrently and opportunely, informing the Military Commander Greece in as far as he does not receive any restricting directives from the letter.

The Military Commander is to be informed in good time concerning reports submitted by the Senior SS and Police Leader to Reich Fuehrer SS and Chief of the German Police.

(signed) Keitel That was dated September 14, 1943, and at that time this letter pertains to the defendant Speidel was the Military Commander in Greece.

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This, your Honor, concludes Document 1438.

The next document to be offered is [NOKW-171](#). You will find this on page 108. It is being submitted as prosecution Exhibit 420. This is a letter from the Military Commander Southeast to the Military Commander Greece, the defendant Speidel, pertaining to the immediate recruitment of 2200 workers for the Air Corps. It says: "To Military Commander Greece, secret, priority, and it is 22 October, 1943."

"For the purposes of provisioning of the army, the air corps, and for the General of Transport Affairs, manpower is to be recruited and to the amount of 2200 workers in Greece. The recruiting is to be carried out with dispatch. With regard to working conditions (salary, provisions of workers with groceries, provisioning of families and other means) liaison is to be assumed with the Chief Administrator, with the military commander Southeast."

This is signed Military Commander Southeast Ia, No.1157/43.

If your Honors turn to the next document on page 109, it is being offered as Exhibit No. 421. I am referring to [NOKW-163](#). Defense counsel will find this on page 79. This is a report from the Military Commander Southeast to the Army Group [F and](#) it is for information to the High Command of the German Army, to the High of the German Armed Forces, to the 2nd Panzer Army and to the German General Plenipotentiary in Croatia. It is a daily report of December 3, 1943. It states:

"Military Commander Greece: Nineteen Communist reprisal prisoners shot as revenge for the murder and wounding of Greek police, by the Senior SS and Police Fuehrer in Athens."

Can the translator find this or not? This should be on page 79 of the German document book. Do you have it now? I will repeat this document for the record, if your Honors permit.

December 3, 1943, to Army Group [F through](#) reporter. For information of High Command Germany Army, High Command German Armed Forces, 2nd Panzer Army, German General Plenipotentiary in Croatia, Daily report of 3 December 1943.

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"Military Commander Greece Nineteen Communist reprisal prisoners show as revenge for the murder and wounding of Greek police, by the Senior SS and Police Fuehrer in Athens.

Certified (signature Illegible 1st Lieutenant Military Commander Southeast Ia Secret (signed) Muncket Colonel, General Staff Corps."

The next document, your Honor, is Document 692. You will find this on page 110 in your document book. Defense counsel page 80. It is being submitted as prosecution Exhibit No. 422. It is a situation report from the Military Commander in Greece to the Military Commander Southeast. Felber and pertains about the activities against Jews, labor recruitments, and other pertinent data.

Dated 19.11.43 and the report itself is dated March 18, 1944. At that time the defendant Speidel was still Military Commander Greece.

"1. Political Situation. As a consequence of a further worsening of the food and economic situation, an increase of the discontent of the population and consequently of Communist influence, particularly in the cities. The communists felt themselves strong enough at the beginning of March to evoke a strike movement on Piraeuw, Severe penal measures forced resumption of work but will not be able to stop renewed strikes which are to be expected, only economic betterment of the worker can be of real help.

Alliances of the Communist groups have make progress (acknowledgment of EAM of Communism) but also those of the anti-Communist front (swing to the National Socialist, EEE movement). While a large part of the population is against Communism, it keeps in the background because of fear of Communist punishment.

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The tendency situation (The attitude of Bulgaria and Turkey). On the Peloponnesus the Communist influence is increasing despite all military measures.

II. Enemy situation:

a) Band activity and insurgent movement With the coming of the warmer weather band activity has increased.

Bandits released during the winter seen to return to their original units. Our own operations showed good successes. From the Peloponnesus: Report of the first "appearance of Russian bandit officers.

The union of EAM and EDNS seems to have been accomplished due to Angle American pressure. Allegedly the following agreements were made:

1. Closest cooperation the fight against common enemy.
2. Direct assistance in case of an Allied landing in Greece.
3. Release of all prisoners of war and hostages held by the contracting parties.

The unified troops are to call themselves "National Greek Army" (Formation of a General Staff).

In the main territories of the bands, particularly on the Peloponnesus, formations of "Council Organizations" with their own administration and jurisdiction."

The Air situation: is not too important to read into the record. Then we come under D.

"d. Labor employment:

Tendency to strikes and partial strikes at the railroad and several plants at the beginning of March were suppressed by energetic military measures: 50 Communists were shot immediately, while other who were arrested are awaiting their sentence. Unconditional resumption of work followed short strikes. Since the beginning of the year 4 worker transports went to the Reich from Athens and Saloniki. The first 3 comprised 1628 persons (of which 183 were returning from leave) the fourth, 645 persons (of which 61 were returning from leave).""IX.

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Propaganda Situation:" You will find this under Roman 1C on page 12 your Honors. And then the document continues:

Enemy Propagando There was another attempt to undermine the morale of the Wehrmacht by the use of leaflets with an illustrated description of the terror damages at home.

A new publication was the camouflaged "Deutschen Nachrichten" from Desdon. Active enemy propaganda which was directed against the occupying powers and against the Greek Government. News from the radio broadcasting station Cairo was sold to the population in form of leaflets. A newly coined slogan "5 minutes to 12". Communist propagando unchanged, appeals primarily to youth.

Own Propagando Up to now the challenge to desert, by radio and press, by posters and leaflets as well as by whispering propagando has resulted in only minor successes due to fear of reprisal measures on the part of the Communists.

The turning over of classes 06 and younger fit for frontline duty has been accomplished. Scruting by Special Staff without objections. The replacement situation will be improved by the withdrawals of classes 05 and older from the combat troops.

For the Military Commander Greece Chief of the General Staff (signed) illegible signature

THE PRESIDENT: May I interrupt? Before our non adjournment. I think I should call your attention to the fact that at my request the Deputy Secretary General has made inquiry as to the notification to the defense of the intention to use the witness referred to earlier in these proceedings, and I am informed that this notice is not in the defense center. It is not in the Secretary General's office and is not on the Secretary General's message center.

I think that ought to be called to somebody attention so that it may be checked.

Page 1,593

MR. DENNEY: I have made a check, your Honor, I inquired and was told that it was sent up on the 4th. We will try to find what happened to it. In any event, we are getting another one ready to serve and certainly defense counsel know now that we plan to call him.

THE PRESIDENT: The Tribunal will be in recess until one-thirty this afternoon.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION The hearing reconvened at 1330 hours.

THE MARSHALL: The persons in the court room will be seated.

The Tribunal is again in session.

THE PRESIDENT: Before we commence the presentation of evidence the Tribunal wishes to rule on some matters which have been heretofore presented and this Tribunal feels should receive its attention at this time. Earlier in these proceedings there was presented to the Tribunal an objection as to the

placing of two of the defendants in one cell. A communication was addressed to proper officials in charge of the prison and also connected with the administration of the courts here and in the course of time the Tribunal has received an answer to this communication. I shall read only a portion of this communication and am doing so for the purposes of the record. It is signed by A.J. Regnier, Colonel, Infantry, Deputy Post Commander, who is named as one of the commissioners as I understand it, to make the investigation. His report is as follows:

Headquarters, Nurnberg Military Post APO 696, U.S. Army, August 4, 1947.

To: Secretary-General Office of Chief of Counsel War Crimes APO 696, U.S. Army, (Attention, Col. Ray) "1. Report on complaints made by defendants, Case No. VII, and I. G. Farben, relative to the restrictions as follows:

"A. It is not the intention of the prison officer, Nurnberg Prison, to put more than one prisoner in a cell unless the prisoner expresses a desire to do so. It has, however, become necessary, as a temporary measure, during the renovation of the Prison, to put two (2) prisoners in the same cell. However, as soon as the painting project is completed prisoners will occupy a single cell insofar as is possible. There is no basis of fact for the report made by prisoners that they are being put together in cells in order to avoid suicide attempt."

There are other subsections of this letter but subsection A is the only one that applies to the complaint and motion which was presented in the early days of the submission of this case.

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I might further state that members of the Tribunal have made a personal inspection of the jail and we find that it is kept in a clean manner and that the cells are clean and that the lighting, of which complaint is made, is quite satisfactory. We are also informed that there is no intention of putting more than one prisoner, that is now a part of this case here, and who is on trial here, with another prisoner, and for that reason the complaint, as to there being two defendants in one cell, is, as far as we are informed, without merit. This report having been made and from our own personal inspection we find no basis for the complaint which was originally presented to the Tribunal. However, if, on any later occasion any matters in connection with the administration of the prison which defendants or their counsel feel should be presented to the Tribunal, this Tribunal will be receptive to hearing any objections or complaints which counsel or defendants feel should be brought to the attention of the Tribunal. That is all as to that matter.

In connection with the motion which was presented this morning asking that the Tribunal call the witness Felben as a court witness, the motion will be over-ruled. As was intimated in comments made by the Presiding Judge this morning, this Tribunal feels that it sits here as an arbiter; that it does not represent either the Prosecution or the Defense, and that for us to call a witness, as our witness, would put us in a position of being somewhat in the nature of a prosecutor. That is not our position; that is not our status and we feel that for us to do so would not be in keeping with the interests of justice. The duty of presenting the prosecution and presenting of evidence which it may, will or will not sustain in its

accusations of the prosecution is upon the prosecution and not upon the court. For that reason the motion to call this witness as a court's witness will be over-ruled. If the prosecution is of the opinion that his testimony is of material value to their case it is naturally to be expected they will be produced in court.

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There has been some comment made, if the court were to call this witness as a court's witness, then under those circumstances the Prosecution might cross-examine, if he was not a co-operative witness. That is a matter for the prosecution to meet when that situation is presented and under certain rules and procedure there is a manner in which that can be handled. That disposes of the application as presented this morning. Anything further, Mr. Denney?

MR. DENNEY: If your Honors please, in view of your Honors' decision, we will produce the witness Felber and have him take the stand and with reference to the statement I made this morning about the notice to the defense counsel, I should like to apologize for any inference that may have been drawn therefrom with reference to the office of Secretary General, or the Defense Information Center. I have been informed that the notice had been sent on 4 August and I believed the source of my information, unfortunately, it was an error. However, the fault is mine and any burden to be born is mine and mine alone and not shared with anyone else in the prosecution staff.

THE PRESIDENT: I don't feel that there is any necessity for any apology Mr. Denney. We all make mistakes and there are errors and omissions in every one's office and under the circumstances we will consider it as one of those things that happen and let it go at that.

MR. DENNEY: Thank you, your Honor. In view of the fact that this new notice with reference to the witness Felber may be going awry as the result of our fault, I should like to advise the defense counsel now that we expect to produce him as a witness. It is now 1:44. No, Dr. Latenser, we are not going to sit tomorrow. It will probably be Monday or later.

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MR. RAPP: If your Honor, please, prior to the recess we concluded page 112 in the English Document Book and I believe page 83 and 84 in the German Document Book. At that time we were concerned with document NOKW 692, which was submitted as Prosecution Exhibit No. [422](#). Your Honor, this is still the Situation Report of the Military Commander in Greece, the defendant Speidel, to the Military Commander Southeast, this man Felber, and we have already read part of this into the record, and I shall continue now:

"Situation Report for the period from 1. to 31.

12.43 General Situation:

The situation is basically unchanged. Further development will be strongly influenced by the economic and food situation. Since this situation continually worsens it decreases the popular standard of living which is low per se. The majority of the population wants quiet. The attitude is wavering and divided

due to fear of band terror and of German retaliation. The advance of the Communist movement promotes unification of the anti-Communist elements, which, however, is still in its inception. Excesses of the members of the Wehrmacht against the population (crime against property as a consequence of insufficient pay in Drachma) disturb the generally correct relationship of the population to the occupying power. Varied estimates of the war situation and of the costume of the way also influence the morale and attitude of the Greek people."

Then we have again the Air Situation, in which we are not much interested here, and in paragraph Roman Numeral II, b, it talks about Enemy Propaganda:

"Leaflets were dropped particularly in larger cities. As usual the propaganda aimed at soldiers, is trying to divide leadership and men. A new angle is to ascribe to us the guilt of the air war. The well known "Soldatennachrichten der R.A.F. und U.S.A.F. is trying to have a demoralizing effect. For the first time a booby detonator was found with the inscription:

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'Protective powder against poison gas watch your eyes.'" Then the Tactical Situation is described, and it says:

"Guarding of supply installations of Army Group E was stopped, except for the 10th Company, the III/Police Mountain Regiment."

Then the Italian Militia Training Battalions is something we are not interested in. We will now try to read about the Evzones (Greek Guard):

"They have continued to prove themselves during raids against Communists in Athens. The organization of a Evzones Regiment in Athens with three Battalions and that of 1 Regiment in Patras with 2 Battalions is under way."

And here we have the Edes, Company Euboa:

"As a trial 100 Edes followers (Nationalist Band) were armed in return for the furnishing of hostages, and under the leadership of the perfect general Liakos were committed from Chalkis. As yet only minor successes against Communists."

And now, on the next page, 115, it describes the Missions for the ensuing period; and it says:

"Mopping up operation in the area of Bootia by police troops, raids in Athens against Communists by the Evzone Regiment."

Then it says:

"a. General:

Unrest in the ensuing period is hardly to be expected since there is a fear of sharp counter measures. Shootings at night in Athens Piraus result from the fights of the Evzones against the Communists. The reorganization of the Greek gendarmerie and police by the Senior SS and Police Leader has a favorable effect. Only the Peloponnesus is a constant focal point of unrest as far as it is not occupied by us.

b. Attacks, acts of sabotage and fires.

Numerous effective blastings of bridges and roads and attacks on the Peloponnese.

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In the area of the remaining Administrative Subarea Headquarters less important attacks and sabotage.

c. Counter-measures In December on the Peloponnese 758 people were shot to death, including reprisal operation "Kalavrita."

In the remaining areas hostages were seized and a lesser number of executions has taken place.

d. Communist propaganda Primarily by carrying a whispering propaganda and by distribution of inciting pamphlets.

The bad economic situation is in its favor. Writing on houses in Athens Piraeus has lessened.

XIII. Summary: The further development of the political situation will necessarily be influenced by the economic situation to a great extent. The increasing economic misery will make the majority of the population, suffering from it, more receptive to the whispers of the Communists who make the occupying power responsible for it and will cause them to join the bands. Economic relief on the other hand would contribute to a political pacification and to a better relationship with Germany. The focal point of the development consequently, lies at this time less in the military than in the economic sectors. The damaging consequences of insufficient pay in Drachma, as regards discipline and attitude of the German Soldier have been referred to several times. Increased penalties will not remove these critical signs.

Larger scale operations of the bands are hardly to be expected during the winter months.

The fulfillment of the tasks with which the military Commander has been charged suffers from lack of subordinate units. The tasks cannot be fulfilled with the only available single security battalion. An assignment of three to four security battalions becomes of utmost urgency" And it has some illegible initials, and is signed:

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"Speidel" And then another signature which is not quite legible.

"Distribution Military Commander Southeast For information:

High Command Army Group E On the premises:

Ia/War Diary Ia (draft)" On the next page, Your Honor, this same document continues, and the Military Commander Greece, the Chief of the Military Administration, writes another letter to the Military Commander Southeast, Belgrade, Subject:

"Situation Report of Military Administration for Nov. 1943." I believe this copy here is '45. If Your Honors permit I would like to show this document to the defense for defendant Speidel for his possible

concurrence in any comment he may wish to make. On the original document I believe there is a mistake in translation.

THE PRESIDENT: You may show it to counsel.

DR. WEISGERBER: Weisgerber for Speidel. Your Honor, I have convinced myself that it is the year 1943 while looking at the original document.

THE PRESIDENT: The correction may be made upon the Tribunal's Document Book.

MR. RAPP: Very well, Your Honor. We would like this changed.

THE PRESIDENT: Counsel consents to the correction.

MR. RAPP: That is correct.

THE PRESIDENT: I mean the defense counsel.

DR. WEISGERBER: I do, Your Honor.

MR. RAPP: This document is dated 12/12/43, received 22.13.43, to Military Commander Southeast. Under the heading "Received 22.13.43," there is no month, I believe, or year, which has a 13th month. This as another typographical error. It obviously should be December 1943. Did Your Honors follow me on this comment?

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THE PRESIDENT: Where is the last reference?

MR. RAPP: The last reference, Your Honor, is on page 117. It states in the left upper corner "received 22.13.43," and the "13" should obviously be "12," instead of "13."

THE PRESIDENT: Very well.

MR RAPP:

"Subject: Situation report of Military Administration for Nov. 1943 Reference:

Military Commander Southeast of 19.11.43., Ia, No. 1723/43 Secret.

I. General Political Situation:

As before the morale of the Greek population is influenced primarily by the extremely difficult economic situation as expressed in the continuing deterioration of currency and in connection with that in a further aggravation of the social situation. The lifting of restrictions on the sale of food-stuffs, as effected by the Special Plenipotentiary of the Foreign Office for the Southeast has however caused food supplies held back by speculators to reappear in the market. However, this "Policy of a free market" has had as little effect on the prices of food-stuffs as has the Gold subsidiary measures started at great expense by the Special Plenipotentiary.

The constant increase of prices with which wages and salaries could not keep pace forms the best breeding ground for the activity and the propaganda of the Communist Party of Greece which consciously attempts to seize the power of the State. The Communist Bands, compared with which the National Band Movement loses more and more significance, rule large areas of the country, above all the Peloponnesus, and with their terror measures (kidnapping, blackmail and murder of pro-German antiBolshevic-Greeks) they exert pressure on the population.

In the Bourgeois circles, the recognition of the peril which Communism threatens, is beginning to penetrate at the same rate at which hope for early support by the Allies has receded. . . .

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d. Other police sectors:

After the taking over of the territories formerly occupied by Italy the societies in this part of Greece also had to be put under supervision. An order was issued for seizure of the existing societies and organizations."

Then the hunting and fishing, I don't think we will read at this time and we go now to where it says:

"The Jewish Problem:

The higher SS & Police Leader has issued a directive dated 3-10-43 by virtue of which all Jews in Athens had to report to the Jewish Community and in other cities and rural communities to the town-halls or to the community offices. Since a large part of the Jews did not report - in Athens for instance only 1200 out of 8000 were listed the Military Commander, in agreement with the Special Plenipotentiary of the Foreign Office for the Southeast has confiscated their fortune by an order and has transferred it to the Greek State to be administered.

Schools:

At this time by far the larger part of the schools are closed since they are required as billets for the troops. However, attempts are made to release at least one school for use in each larger locality.

The Solonika University is fully in operation. The technical institute of Athens also has been reopened meanwhile..... Frequently the necessary labor can be put at the disposal of the Wehrmacht only by threat and by execution of compulsory measures. At various times Mayors who were charged with the procurement of labor forces had to promise the laborers considerable amounts, in addition to German wages and they sometimes had to pay them also. A certain relief in the difficulties arising from wage policies has been achieved by temporarily using Italian labor (unpaid).

For the Military Commander Greece, The Chief of the Military Administration:

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(signature illeg.)

Chief Military Administration Distribution:

See Draft" And then under "b" it says:

"b. Attacks, Acts of Sabotage and Fires Athens:

On 6 and 19.11 attacks near Marathon, losses 1 dead.

Lamica: 3 confidential agents (Greeks) of the Secret Field Police kidnapped, 1 worker in Lianokladi kidnapped and released on 19.11 after having been held for 6 days.

Page Unlabeled

Mining of the railroad track near Grawia with 5 points of detonation.

"Larissia: Several detonators were attached (?) to freight cars with minor damage.

"Peloponnes: Numerous attacks on German Soldiers with larger personnel and material losses.

"Nessolonghion: Minor telephone sabotage. A road blasted for 100 motors in Southeast Agrinion. Greek Police Official murdered by Communists.

"Counter Measures:

"The Greek population is being employed to a considerable extent in guarding railroad and telephone lines.

"Execution of hostage camps in various cities. Mainly Communists are received there.

"Arrests of about 2000 patients of the Greeks Military hospital in Athens which were forming Communist cells. They were transferred to the Island of Kea.

"Execution of Reprisal Measures (Shooting of hostages).

"Communist Propaganda "Primarily by use of whispering propaganda, painting of slogans on houses, distribution of leaflets, sometimes speeches in churches, teams of trained speakers for addressing public meetings.

The Greek General Zervas (Nationalist) is attached particularly. Otherwise the remaining attacks are against the occupation power.

"Summary:

"The troops at the disposal of the Military Commander in Greece are in no way sufficient for carrying out his tasks.

"Important plants are shut down, valuable supply installations are insufficiently guarded, necessary new installations like the erection of hostage camps, etc, are discontinued because the required security forces are lacking. Since the disarming of the Italians a Wehrmacht prison in Athens had to be guarded by its own inmates who had behaved themselves properly. 1604 "The development of the political situation will depend primarily on how successful we are in stopping the inflation and in securing food.

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At this time there is no relation between living expenses and the income of the majority of the population. Labor employed by the Wehrmacht receives less wages than labor employed by the Greek authorities. Frequently, the transfer of important goods is not possible because of lack of labor due to poor pay.

"The moral conduct of the German soldier in the large cities of Athens and Piraeus has deteriorated considerably. Attacks on Greeks, threats and black mail are accumulating considerably. (see enclosure 3, report by the Administrative Sub-Area Headquarters Athens). This deterioration of discipline is primarily due to insufficient pay. For the pay of a 10 day period the soldier at present is in position to buy just two pounds of raisins or 5 to 6 oranges while he must watch how the markets have plenty of everything which is rationed at home, though at exorbitant prices. This external discipline has improved considerably due to severe control measures and penalties on part of the military Commander in his capacity of "Wehrmacht - Garrison - Commander" -- and then handwritten initial.

DR. WEISGERBER (Counsel for defendant Speidel): Your Honors, I cannot see which period of time is covered by the last situation report. On page 86 of the German document book, on page 115 of the English document book, the situation report for November 1943 closes with on the next page it says-- page 34 of the original" -- that is page 120 of the English Document book. This doesn't show for which period of time this situation report is supposed to be valid.

I would be grateful if the prosecution would indicate that point.

THE PRESIDENT: If the prosecution is in a position to advise counsel, the Tribunal would appreciate their doing so.

MR. RAPP: Very well, your Honor. If your Honors please, the page 34 of the original which refers to page 115 of your document book is not preceded in the original document by any other statement indicating for which period this report is responsible.

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However, page 35 of this particular document -- that is page 116 and page 117 of your document book, Your Honors -- is signed by the defendant Speidel. Although there is no indication exactly which period this particular report covers, the signature itself shows that it was written sometime during the time that the defendant Speidel was Military Commander in Greece.

Your Honors, I believe you will find this on page 119, 120 and 121.

THE PRESIDENT: Does that give the counsel the information he desires?

DR. WEISGERBER: Your Honor, I still don't know which period of time is covered by this situation report. I can merely see from the second line of this last report that it partly concerns occurrences which took place in November. Which period of time is covered by the remaining parts of the report cannot be seen from this report.

MR. RAPP: We submit, your Honors, we are sorry but we cannot submit to defense counsel the desired information. It may be of help to defense counsel to call his attention to the fact that under "b" dates are

mentioned like "19 of November", and subsequently in the contents of the report sometimes dates appear; but we cannot furnish defense counsel the exact information he desires because this particular information is not in our hands.

THE PRESIDENT: The document will have to be taken for what it shows and the deductions taken from the document itself, when neither the prosecution or the Tribunal can add anything to it.

MR. RAPP: That is correct, your Honor. Of course, your Honors, I would like to call your Honor's attention to the fact that the document as such is signed by the defendant Speidel so it must have been published sometime during the time he was Military Commander of Greece.

DR. MUELLER-TORGOW (Counsel for defendant Felmy): Your Honors, may I point out two mistakes in the translation of this document? First of all, it concerns the situation report of the 1st to the 31st of November, 1943, on page 83 of the German document book, page 112 of the English document book, under "Vb". That is "Attacks, sabotage and arson.

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The word "Ueberfaelle" has been translated "by attack."

Secondly, under "Vc", the second sentence, it says: "In den uebrigen Gebieten Geiselfestnahmen und Erschiessungen in geringem Masse." "In geringem Masse" is translated by Lesser, [L e s s e r](#).

I should like to ask that those two places be translated again.

THE PRESIDENT: It may be handed to the translators for their translation.

MR. RAPP: Very well, your Honor.

THE PRESIDENT: For the benefit of the Tribunal, it will be appreciated if the translators will refer to the English page and the line so that we may know and note just what the translation applies to.

DR. HUELLER TORGOW: In the English document book it is page 115 and the first instance occurs in the paragraph "Vb" entitled, "Attacks, acts of sabotage and fires."

THE INTERPRETER: The German word for that is "Ueberfaelle", which I translate as "raids"; and the second instance occurs in paragraph "c", still "V" -- that's just dropping a couple of lines down, and the last sentence of paragraph "c". The word objected to is "in geringem Masse". I should translate that as "into a small extent, a number of executions had taken place."

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PRESIDENT WENNERSTRUM: Under (b), the translation of that, the line in question there, will you repeat your translation again?

INTERPRETER JACOBSON: Yes. For "Ueberfaelle", I translate raids instead of attacks.

PRESIDENT WENNERSTRUM: I believe the requirements of counsel will cover the situation you have in mind.

MR. RAPP: Yes.

PRESIDENT WENNERSTRUM: Very well. You may proceed.

MR. RAPP: Your Honors on page 122, is the final page of this OKW 006912, and it states how many copies and to whom the various copies of the aforementioned document were sent.

This concludes Prosecution's Exhibit 422.

The next exhibit, your Honor, we submit, on page 124 of the English document book, and I believe this will be page 90 of the German Document book, -- it is [NOKW 1471](#). It is being submitted as Prosecution's Exhibit 423. We had forgotten to include this document into the German document book, but I have given Dr. Laternser, during the recess, sufficient copies for distribution to all defense counsel, and I would merely for the record, ask Dr. Laternser whether or not he has distributed these copies to all of his colleagues.

PRESIDENT WENNERSTRUM: Dr. Laternser has indicated that they have been distributed to his associates.

MR. RAPP: Very well, your Honor.

This document, Your Honors, is an OKW order, -- that is the High Command of the German Armed Forces, and it pertains to the jurisdiction and subordination of the military commander in Greece at that time, the defendant, Speidel.

This particular page is page 84 of the original. It is OKW No. 006912/43, Top Secret, Wehrmacht FST, Quartermaster, Administration I.

"First enclosure to General Quartermaster, handwritten, illegible.

Fuehrer Headquarters, 21 December 1943. Top Secret."

There were 55 copies, this being the 10th copy.

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"Standard order of procedure for Military Commander Greece.

1) Military Commander Greece is subordinated to Military Commander Southeast.

He keeps Military Commander Southeast and also Army Group E continuously informed concerning all essential affairs and measures within his sphere of command."

If your Honors permit, I believe the interpreters do not have the German translation, although I personally have put three copies of it on your desk, prior to the recess. I repeat:

"He keeps Military Commander Southeast and also Army Group E continuously informed concerning all essential affairs and measures within his sphere of command.

2.) Military Commander Greece exercises by order of Military Commander Southeast executive Power in Greece including the part occupied by Bulgarian troops as far as he has been authorized to do so.

Superseded by the following as per OKW/No. 0013/44 top secret / WFST/ Qu (Administration 1) 1 January 44 Section 2, Para. 2. For the execution of the tasks with which he is charged, the Military Commander Southeast had subordinated to him:

for Greece - Military Commander Greece, for Croatia - German Plenipotentiary - General in Croatia" "for Albania - German Plenipotentiary - General in Albania and for Montenegro - Independent Administrative Sub-area Headquarters Montenegro.

b) As territorial commander he regulates all territorial problems (maintaining order, exploitation of the country for the purposes of the Wehrmacht etc.) and security tasks in so far as he has been charged with them by the Commander-in-Chief of Army Group E.

c) In addition, he takes over the duties of Wehrmacht Garrison Commander Athens-Piraeus and he is responsible for the maintenance of discipline in the garrison area of Athens-Piraeus.

4.) The Commander-in-Chief of Army Group E is authorized to charge Military Commander Greece temporarily with tasks concerning the leadership of troops as far as these are connected with the security duties with which he is charged.

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5.) Political problems are treated by Military Commander Greece in close cooperation with the Athens-Office of the Special Plenipotentiary for the Southeast, pursuant to the powers given by the Fuehrer to the former Plenipotentiary of the Reich in Athens on 28 April 1941, as well as the tasks assigned to him as the former Special Commissioner of the Reich Government for economic and financial problems in Greece, pursuant to the decree of 16 Oct. 1942 remain unchanged."

"The Staff of Military Commander Greece consists of:

- a) The Headquarters Staff
- b) The Administrative Staff with Branch: Administration and Branch: General Economics.
- c) The Military Economics Staff
- d) The Wehrmacht Chief Administrative Officer
- e) The Senior SS and Police Leader

7.) For the execution of his tasks the Military Commander Greece has subordinated to him:

- a) Administrative Area Headquarters 395 (in Saloniki) Available to Army Group E simultaneously for combat duty
- b) The Commandant of Fortress Crete only in matters concerning the Military Administration where basic affairs are concerned requiring a co-ordinated ruling for the entire Greek area.
- c) The Administrative Sub-area Headquarters and Local Headquarters of his area of Command.

d) Troop units and supply and security troops and other units and offices subordinated to him by special orders.

The Chief of OKW (signed) KEITEL Certified true copy (sign.)

illeg.

Colonel G.S.C."

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On Page 127, your Honors, we will find,-- this is page 86 of the original document;

"OKW- No. 006912/43 top secret WFST/Qu. (Admin./ 1) 2nd Enclosure to Gen.

Qu II 2348/43 top secret (handwritten) 17 Fuehrer Headquarters 21 Dec.

1943 Top Secret 55 copies, this being the 10th copy.

Standard Order of Procedure for the German Plenipotentiary General in Albania.

1.) The German Plenipotentiary - General in Albania is subordinated to Military Commander Southeast. Concerning all combat and security duties, he is bound by the directives of the second Panzer Army.

He keeps Military Commander Southeast and the 2nd Panzer Army continuously informed concerning all essential affairs and measures within his area.

2.) Duties of the German General - Plenipotentiary in Albania.

a) He has the duties and the authority of a territorial Commander.

b) In the event of the disappearance of an Albanian Government which is capable of functioning and in case of larger combat actions, particularly in case of enemy landings, the German Plenipotentiary General or individual troop commanders who are committed there may be granted, by application, the exercise of executive power in the Albanian Sovereign Area or in parts of it. The German Plenipotentiary General will submit such an application to the Commander-in-Chief Southeast, also will decide by agreement with the Special Plenipotentiary of the Foreign Office for the Southeast making a report to OKW/WFST.

c) He will work in close cooperation with the Albanian Office of the Foreign Office for the Southeast. He will represent the requirements of the German Wehrmacht to the Albanian Minister of Defense and if necessary in technical matters to the Albanian expert Ministers.

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Demands going beyond that will be submitted by him to the Office of the Special Plenipotentiary who will undertake all negotiations with the Albanian Government and in particular with the Prime Minister and the Foreign Minister.

3.) For the execution of his tasks, the German Plenipotentiary General in Albania has subordinated to him:"

"a) The Administrative Sub-area Headquarters and Local Headquarters of his sphere of Command.

b) Troop units and other installations and offices subordinated to him by special orders.

The Chief of the OKW (Signed) K E I T E L Certified true copy illeg.

Colonel G.S.C."

Let us turn now to page 130. We come to page 88 of the original and this is OKH No. 116912.43. Top secret, WDST/Quartermaster, Administration 1.

Your Honor, I believe there is a mistranslation. This should be instead of "OKH", "OKW". If your Honors please, I will hand this part of the document to the official court interpreter so that we all may correct our records.

PRESIDENT WENNERSTRUM: You may follow that procedure.

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MR. JACOBSON (Court German-English Interpreter): It says "Oberkommando der Wehrmacht"; the Germans usually abbreviate it to "OKW".

MR. RAPP: For the purpose of the record only, Your Honors, on the top of Page 130, instead of reading OKH it should read OKW, the High Command of the German Armed Forces.

.....OKW - No. 006912/43 top secret WFST/Qu. (Admin. 1) 3rd Enclosure to Gen.

Qu. II 2348/43 top secret Fuehrer Headquarters 21 Dec.

1943 Top secret 55 copies

MR. RAPP: This is the 10th copy.

"Standard Order of Procedure for the Independent Administrative Subarea Headquarters Montenegro.

The Command of the Independent Administrative Sub-area Headquarters Montenegro is subordinated to Military Commander Southeast. Concerning all combat and security duties, he is bound by the directives of the 2nd Panzer Army. He keeps Military Commander Southeast and - for information - 2nd Panzer Army continuously informed concerning all essential affairs and measures within his area.

Duties of the Independent Administrative Sub-area Headquarters Montenegro.

The Commandant of the Independent Administrative Sub-area Headquarters Montenegro has the duties and the authority of a territorial Commander.

The Command of the Independent Administrative Sub-area Headquarters Montenegro exercises executive power in Montenegro as far as he has been authorized to do so.

In the event of larger combat actions in connection with an enemy landing on the Adriatic Coast, the executive power in the Montenegrin Sovereign area or in parts of it can be transferred to the troop commanders committed there by the Commander-in-Chief, Southeast in agreement with the Special Plenipotentiary of the Foreign Office for the Southeast.

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The Commandant of the Independent Administrative Sub-area Headquarters Montenegro is responsible for peace, order and security in as far as he is charged with it by 2nd Panzer Army.

At that time it was under the command of the Defendant Rendulic -the 2nd Panzer Army. "For the execution of his tasks he has subordinated to him: In the event of additional headquarters being sent into his area of command, said headquarters; Troop units supply and security troops, and other installations and offices subordinated to him by special orders; the area of Cattao belongs administratively to the area of the Administrative Sub-area Headquarters Montenegro. The Chief of OKW (Signed Keitel Certified true copy, illegible, Colonel G.S.G.)"

DR. LATERNSE: Please excuse me, your Honor. I just want to find out whether a paragraph has been translated. I don't know exactly; I want to find out. Your Honor, in the order which has just been read, of the OKW of the 21st of December 1943, the English Document Book Page 130, the translation of Paragraph 2c has been omitted. Can this kindly be done now and entered into the record?

THE PRESIDENT: The Document Book shows no sub-section 2 and sub-section under that. Am I correct in that statement?

DR. LATERNSE: It should, Your Honor, after 2b, Paragraph c should follow. It apparently has not been translated.

MR. RAPP: On page 130, under Paragraph 1, it commences with "Duties of the Independent Administrative Sub-area Headquarters Montenegro," That is what Dr. Laternser refers to. That is Paragraph 2, and then comes 2a and 2b, which extends to Page 131, and then we skipped to 2d. Dr. Laternser would like now to have part 2c read into the record from the original document; and we submit that we have no objection to that.

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THE PRESIDENT: You may proceed then, handing it to the Translator.

(The court page takes the original document to the Court Interpreter)

MR. JACOBSON (Court German-English Interpreter): This paragraph c reads in English: "The Commander of the Independent Local Headquarters, Montenegro administers their administration and the economic matters of Montenegro according to the directives of the Military Commander South east. In this connection, agreement with the Department of the Plenipotentiary of the Foreign Office for the Southeast in Montenegro has not been established." That ends this particular paragraph.

THE PRESIDENT: Does that cover the situation, Dr. Laternser? Dr. Laternser has indicated that covers the situation; so you may proceed.

DR. WEISGERBER: Dr. Weisgerber for the Defendant Speidel. Your Honor, in the directive of the Military Commander Greece, which was in the framework of the Prosecution's Exhibit No. 423, as has been read, I must state that I have found something strange which I cannot explain to myself for the moment. This is an official directive, and its heading bears the date of 21st of December 1943; and then we find it is an official directive of the Military Commander Greece, then figure 1 and then figure 2. And the second paragraph of figure 2, it says "Aenderungen." This is on Page 124 of the English Document Book, the bottom paragraph. In this second paragraph of figure 2 it says "Aenderungen Laut OKH u.s.w. vom 1.1.44" It is that this directive bears the date of the 21st of December 1943, and the same time refers to an alteration taking place on the first of January 1944. I cannot reconcile these two dates.

MR. RAPP: If your Honor please, the comments made by defense counsel, as far as the difference in dates is concerned, is correct. I have the original document before me, and that is the way the document reads, and that is the only way that we can submit the document to be used for whatever Your Honors like to weight it in the evidence.

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THE PRESIDENT: Does that satisfy counsel?

DR. WEISGERBER: Yes, your Honor. I still want to point out the following discrepancy in figure 2. There's a sub-section e at the top of Page 125 in the English Document Book, which should have preceded it, logically speaking; it is omitted. At any rate that is something unusual.

MR. RAPP: Your Honors, the comments by defense counsel we submit are correct, and it seems that in the original document, as photostated by us, a strip of paper was inserted and pasted on the original document, which blocked out the particular paragraph defense counsel had reference to; but that is the way we found it. That is the way we respectively submit it into evidence.

THE PRESIDENT: The Exhibit will necessarily have to be received in the state in which it is found in the original; and neither the Tribunal nor the Prosecution or anyone connected with this Tribunal are in a position to change it. It will have to be accepted for what it's worth.

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MR. RAPP: We are turning now to Document Book XVIII. The first exhibit to be submitted, your Honors, you will find on page 1, and it is [NOKW 154](#), and will be Prosecution Exhibit 424. It is dated January 1, 1944, and is an order of the Military Commander Southeast, Felber, defining competence of the commanders in the execution of retaliation measures, approving of Military Commander Southeast, etc. At that time the defendant Geitner, who was still Chief of Staff, including the Military Commander Southeast Felber.

"Stamp: Secret Handwritten: War Diary "Military Commander Southeast "Section Ia No. 58/44 secret Headquarters, 1 January 1944 "Secret Handwritten Enclosure 1 "Subject:

Reprisal Measures Reference:

Commander-in-Chief Southeast (High Command Army Group F) Section Ia/F No. 296/43 secret, dated 22 December 1943.

"Supplementing letter Commander-in-Chief Southeast (High Command Army Group F) Ia/F 296 dated 22 December 1943, the following is ordered with regard to Serbia:

"1.) The Commanders of the Administrative Sub-Area Headquarters are competent to order reprisal and can assign their execution to the competent Commanders of the District Headquarters.

"For special cases the Military Commander reserves to himself the right to issue orders for reprisal measures.

"2.) Before a reprisal measure is order approval must be obtained through teletype from the Military Commander Southeast.

"The application must contain:

Brief description of facts Losses, as well as damage, which has occurred Political affiliation of the perpetrators Type and extent of reprisal measures intended.

"3.) Persons or homes suitable for the execution of reprisal measures are to be determined after prior contact with the competent SD and counter Intelligence detachments has been made.

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The Serbian District Administrative are to be given a hearing.

"4.) Troops and Police have to comply with requests to carry out reprisal measures. Generally losses suffered by the troops will be revenged by them. The Police will provide an execution detachment to avenge its own losses and, in addition, all attacks on protected nonmilitary persons and objects.

"5.) The execution of reprisal measures is to be reported in the Daily Reports. Copy of the public notice, to signed "The Commander of the Administrative Sub-Area Headquarters" is to be forwarded subsequently.

"6.) The arrest of hostages to prevent expected outrages or attacks will be ordered by the Commander of the Administrative Sub-Area Headquarters with approval of the Military Commander Southeast.

"For further procedure paragraph 2 applies.

"7.) Participation by the Serbian Government and administration in the execution of reprisal measures and the employment of armed Serbian formations may take place upon their request.

"8.) The orders, Commanding General and Commander in Serbia Ia No. 652/43 secret, items 1, 2 and 3, dated 28 February 1943, 29 May and 31 July 1943 are rescinded.

"Current reprisal procedures not corresponding to this order are to be discontinued."

signed "Felber" Your Honors turn to page 3, Defense Counsel's Book page 3, [NOKW 698](#), being offered as Prosecution Exhibit 425.

There are some pencil notes on a conference with Gruppenfuehrer Meyszner on 7 January 1944 at 1800 hours. It was entered in the War Diary and it was a conference between Meyszner and Felber.

"1. Reporting back from leave.

"2. Discussion of the saluting question among Wehrmacht and police in regard to Serbian Units.

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Meyszner considers it appropriate not to order the duty of saluting yet, but merely to instruct subordinates, to reply correctly to the courtesies shown them on the part of the Serbian Units. There is to be no order at first!

"3. Reprisal measure for police captain Hofmann who was shot: Meyszner suggests shooting 25 DM and 25 Communists. Furthermore he will send an SD detachment to Cumitz, in order to determine the connections between perpetrators and inhabitants of the village. Conference 01.

"4. The complaint brought forth by Nedic that he did not receive any decision from Meyszner concerning the organization of the Serbian state guard, is irrelevant. Meyszner made the demand that the total strength of the Serbian state guard is not to exceed 15,000. Nedic, however, wishes to allocate 2,000 Serbian state guards for Belgrade in addition.

"5. Belgrade Camp: The concentration camp on the Messe terrain, which has room for 20,000 inmates, must be retained. Furthermore, there are only about 500 Serbs among the 3500 arrestees. These, too, must go into a Serbian camp later.

"The Messe terrain camp can be exploited at any time for refugees and prisoners of war."

DR. LATERNER: Your Honor, the Prosecutor, when introducing this document, he said that this conference with Gruppenfuehrer Meyszner took place with General Felber. This is not shown by this document. The statement of the Prosecutor is a mere assertion.

MR. RAPP: Your Honors this particular document was once again found as part of the official German Army files of that particular series dealing with the matters pertaining to the Southeast area under that particular date. Since it is an entry into a war diary, not each page of this entry is being signed. At a later time, your Honors, we submit that we will show proof that this particular document refers to the conversation between Meyszner and Felber.

THE PRESIDENT: Upon the statement of counsel that it will be connected up, it will be received. However, if not so connected the court will only give it such consideration as it feels it merits.

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MR. RAPP: Very well, your Honor. The next document, your Honor, NOKW 164 will be found on page 4 of your document book pages 4 and 5 of the German Document Book. These are excerpts from the war diary of the Military Commander Southeast, Chief of Staff Ia. They are being submitted your Honors as Exhibit 426 and dated for the period from 1-31 March 1944:

"Lt. General Foertsch (Chief of Staff of Army Group F) has stated that he is disappearing from the Southeast area and that his successor will be Brigadier General Winter for newly Chief of Staff of Army Group E."

Then below:

"As revenge for the murder of two mayors on the 8th and /or 9th of Feb 44, the 610th Administrative sub area Headquarters, Cacak, is to receive the Order to shoot 10 DM followers altogether."

THE PRESIDENT: May I interrupt. We will take our recess at this time, but before we do take a recess I wish to make this statement. It has been called to my attention that possibly, in commenting concerning the witness on whom I ruled earlier and just after we reconvened this afternoon, I may have incorrectly made reference to his name. For the purpose of the record I wish to state that I referred to Hans Gustav Felber, F-e-l-b-e-r-, and if, through inadvertence I mispronounced his name, it will be corrected by this statement.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

MR. RAPP: If your Honors turn now to page 5 of your document book, please, page 6 of the German document book, we come to NOKW-207 which is being offered as prosecution Exhibit 427. This document is dated 24 March 1944 to the 610th Administrative Sub-Area Headquarters, subject: Reprisal measure for surprise attack on Krusevac Airdrome:

"I am in agreement with the shooting of 10 Communist reprisal prisoners at the Krusevac Airdrome."
Signed: "Felber, Military Commander Southeast, Ia, No. 192/44, Signed Felber."

If your Honors turn now to page 6, please, NOKW-662, is being offered as prosecution exhibit 428. Defense counsel will find this on page 7. This is another order of the military commander southeast to the "Senior SS and Police Leader for Information: Administrative Sub-Area Headquarters 809, Combat Commander 'Eisernes Tor' (Iron Gate):

"In reprisal for the German Soldiers kidnapped and later murdered by the DM-Cetniks on 10.31-44 near Petrovo Selo 50 convicted DM people from the SD Hostage Camp, Belgrade are to be shot to death, but not in Belgrade."

And there is an asterisk and it says underneath: "But if possible on the spot."

Signed: "Felber".

The next document, Your Honor, on page 7 -- defense counsel will find this, I believe, on page 8, 9 and 10 in their German document book -- is NOKW-665, being submitted as prosecution exhibit 429. These are various extracts from the War Diary of the Military Commander Southeast Chief/Ia and it pertains to execution of retaliation measures by subordinate military area so-called "Feldkommandantur. This particular period covers the period from 1 to 30 April 1944. The first entry:

"7.4.1944 The reprisal measures applied for by F.K. 816 (Administrative Sub-Area Headquarters) are approved. The execution will take place only after the Serbian Easter. The Serbian Frontier Guard is not to be employed in the execution."

Page 1,622

On page 4 of the original:

"The hanging of the convicted bandit Jaksic in Losnica, applied for by the Feldkdtur.816 (Administrative Sub-Area Headquarters) is approved. The population is to be informed in a proper manner of the reasons for the execution.

The Feldkdtur.610 (Administrative Sub-Area Headquarters) is authorized to burn down the houses of the DM people who participated in the attack, if the time limit for producing M. Engineers elapses without results."

The next document, your Honors, you will find on page 8, on page 11 of the German document book, [NOKW-667](#), to be submitted as prosecution exhibit 430. This again are orders of the 5th, 22nd and 30 of May, 1944 and they are orders by the Military Commander Southeast to subordinate units concerning retaliation executions. This one, handwritten War Diary Enclosure 14, Administrative Sub-Area Headquarters 809, subject: "Reprisal measures for the Russian Engineer Meschikow:"

"The shooting to death of DM bandits is to be carried out -- "3 DM bandits is to be carried out.

"Military Commander Southeast, Ia/No. 320.44 Secret (signed) Felber."

And another one: "Handwritten War Diary, Handwritten Enclosure 87:

"District Headquarters Grade Betschkerek. Reference: 1) Ic Az. 8 Diary No. 11053-44 of 7 May 44" and another reference of "16 May 44."

"Subject: Reprisal measures.

"Application for reprisal to 2) is approved with limitation that 5 convicted Communist bandits are to be shot to death for the wounding of Oberwachtmeister Polzer."

Signed: "Military Commander Southeast, Ia, 22 May 1944."

We submit, your Honors, that these documents bear the initial "G" the initial of the defendant Geitner.

On the next page:

"In reprisal for the murder of the BSW Corporals Gano and Retzler on 25 May 1944, 50 convicted Communists are to be shot to death in pursuance of your proposal dated 26.

5.44 – Section Ic Az 8 Diary No. 11216/44. The reason is to be made public. The execution is to be reported."

In this case: initial "b", "Military Commander Southeast, Ia No. 364/44 of 30 May 44 secret" and then an illegible initial.

The next document, your Honors, [NOKW-734](#), you will find on page 10. German defense counsel will find this on page 13 and 14. This document becomes prosecution Exhibit 431. Again, excerpts from the Diary Military Commander Southeast re: execution of hostages, subordination of military Greece to Military Commander Southeast and so forth.

"9 January 1944. Chief of Staff:

At 0800 attack by the 2nd Red Division which had penetrated into Southwestern Serbia, on Ivanjica and Lissa. The Commander-in-Chief proposed to send two Bulgarian Battalions with tanks from Pozega via Arilje to Ivanjica for relief. The request has been approved.

"10 January 1944. Chief of Staff:

"In retaliation for the murder of Police Captain Hoffman on 13 December 1943 near Cumic, the Higher SS and Police Leader is authorized to shoot 50 reprisal prisoners, if possible those whom the Security Service (SD) ascertained to be band supporters in the area of Cumic."

The next page, your Honors, there are further entries in the same War Diary this one under the 5th of January, 1944.

"The German Liaison Staff with the 1st Royal Bulgarian Occupation Corps receives the order as soon as possible as to what security measures have been taken at the railway station Granada and what the effective strength and armament of the guard employed consisted of at the time of the attack on the railway station.

On the 8 January 1944 Chief of Staff:

Colonel Gartmayr, GSC, (OKH, Quartermaster General) informs that in spite of the objection by Group [F the](#) Military Commander Greece continue to be subordinated to the Military Commander Southeast.

The Battle Commander Iron Gate is informed that if the kidnapping of two Anti-Aircraft soldiers was not a case of desertion, the arrest of 20 hostages from the Topolmica area together with setting a time for the return of the kidnapped has been approved."

If your Honors will turn now to page 12, please, we offer [NOKW 161](#), to be submitted as Prosecution's Exhibit 342. This document is a daily report of the Military Commander Southeast dated the 10 January, 1944, pertaining to the execution by the military commander Greece of 50 Communists in retaliation for the murder of two German policemen. And it says:

"Daily report of 10 January 1944 Serbia:

Special purpose unit of the railway security staff was employed with the Serbian state guard against communist bandits 3-400 men strong Southeast of Ralja.

Military Commander in Greece: 50 Communists shot as reprisal measure for murdering 2 German police."

Signed: "Military Commander Southeast, Ia, No. 163/44 secret" Signed "von Geitner".

The next document, your Honors, [NOKW 708](#), you will find on page 14, defense counsel on page 17, this will be offered as Prosecution's Exhibit 433. This is a sweier of daily reports covering the period between the 9th and 24th of January, 1944, pertaining to the retaliation and executions in Greece and Serbia:

Page 1,625

"Military Commander Greece: English propaganda material captured." Then below, "War Diary, Army Group F, on the 21st of June, 1944:

"For information: OKH, OKW, 2nd Panzer Army, German General Plenipotentiary in Croatia.

Serbia: In the area south of Knajazevac communist bands terrenizing the civilian population. Allegedly from Bulgaria and partly in Bulgarian uniform, they were captured by the Draja Micajlevic Cetniks".

On page 15, at the top, we find:

"Near Levadis 4 communists shot and 5 prisoners brought in by the SS Mountain Jaeger Police 18".

Below: "10 communist hostages shot to death in reprisal for the murder of Greek executives."

Signed: "Military Commander Southeast, Ia, No.353/44 secret, signed "von Geitner".

Certified a true copy: (signature illegible) 1st Lieut." Below that: to:

Army Group F, (by courier) For information OKH, General Qu. (Section Administration) OKW, 2nd Panzer Army German General- Plenipotentiary in Croatia.

Daily Report of 22/1/44, Serbia 50 communist hostages shot to death for the murder of a German Police captain in Kragujevac".Signed:

" Military Commander Southeast, Ia No.370/44 secret, signed v. Geitner" On the next page, your Honor, to Army Group F (by courier:

"24.1.1944 For information:

OKH/

OKW 2nd Panzer Army German General - Plenipotentiary in Croatia.

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Daily Report of 24.1.1944 Serbia.

11 communists arrested near Pozarevac. 10 communists shot to death in reprisal for the murder of the mayor.

Military Commander Greece:

Since 1.11.43 wages have risen 88%. living expenses 650%.

Military Commander Southeast Ia No. 406/44 secret signed v. Geitner" If your Honors will now please turn to page 17, you will find [NOKW 661](#) being submitted as Prosecution's Exhibit 434, there again we have the daily reports of the Military Commander Southeast.

In this case the Military Commander Southeast is reporting the activities to the Army Group F, at that time commanded by the defendant, Weichs. It is addressed:

"To:

Army group F for the information of:

OKH OKW 2nd Panzer Army German General Plenipotentiary in Croatia German General Plenipotentiary on Albania Dated 11 Feb.

44 Military Commander Greece.

By order of the Combat Commandant of Peloponnesus. 3 neighboring localities burned down and 149 inhabitants shot as reprisal measure for the surprise attack on navy truck near Kalamata on the 8th of February, Inhabitants supported the bandits.

(signed) Military Commander Southeast Ia NO.

802/44 Secret sgd.

von Geitner."

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At that time the defendant, Speidel, was still the military commander in Greece.

Below we have another report, this time dated the 12th of February, 1944, again addressed to Army Group F, the defendant Weichs, with information copies to the OKH, OKW, 2nd Panzer Army, German General Plenipotentiary in Croatia, and German General Plenipotentiary in Albania.

On the top of page 18, pages 21-22 of defense counsels' books we find the contents of this report. It says:

"Serbia 16 Communists shot and 30 suspects arrested (by German and Serbia State Guard in cleaning up operation against Communist village South of Nis).As revenge for the surprise attack on the German customs border guard in the Banat reported on 9 February 44, 15 Communist reprisal prisoners shot.

Military Commander Greece.

As revenge for murder of Greek executives, 25 communist reprisal prisoners shot in Athens.

Military Commander Southeast Ia No.843/44 Secret sgd.

von Geitner" The same is repeated at the bottom of the page, your Honor, same address, same distribution.

The substance of the contents is on page No. 19, on the top. It states under:

"Serbia: entry of 23 Feb. 1944 5 communists shot, 33 suspects arrested, 11 farms of bandit helpers burned down in raid operation of German police and Serbian State Guard east of Prekuplje".

Signed:

Military Commander Southeast, Ia No. 1068/44 Secret signed von Geitner".The same again below, under the date of the 26th of February, 1944, -- for defense counsels information I am citing from pages 22, 23 and 24 of their document book.

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We have:

"Serbia: 34 communists were arrested in the area of Cr. Kikinds in the Banat by the banat State Guard and SD: the communist leader of the North Banat was shot."

On the top of the following page (20): the defendant perdel reports to Mil. Com. South East.

"Military Commander Greece: 50 hostages shot for the murder of an interpreter in Tripelis".

Then at the bottom of this page, your Honors:

"Daily report of 28 February, '44 Serbia:

150 arrests in a search operation in the area of Sabac. 50 turned over in the SD."

Signed: "Military Commander Southeast, Ia, No.1193/44 Secret, sgd, von Geitner".

This and the previous entry were both signed by the Military Commander Southeast, and actually signed be the defendant, von Geitner.

This concludes, your Honor, [NOKW 661](#).

If your Honors will turn now to page 23, please, you will find document 717, this document is submitted as Prosecution's Exhibit 435. It is defense counsels' pages 27, 28 and 29. This again is an excerpt, this time a courier letter to Army Group F:

"Daily report of 19 March 1944.

During mopping up operations by Police Volunteer Regiment 1 against band villages 17 Southeast Leskovac, 15 bandits shot to death, 16 people helping hands arrested, 40 houses burned down, cattle and corn taken as booty."

It is certified a true copy, signature illegible by a 1st Lieutenant.

Signed:

"Military Commander Southeast 1a No. 166/44 secret.

signed von Geitner".

On the top of the next page again, your Honors, or again for information to Army Group F, the usual distribution, OKH, OKW, 2nd Panzer Army.

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etcetera. Daily report of the 21st of March, 1944.

"Serbia: South of Tekiha, 50 hostages arrested. In banat, 30 communists shot as reprisal measure."

Certified true copy, (signature illegible) 1st. Lieutenant. It is signed: "Military Commander Southeast, Ia No. 1722/44 secret, signed von Geitner."

I believe this to be in defense counsels' book, pages 34 and 35, also 32 and 33. There is some misup in the German pagination, I believe, but they should be all in there.

Then at the bottom of your document book, your, Honors, pages 24, we have another letter to Army Group F, by courier, the usual distribution and then on page 32 of defense counsels' books. It says:

Daily Report of 22.3.1944 Serbia:

Belgrade political circles are talking about a compromise solution allegedly found in London according to which Tito and DM would be personally represented in a newly formed emigrant government in Cairo.

German General in Albania:

Confidential agents again report parachute jump of 5 Russians and 15 Englishman, South of Korea.

Military Commander Greece:

On the Poloponnesus, 5 Greek hanged in reprisal for attack on railroad.

Certified true copy Military Commander Southeast (signature illegible) /44 secret 1st Lt. signed von Geitner It is signed:

"Military Commander Southeast, Ia, secret, signed von Geitner" The same is repeated again at this time, OKH, OKW, 2nd Panzer Army, still the same document, and they are under the entry of the 23rd of March.

We find:

"Serbia: By command of Combat Commandant Peloppenneuse, 45 hostages shot to death in Kerinth, 52 in Tripoli and 44 in Sparta,"

Page 1,631

MR. RAPP: There is a possibility that this particular reference, as just read into the record, may be missing in the German Document Book. If so I suggest we have translated by the Court Interpreter. Is it missing Dr. Laternser?

DR. LATERNER: No, it is not.

MR. RAPP: Very well; thank you. Then, we have again the courier message to the Army Group F. The distribution is as usual; it is dated the 27th of March 1944: "Serbia: By Command of Combat Commandant - Iron Gate 17 hostages arrested Administrative Sub-Area Headquarters 1040 Montenegro: The efforts of the Montenegrin government commission toward a closer affiliation of the Sandzak area are coming up against strong rejection of the Moslems there. Intention: The Sandzak will be made subordinate directly to Military Commander Southeast, Ia, secret." And this time it is signed by Felber. At the bottom of this page, Your Honors, the entry of the 30th of March 1944. We are now on Page 27, the entry for Serbia: "During operations against Communists in Pozarevac, up to now 73 arrests, of which 14 persons were shot to death, and 17 released." And the Military Commander in Greece has reported: "Total result of concluded operations on Euboea: Band Losses: 77 dead, 42 prisoners, 81 wounded, 211 people suspected of belonging to bands arrested, of which 5 were shot to death." That concludes Document No. NOKW 717. If Your Honors turn now to Page 29 you will find [NOKW-208](#), which is being submitted as Prosecution's Exhibit No. 436. This, Your Honors, is a report, or a series of reports, of the Military Commander Southeast, about the execution of Communists and hostages in Greece. It is dated the 10th of March 1944; It's going to Army Group [F](#) by messenger, and it's for the information of OKH, OKH, 2nd Panzer Army, who was the Defendant Rendulic, the German Plenipotentiary General in Croatia, and the German General in Albania. First it States about Serbia:

"Situation unchanged Attempt against cabinet chief of the Prime Minister not yet cleared up.

Impressive burial with participation of a greater part of the Belgrade and delegation of the Mil. Com. Southeast.

Page 1,632

In the region Kragujevac, orders concerning procurement and distribution operations were given by DM to the Community Administrations. Lists of the age groups 1894 to 1925 were demanded from the community elders.

Mil. Com. Greece reports:

100 active communists shot as reprisal measure for attack on Serbian volunteer train in the Tempi-Valley North Northeast Larissa.

50 communist hostages shot in Athens as reprisal for the strike agitation pursued by the communists and the partial strikes caused by them.

Mil. Com. Southeast (sgd) v. Geitner secret" If Your Honors turn now to Page 30 please; I believe it's Pages 41 and 42 of the German Document Book, we have the same report from the Military Commander Southeast, signed by von Geitner, with the usual distribution, this time under the 13th of March 1944.

Under Serbia it says:

"Continuing terror and murders by both insurgent groups. In a peasant settlement, east of Zvornil, DM bandit leader explained that by order of London and Moscow, a treaty between Cetniks and Communists was drawn up."

MR. RAPP: And then the Military Commander of Greece reports:

"On the highway Sparta-Tripolis, truck convoy attacked. 18 Wehrmacht members dead, 25 heavily wounded, 19 slight wounded and 6 Greeks wounded. As reprisal, state of emergency for South Peloponnesus. Shooting of 200 communist hostages."

The next page Your Honors, Page 31, there is a similar report under the 17th of March, with the usual distribution, signed by the Military Commander Southeast, and signed for him by Geitner, Certified by a first lieutenant. The Military Commander Greece reports: "Bandit attack on coal mine North of Athens repulsed. In police raid in Athens reported yesterday, 17 arrested Communists shot." This concludes Document No. [NOKW-208](#), Prosecution's Exhibit No. 436. If Your Honors turn now to Page 32 please, Prosecution is offering Document No. [NOKW 670](#), to be marked as Prosecution's Exhibit No.437. This is a series of reports of the Military Commander Greece, to the Military Commander Southeast. The same subject-- Communist executions, reprisal measures, etc.

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This one is dated the 25th of April 1944, to Military Commander Southeast, Ic, Belgrade, High Command Army Group E, Ic, and Evening Report of 26.4.1944:

"District Headquarters, Thebes Reports:

25.4.44 15.00 Hours. Officers of the Commander of the Ordnungs Police attacked by about 70 bandits while on duty trip on the road ArachowaAmfissa (15 west Lewadia). Major Schulz and Major Krueger dead, Captain Unger and 4 men are missing. Two passenger automobiles and two motorcycles were burned out. There men found their way to Lewadia. 50 Communists from Lewadia were shot as reprisal measures. Additional reprisal measures are intended.

(signed Military Commander Greece Ic Reg.

No.16330/44 secret" The next page shows the distribution, and it has Corps Headquarters LXVIII68 Infantry Corps, Commander of the Ordnungs Polizei.

And "On the premises"; and then "Military Commander Southeast Ia, Belgrade, High Command Army Group E, Saloniki, Military Commander Greece, and Administrative Area Headquarters." Then a Daily Report of the 26th of April 1944. Paragraph 4:

"SS- Police Mountain Artillery Battalion

4) 24.4. 8 Bandits arrested, among them three Kommissars with a 5 ton truck while on supply ride. They were turned over to the Secret Field Police in Lamia.

5) Concluding report on large scale raid in parts of the city of Athens: Durguti, Kawssariani, and Qyron. 126 final arrests. 15 Communist were shot for resistance. Captured material: three machine pistols, all rifles and 9 pistols Military Commander Greece Ia Regt:

No. 11613/44 secret (initial Illeg.)

It bears the initial of a Mayor, "M." If Your Honors turn to Page 44 of the German Document Book, there is teletype, handwritten 25th of April 1944:

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"T e l e t y p e From Military Commander Greece Ic, of 25.

4.1944 To 1.) Military Commander Southeast Ic, Belgrade

2.) High Command Army Group E, Ic, Saloniki (for information)

Ic Evening Report of 25.4.1944 During mopping up operations in parts of the city of Athens:

Durgutt, Kaessariani and Wyrion up to now 180 arrests among them some leadings Communists. 5 Communists shot to death for possession or arms.

In Tripoli 13 known Communists shot in reprisal for a murdered Gendarmerie Officer. (see morning report Ic, dated 23.4.44) Military Commander Greece" The next page, Your Honors, is Page 35, there is a distrubuuion list, and then below there is a report of the 9th of April 1944:

"b) Area, of the Commander of the Ordnungs Police Northern Greece.

Greek Volunteer Battalion 1 6.4.44 in Verria Fire attack by bandits during roll call of the Battalion.

Losses of our own. 4 dead, 11 wounded of which 8 were heavily wounded 150 people suspected of belonging to bands shot in Verria as reprisal measures. Operation of the 111 Police Volunteer Battalion against fleeing bandits up to now unsuccessful.

Area of the Commander of Ordnungs Police Southeastern Greece. SS Police Fountain Jaeger Regiment 18 1.0 Minor enemy contact during reconnaissance operation on 6.4.44 in the area of Desfina.

(12 South Southeast of Delphi) 4 bandits shot to death.

2.) 4.4.44 2 North of Itea. the car of the representative of the International Red Cross for the Swedish Red Cross was attacked. Professor Gistadel was lightly wounded; the driver heavily wounded."

On the top of the next page, Your Honors Page 36, "1.4.44 in Wrachati 2 Nationalists shot by bandits, 1 heavily wounded, 28 arrested for hostages." And then it has initials of a Colonel of the General Staff Corps, then Military Commander Greece, and illegible initials.

Page 1,635

On Page 37, Your Honors, which is Pages 45 and 46 and 47 of the German Document Book, we have again a distribution of this reports, and then another entry under the 8th of April 1944: "50 Communists shot to death for attack on German soldiers (3 dead) North Athens. (See Ic Morning Report 7.4.44).

(signed) Military Commander Greece." The next page has an Evening Report of April 4, 1944:
"Administrative Sub-area Headquarters La Rissa report, 2.4.44 65 Communists in reprisal for railroad sabotage 10 South La Rissa shot to death at the scene of the incident. (signed) Military Commander Greece/Ic, Colonel G.S.C." It is signed Colonel G.S.C., it illegible and signed Military Commander Greece, Ic. The next entry is stamp "SECRET""URGENT":

" Military Commander Greece, Ic 3.4. 1.) Military Commander Southeast/Ic, Belgrade
2.) High Command Army Group E, Ic, Salonike (for information) Ic Daily Report 3.4.1944.

Administrative Sub Area Headquarters Korinth Reports:

1.4.44. 12 Greek trucks near Arachowa (Road Trioiki-Sparta attacked and partially looted.
1.4. in Vrachati (12 West Korinth) 2 Nationalist shot to death by bandits, 1 heavily wounded.

Administrative Sub Area Headquarters La Rissa Reports:"

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Reprisal measure for attack in Trikkala (see evening report 24.3.44) 4 Communists shot to death ---
(signed) Military Commander Greece /Ic URGENT Military Commander Greece, Ic

1.) Military Commander Southeast Felber 1.4 2.) High Command Army Group E. Then under 1 April 1944 the last entry says:

"Up to now: Wehrmacht 1 dead, 14 wounded. Tracks blocked only for a short while. The execution of 70 Greeks at the locality of the incident has been ordered.

(signed) Military Commander Greece Colonel G.S.C. The next page is again the distribution.

We are now on page 40, and then under entry of 30 March we find:

"Final Report operation "Habicht", (Hawk) Euboea, from 1.-25.3.44 (from 20.-35.3 concurrent with operation "Wildente" (Wild Duck). Losses of the bands: 77 dead, 42 prisoners, 81 wounded, 211 people suspected of belonging to bands arrested of which 5 were shot to death

Own losses: 1 Captain 2 Evzones dead, 2 German sub-leaders, 1 Captain, and 12 men (Greek volunteers) wounded.

(signed) Military Commander Greece The illegible signature Colonel G.S.C. The next page, your Honor, page 41, pages 48 and 49 of the German Document book, We find again the distribution of this report I have just read into the record.

For information it went to the IXVIII Infantry Corps and Commander of the Ordnungs Police.

Page 1,637

Then we have a report entered under the 22nd of March 1944 sent again by the Military Commander in Greece:

"Reprisal measures (see Daily Report 12.3.44 changed: Korinth -- 45 hostages, Tripoli 52, Sparta 44 shot, 59 men were reprieved.

"Signed Military Commander Greece, illegible signature."

Below, the distribution and then Ic, Evening Report, 22.3.1944:

"Administrative Sub Area Headquarters Korinth Report:

"52 Hostages in Tripoli and 44 hostages in Sparta were shot as reprisal measures on 21.3.

"Signed Military Commander Greece.

DR. WEISGERBER: (Attorney for defendant General Speidel) Your Honor, if I understand the transmission into the German correctly, the daily report of the 22nd of March 1944 as it reads on page 48 of the record, that is page 41 of the English Document Book was read:

"Korinth 45 hostages shot, and, Tripoli 52 will be shot."

In the original document the words "shot to death" under "Korinth 45 hostages and under "Tripoli 52 hostages" are crossed out. I request that this fact will also be contained in the record.

MR. RAPP: If your Honors permit, I cannot recall having read the various statements into the record which defense counsel submits I did. I believe I have merely read "45 hostages; Tripoli 52, Sparta 44, 59 men were reprieved." If your Honors please maybe we could have the record either read back at this time or I will read again for record purposes that what I have said already before.

THE PRESIDENT: Perhaps it will save time if you will read for record purposes what you claim for this particular document and page from which you are reading.

MR. RAPP: Very well, your Honor. This is the daily report of the 22nd of March 1944, paragraph 2:

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"Reprisal measures (see Daily Report 12. 3. 44 changed:"

THE PRESIDENT: What page, please.

MR. RAPP: I am on page 41, your Honor, page 41.

THE PRESIDENT: Thank you.

MR. RAPP: Reprisal measure (see Daily Report 12.3.44 changed:" Korinth 45 hostages, Tripoli 52, Sparta 44 shot, 59 men reprieved.

"Signed Military Commander Greece, Ia No. 11113/44 secret initial illegible."

Below your Honor, the entry of the 22nd of March, Evening Report:

"Administrative Sub area Headquarters Korinth Report; 52 hostages in Tripoli and 44 hostages in Sparta were shot as reprisal measures on 21 March."

Page 42 we have the distribution, your Honors, of this report and then again under the 22nd Ic Morning report entry:

"Reference 59 hostages reprieved by combat commandant Peloponnus. On 21.3 in Korinth 45 hostages were shot to death. Additional executions will be reported later.

"Signed Military Commander Greece, Ic No. 15409/44 secret."

On the same page, your Honor, another Ic Evening report dated 21 March 1944. On page 42 of your Document Book:

"Administrative Sub Area Headquarters Korinth Report: On 21.3.44 in Theodori 5 Greeks hanged as reprisal measure for railroad sabotage."

They refer to previous reports and it is signed by the Military Commander Greece Ic.

Your Honors, turn to page 43 please, page 50 of the German Document Book. We find the distribution of the previous document went for information, again to the IXVIII Infantry Corps and all the way to the Military Commander Southeast, and we have 17 of March 1944 and it says:

a) see Ic - morning and evening report

b) First Evzon Regiment Athens

Page 1,639

1.) At 0110 Hours the base point Coal Fine Gropos 35 North of Athens was attacked by about 60 bandits with numerous automatic arms. After temporary evacuation and reinforcement the village was taken back by counterattack. One civilian was kidnapped by bandits. Enemy losses not ascertainable, numerous traces of blood left behind.

2.) During search operation (see daily report of yesterday) 17 communists shot immediately after interrogation.

Voluminous propaganda material safeguarded (initial m) (signed) Military Commander Greece The next page, your Honor, page 44, we have again Ic Morning report dated 15 of March 1944:

Fatal casualties during attack South of Tripoli includes the 21st:

Ordered as reprisal measures:

1.) Shooting to death of 200 hostages (Co-responsibles from the area of attack)

2.) Burning down of 10 villages (found to be Band Nests within the area of attack)

3.) Limit of permission to leave home in the area of attack from 0900 Hours to 12.00 Hours daily up to and including 22.3.1944.

4.) Prohibition of all vehicles in the area of attack. Exception - vehicles of International Red Cross and supply trips for vital plants and the city of Athens.

5.) Erection of a prohibited area on both sides of the road Tripoli-Sparta under threat of ruthless use of arms.

(signed by) Military Commander Greece

THE PRESIDENT: It is virtually time for adjournment now. We will stand adjourned until this coming Monday at 0930. This adjournment is made at this time in keeping with proceedings heretofore had earlier this week.

Page 1,640

We are in adjournment.

The Tribunal will recess until 0930 o'clock Monday morning.

11 August 1947.

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany on 11 August 1947, 0930, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V. Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: Mr. Marshal, will you ascertain if the defendants are all present in the Court?

THE MARSHAL: May it please your Honor, all defendants are present in the courtroom.

THE PRESIDENT: Judge Edward F. Carter will preside at this day's session.

PRESIDING JUDGE CARTER: You may proceed, Mr. Rapp.

MR. RAPP: When we adjourned last Friday, your document book XVIII --

On Friday we concerned ourselves with Document Book XVIII and I believe we reached page 44 in your Honors' document book and page 51 in the German document book. This was prosecution's exhibit No. 437, NOKW-670.

We now turn to page 45 and here we have the "Ic" of the Military Commander Greece sending a report on the 10th of March 1944 to the Military Commander Southeast Belgrade and High Command Army Group E, Soloniki:

"After the plants working directly or indirectly for the Wehrmacht and their workers were taken under Military protection and refusal to work was threatened with strictest measures, the labor situation in Athens and Piraeus is normal. The measures taken by the Military Commander Greece since the beginning of the strike movement on 3 March 1944 were intended to break the Communist terror while taking into consideration the interests of the Occupying Power and of Greek economy.

The swift and severe proceedings broke the strike rehearsal, which the Communists had staged.

"Total of arrests: 257 officials, employees and workers of the Greek railroads (final decision in operation). During mopping up Operations in Nea Kokkinia on 7.3. reported: 132 prisoners (interrogation in progress) 80 wounded, 14 dead. As reprisal measure on 9.3.44 - 50 Communists shot to death."

Signed: "Military Commander Greece, Ic Register No. 15 160/44 secret."

The Defendant Speidel was at that time the Military Commander in Greece.

If your Honors turn to the next page, page 46, we have again a report from the Military Commander Greece Ic to the Military Commander Southeast and the High Command Army Group E, classified as "Urgent Secret", 9.3.44: "Ic Evening Report 9.3.1944."

DR. LATERNER (Counsel for defendants List and von Weichs): Your Honors, the prosecutor has stated that this report went from the Military Commander Greece to the Military Commander Southeast as well as to the Military Commander Army Group E. As to the 2nd headquarters mentioned, it must be added that this report was given for information reasons as can be seen from the translation. I think, that this is important.

MR. RAPP: We submit, your Honors, that we accept the defense counsel's suggestion and put it into the record "for information."

PRESIDING JUDGE CARTER: All right. You may proceed.

MR. RAPP: "Ic Evening Report of 9 March 1944. In Athens in reprisal for strike agitation by Communists and the partial strikes caused by them, 50 Communists shot to death on 9.3.44.

The executions were published in the the Press. (Signed) Military Commander Greece" --

I believe the transmission didn't come over -- "Ic Registration No. 15128/44 secret. By order Colonel Major."

If your Honors will turn please to page 47, we have a report to:

"Military Commander Southeast Ic, Belgrade "High Command Army Group E, Ic, Saloniki "(For Information) Military Commander Greece Ic" dated 25 February 1944, "Ic Evening report of 25 February 1944."

"Administration Sub-Area Headquarters 1042 reports: In reprisal for the attack on the truck column near Megalopolis on 22.2.44 it is intended to shoot 200 hostages in Tripoli. In Tripoli and Megalopolis a state of emergency has been declared up to 7.3.44 with special curfew hours. (Signed) Military Commander Greece Ic Reg. No. 14 855/44 Secret. By order: Major."

And then on page 21 of the original there is again a report from the Military Commander Greece to the Military Commander Southeast Ic Belgrade, and High Command Army Group E Ic Saloniki, for information dated 24.2.44:

"Ic Morning Report of 25.2.1944. Administrative Sub Area Headquarters Tripoli reports: 50 hostages from the hostage camp Tripoli were shot to death on 23.2 in reprisal for the murder of an interpreter. (See evening report Ic of 12.2.44) (Signed) Military Commander Greece to Reg. No. 15 843/44 secret. By order: Major."

If your Honors turn now to page 48, please --- defense counsel will find his on page 53 -- we have another entry in this War Diary. On top it says:

"For information Ia,(handwritten); 1)Military Commander Southeast/Ic Belgrade; 2) High Command Army Group E/Ic Saloniki (for information) Military Commander Greece Ic."

"Ic Evening Report of 22.2.44. Administrative Sub-area Headquarters Larissa reports: As reprisal for anti-Communists shot to death on 1.2 and for the murder of confidential agents on 11.

Page 1,644

2, 9 Communist hostages from Volos were shot to death on 17 February. (Signed) Military Commander Greece Ic Registration No. 14 771/44 secret."

Page 1,645

On page 23 of the original:

For information Captain Loose Ia

URGENT War Diary (illeg.initial) Military Commander Greece Ic 11.

2. 44 1.) Military Commander Southeast, Ic, Belgrade

2.) High Command Army Group E, /Ic, Saloniki (for information)

Ic Evening Report of 11.2.1944 As reprisal for the murder and wounding of Greek Gendarmes, Evzonens and Policemen(by order of) the senior SS and Police Fuehrer and Police Leader Greek, 25 Communists, Hostages were shot to death in Athens on 10.

2.1944 -- Execution was published in the press.

Colonel G.S.C. (signed) Military Commander Greece Ic Reg:

No. 14 585/44 secret" If your Honors will turn to page 49, we find(on page 24 of the original) again an entry in the War Diary, with illegible initials:

"For information Captain Loose Ia

URGENT Military Commander Greece Ic 9.2.44 1.) Military Commander Southeast, Ic, Belgrade

2.) High Command Army Group E,/Ic Saloniki (for information)

Ic Evening Report of 9.2.1944 Naval Commandant Peloponnos had 3 neighboring villages set on fire and had 149 residents shot to death as a reprisal measure.

.....

(signed) Military Commander Greece Ic Reg:

No.14.564/44 Secret" On page 28 of the original:

"Captain Loose Ia, Urgent" this is on page 54 of defense counsels books:

Page 1,646

Military Commander Greece. Ic 15.

1.44 1.) Military Commander Southeast, Ic, Belgrade

2.) High Command Army Group E, Ic, Saloniki (for information)

Ic Evening Reports of 15.1.1944 Administrative Sub Area Headquarters reports:

on 15.1.44 in Tripolis 10 Communists hanged at the locality of the incident as reprisal measure (see evening report of 14.1.44)J (handwritten initial) signed Military Commander Greece Ic Reg:

No. 14.204/44 secret" If your Honors will turn please to page 50, we have a page 29 of the original document book, it has distribution:

"For information: Corps Headquarters LXVIII Infantry Corps.

On the premises:

Quartermaster 1a / War Diary" The LXVIII Infantry Corps at that time was commanded by the defendant Felmy.

It is stamped "secret".

"Military Commander Greece Ia 10.

1.44 1.) Military Commander Southeast Ia Belgrade

2.) High Command Army Group E, Saloniki, (for information) Daily Report 10.

1.44

b) SS-Police Mountain Jaeger Regiment. 18.

1.) Operation Ktipas Mountains (West of Chalkis) up to now 5 arrests, 1 armed bandit shot to death, 2.) As reprisal for murder of two policemen in Wrasdamites, 50 hostages shot to death.

(signed) Military Commander Greece M(handwritten) Ia No. 10089/44 secret" Major Then we have below:

Page 1,647

"For information Captain Loose Ia URGENT Military Commander Greece, Ic 8.1.1944 1.) Military Commander Southeast, Ic, Belgrade

2.) High Command Army Group E, Ic, Saloniki (for information)

Ic Evening Report of 8.1.1944 Senior SS and Police Leader Greece reports execution of 30 Communists on 7.1.44 in reprisal for murder of 1 Evzonen and 3 Gendarmes and 36 attacks since 16.

12.43.

.....

(signed) Military Commander Greece Ic Reg:

No. 14093/44 Secret" That is on page 55 of defense counsel's books.

Then on page 36 of the original:

"(stamp) SECRET (illeg. Initials) URGENT Military Commander Greece, Ic 17.

12 1.) Military Commander Southeast/Ic Belgrade

2.) High Command Army Group E/Ic Saloniki (for information)

Ic Morning Report 18.12.1943 The Senior SS and Police Leader reports the shooting of 20 hostages in reprisal for Evzones and members of the Greek police and Gendarmerie shot to death or wounded during the period from 27 November to 11 December 1943.

Corresponding publication in the press has been effected.

(signed) Military Commander Greece Ic Reg:

No. 19064/43 Secret Major".On page 37 of the original:

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"(stamped) Top Secret (stamped) Draft 1360 43 Top Secret (handwritten) (initials illeg.)

Mar Diary Military Commander Greece Ia 16.

12.43 Military Commander Southeast Ia Priority! Belgrade Reference:

Telephone call first lieutenant Bode of 16.12.43. On 19.11 in the area around Kalawrita the 5/Jaeger Regiment 749 was attacked by bands and most of them taken prisoner. In an operation of our own for the purpose of liberating them we found 78 men murdered and partly mutilated on 7.12. By reprisal measures of the Jaeger Regiment 749, -- 653 Creek men were shot to death and a number of bandit villages were burnt down. The operation is concluded.

(signed) Military Commander Greece Ia Ref:

No. 3449/43 Top Secret (initial illeg.)

Captain".

On page 38 of the original, stamped "secret":

"Distribution:

For information: Corps Headquarters LXVIII Infantry Corps." That is Felmy:

"On the Premises:

Ic Qu.Ia / War Diary La / Draft Military Commander Greece Section Ia

1.) Military Commander Southeast Ia Belgrade

2.) High Command Army Group E, Saloniki (for information) Daily Report of 15.12.43.

.....

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c) During reconnaissance operations on 12 December. In Evangelistria (8 kilometers Southwest Aliartos) detachments of the III./SS Police Mountain Jaeger Regiment 18 received enemy fire. The village was searched and burned down, foreign ammunition was found.

5 Greeks arrested. (illegible initials) (signed) Military Commander Greece Ia No. 13 365/ 43 Secret (illeg.

init.)

(illeg. signature) " We are now on page 53 of your Document Book, Your Honors, and page 56 of the defendants' counsels books.

On page 39 of this original document there is another stamp, secret.

"Military Commander, Greece Ic 10.

12 1.) Military Commander Southeast/Ic, Belgrade,

2.) High Command Army Group E /Ic Saloniki, (for information) Ic - Evening Report 10.

12.1943.

Administrative Sub Area Headquarters 538 reports: on 10. 12.43 as reprisal measures for the murder of Frau Magers (see Ic-Morning Report of 8.12.43) the shooting to death of 10 hostages was carried out . . .

....

(signed) Military Commander Greece Ic Reg:

No. 18952/43 secret (illegible signature) signed, Captain."

We now turn to the next document, Your Honors, on page 54 of your Document Book and page 57 of the German defense counsels' books. This is [NOKW 654](#) and is being submitted as Prosecution's Exhibit 438.

This is a series of daily reports, again from the Military Commander Southeast, and it deals with Serbia and Greece in all of those areas under the command of the Military Commander Southeast. This particular document includes the period 29th April to 29th August, 1944, and it pertains again to the execution of communists and hostages in Greece including execution of 200 hostages in retaliation for the killing of General Krech.

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I am sorry, Your Honors, no, that is right, that was General Krech. That is [NOKW 647](#), which we will introduce right after this. Both documents as far as this murder is concerned, tie in together.

This is a report marked, "Secret", dated 2 April, 1944, "initials illegible". This is the 6th enclosure, to Army Group F, by courier:

"For information: OKH/Gen Qu. (Dept. Administration) OKW/WFSt (Gen.

Qu.)

2nd Panzer Army /General German/Plenipotentiary in Croatia German General in Albania
Commander Syrmien (Serbia only) Fliegerfuehrer Croatia, Zagreb Daily Report of 2.4.1944 Serbia:

Losses: During period of 21.3 to 31.3:

Communists: 622 dead, 55 wounded, 61 prisoners, 30 shot to death as reprisal measure, 129 arrested in Belgrade.

Military Commander Southeast Ia No. 1981/44 secret.

signed von Geitner."

On the next page, your Honors, we have the same report of the Military Commander Southeast, dated the 4th of April, 1944, with the same distribution for information and we have there:

"Military Commander Greece:

"In Trikkala, 4 Communists shot to death as reprisal measure".

"Certified a true copy:

(illegible signature) Military Commander Southeast 2nd Lieutenant". Ia No. 2022/44 secret" signed, "von Geitner". On page 56, your Honors, the same document continues.

This time an entry under the 5 April 1944:

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"secret", (handwritten) illegible initials".

For information, same distribution we had previously. "Daily report of 5 April, 1944, Serbia".

"10 Communists shot to death in Krusevac as reprisal measure for reported attacks on the Air Field of Krusevac".

Then on page 9 of the original:

"German General - Plenipotentiary in Albania.

5 communists shot in Valona.

Military Commander Greece.

Operation W Lovadia - 5 enemy casualties, small amount of arms captured, 10 communists shot to death as reprisal measure.

Certified a true copy. Military Commander Southeast (illegible signature) Ia No. 2054/44 secret.

"1st Lieutenant signed v. Geitner".

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MR. RAPP: On page 57, Your Honors. That is page 58 and page 59 respectively, of the German Document Book, we have again a report from the Military Commander Southeast, Felber, to Army Group F by courier, secret:

For information: OKH/Gen. Qu. (Dept. Administration) OKW/WFST (Gen. Qu.)

2nd Panzer Army German General - Plenipotentiary in Croatia German General - Plenipotentiary in Albania Commander Syrmien (Serbia only) Fliegerfuehrer Croatia, Zagreb.

Daily Report of 8.4.1944 S e r b i a The 5th communist Division about which only few reports are available is still located with stronger detachments between upper Studenica and upper Moravica.

It has brought forward lesser detachments toward the west in the direction of Stitkovo and north of it.

Intentions: Preparing formation for attack against the 2nd Division from a northwest and southeast direction. The attack will be executed only after the arrival of the 4th Brandenburg Regiment. Details will be reported separately.

Military Commander Greece reports:

In Athens: 50 Communists shot to death for attack on German soldiers (3 dead).

Certified a true copy. Military Commander Southeast (Illegible signature) Ia. No. 2137/44 secret.

1st Lieutenant. Signed von Geitner.

If Your Honors turn to page 58 - this document continues on Pages 59 and 60 of the German Document Book. To Army Group F (by courier); it's an entry in the War Diary under the 9th of April 1944, marked "Secret" and "illegible", with the same informational distribution, and then:

Military Commander Greece:

Subsequent to shooting attack on the Volunteer Police Battalion I while mustering for inspection (4 dead, 11 wounded) in Verria (60 southwest of Saloniki), 150 people suspected of being members of bands were shot to death as reprisal measure.

Page 1,653

4 bandits shot to death by the SS Mountain Police Regiment 18, 12 South southeast of Delphi.

Certified a true copy Military Commander Southeast (signature illegible) Ia No. 2165/44 secret.

1st Lieutenant signed von Geitner.

If Your Honors turn to the next page, there is another entry in the War Diary under the 24th of April 1944, the same informational distribution, Enclosure 102, Page 14 of the original: "Independent Administration Sub-Area HQs 1040 Montenegro reports:

5 hostages executed. Military Commander Southeast, Ia. No. 2528/ 44 secret, signed von Geitner; certified a true copy; (signature illegible), 1st Lieutenant."

On the next page, Your Honors, another entry under the 23rd of April Enclosure 107, secret, illegible initial, 23.4.44, to Army Group F (by courier). At that time the defendant von Weichs still headed the Army Group F. And then the usual distribution for formation, and then Daily Report of 25 April 1944, handwritten, and underneath it says, "without wounded", and two exclamation points, and then it says:

S e r b i a :

Enemy losses from 16.3 to 15.4: DM Cetniks - 182 dead, 127 captured. Communists - 1586 dead, 94 captured, 40 shot to death as reprisal measure. 202 Communists arrested in Belgrade.

(handwritten) 309 1820 - 2120 Tito issued orders to the 16th and 17th Divisions to take Banja Basta and Ljuvovija (see Qu.) No further attempts to desert on the part of Red units have been reported.

Below: Military Commander Greece reports:

During a raid in Athens 180 were arrested among them some leading communists.

Page 1,654

2 Communists shot to death.

Certified a true copy Military Commander Southeast (signature illegible) Ia No. 2545/44 secret 1st Lieutenant signed von Geitner If Your Honors turn to the next page, we find again a report from the Military Commander Southeast.

Felber, signed by the defendant Geitner, and addressed by courier, to the defendant von Weichs. And for information, again the OKH/Gen. Qu. (Dept. Administration); OKW/WFST (Gen. Qu.); 2nd Panzer Army, at that time still commanded by the Defendant Rendulic; German General - Plenipotentiary in Croatia; German General - Plenipotentiary in Albania; Fliegerfuehrer Croatia, Zagreb; 5th SS Mountain Corps; Commander Syrmien (Serbia only) -Daily Report of 26.4.1944. It went for information to the four mentioned individuals.

DR. LATERNER: Your Honor, I would like to object to the statements of the Prosecutor, insofar as he stated that this report went to the Defendant von Weichs. The report is directed to Army Group F, and only this can be asserted. And it could, at the moment, he added that at that time Field Marshal von Weichs led this Army Group, but the report didn't actually go directly to him.

MR. RAPP: Very well, Your Honor; we accept the correction from defense counsel, and the information actually went to Army Group F, but it was headed at that time by Defendant Von Weichs.

PRESIDING JUDGE CARTER: All right, you may proceed.

MR. RAPP: "Serbia, III: "A well armed communist band (150), including 14 Englishmen and Americans, coming from New Bulgaria, has joined communist band situation 15 km. south of Leskovac. Page 19 of the original, Military Commander Greece: 12 hostages shot to death in Tripoli. Military Commander Southeast, Ia. No. 2579/44 secret, signed von Geitner, certified a true copy; (signature illegible), 1st Lieutenant." If Your Honors please turn to page 62, and this is also page 62 of the German Document Book, we find another entry in the War Diary of the 30th of April 1944, to Army Group F (by courier), Group [F being](#) commanded at that time by Defendant von Weichs:

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"For information: OKH/Gen. Qu. (Dept. Administration; OKW/WFST (Gen. Qu.); 2nd Panzer Army", at that time commanded by Defendant Rendulic, "German General - Plenipotentiary in Croatia; German General - Plenipotentiary in Albania; Fliegerfuehrer Croatia, Zagreb; 5th SS Mountain Corps; Commander Syrmien (Serbia only) - Enclosure 144, Daily Report of 30.4.1944." Military Commander Greece reports - that was the Defendant Speidel at that time:

Red munition dump raided in Athens. 3 Communists shot to death. 100 Communists shot to death and a further 200 are to be shot to death on 1.5. as reprisal for attack on motorized vehicle column of the Ordnungs Police for the murder of General Krech and his escort detachment by Greek volunteers.

Certified a true copy Military Commander Southeast (signature illegible) Ia No. 2677/44 secret 1st Lieutenant signed von Geitner.

This Your Honors, concludes Document [NOKW-654](#), which was Prosecution's Exhibit No. 438. The next document, Your Honors, you will find on page 63 of your Document Book; it is No. [NOKW-647](#). It is being offered as Prosecution's Exhibit No. 439. This is a series of reports, Daily Reports - of the Military Commander Greece, to the 68th Corps, at that time commanded by the Defendant Felmy, and the Military Commander Southeast, Felber. "29 April - 29 Aug. 44 Daily reports of Military Commander Greece to LXVIII Corps and Military Commander Southeast re execution of 200 hostages in retaliation for killing of General Krech." We have just seen in the previous document about the murder of this German General Krech. Now, this is page 1 of the original, "No. 217, Secret, Distribution: Corps Headquarters LXVIII Infantry Corps for Information. On the premises:

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Quartermaster Ia/K.T.B. (War Diary) (Draft)."

Now, in my document book, Your Honors, the next two paragraphs are marked as not appearing in the German. With Your Honors' permission, I would like to ask defense counsel whether or not this information I have is correct.

The information that was to appear as an entry under the 29th of August 1944; but I'm merely speaking for the record. "Commander Greece Ia, 1) Military Commander Southeast Ia Belgrade; 2) High Command Army Group E, Saloniki for information." Does that appear in the German defense counsel's books? It's on page 63. Dr. Latenser, did you understand the question I was asking defense counsel? Your Honors, we have to read this part from the original document into the record so that German defense counsel can enter that part into their document book. It does, as a matter of fact, not appear in German defense counsel's book – if this is agreeable to Your Honors.

(The Court English-German interpreter reading into the record)

MR. RAPP: Thank you. That's all. I believe the rest of it is in the German Document Book. I continue now:

Daily report Ic/Ia dated 30.8.1944.

a)

b) 1.) 28.8 Troops from the Evzon Regiment 1, 11th Air Force Field Division, Motorized Gendarmerie Detachment 40 and SD execute search in Kallithea (Athens).

(4,000 persons checked. 20 Communist functionaries shot to death by the SD. Captured material: 6 pistols, ammunition, some pieces of equipment. No losses on our side.

2.) 28.8. Troops of Motorized Gendarmerie Detachment 40 and SD raid a minor ammunition dump in the city quarter of Platana (Athens). Short skirmish, Enemy losses: 2 dead, 2 prisoners (transferred to SD). Captured material: 1 machine pistol, 15 rifles, 3 pistols, ammunition and hand grenades.

Page 1,657

No losses on our side.

3.)

Commander Greece Ia 13274/44 secret signed Kleinert Lieutenant Colonel Certified a true copy (signature illegible) Captain On page 64 your Honors we find:

Page 1,658

TRANSLATION OF DOCUMENT NO. [NOKW-647](#) EXCERPTS CONT'D.(page 2 of original)
No. 214 Distribution:

Corps Headquarters LXVIII Infantry Corps for information On the premises:

Qu Ia/K.T.B. (War Diary) (Draft) At that time the LXVIII Infantry Corps was commanded by the defendant Felmy Commander Greece Ia

1.) Military Commander Southeast Ia Belgrade

2.) High Command Army Group E Saloniki for information Daily report Ic/Ia dated 28.

8.1944

a)

b) 1.)

2. 26.8. Further 18 communists in Kalithea (Athens) shot by the SD in reprisal for German sub-leader shot to death in a cowardly fashion from ambush; the Motorized Gendarmerie Detachment 40 was employed for support. See daily report of 26.8. b) paragraph 3).

.....

Commander Greece Ia signed Kleinert Lieutenant Colonel and then Certified a true copy:

(signature illegible)

Captain On page 65 Your Honors, again a distribution for information for the LXVIII Infantry Corps, that is, defendant Felmy.

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TRANSLATION OF DOCUMENT NO. [NOKW-647](#) CONT'D. EXCERPTS (page 3 or original)
No. 212 Distribution:

Corps Headquarters LXVIII Infantry Corps for information On the premises:

Qu Ia/K.T.B. (War Diary) (Draft) Commander Greece Ia 25.

8.44 1.) Military Commander Southeast Ia Belgrade

2.) High Command Army Group E Saloniki for information Daily report Ic/Ia of 26.

8.1944

b) 1.) 25.8. Empty hospital train "Elbe" bombed by low flying aircraft on the road Saloniki - Athens between Angie and Nezeros (15 km northwest of Lianokladi). Anti-aircraft car damaged. 2 members of the Wehrmacht wounded.

.....

3.) In reprisal for the German sub-leader shot in a cowardly fashion from ambush on the 24.8. and in reprisal for badly wounded officer who had been attacked the same way on 17.8. 20 hostages were shot in Kallithea (Athens).

.....

(page 4 of original)

..... Commander Greece Ia signed Kleinert Lieutenant Colonel Your Honors, turn to page 66, also in German Document Book Page 66:

Page 1,660

TRANSLATION OF DOCUMENT NO. [NOKW-647](#) CONT'D. EXCERPTS (page 5 of original)
SECRET No. 201 Distribution:

Corps Headquarters LXVIII Infantry Corps for information On the premises:

Qu Ia/KTB (War Diary) (Draft) Commander Greece Ia 14.

8.44 1.) Military Commander Southeast Ia Belgrade

2.) High Command Army Group E Saloniki for information Daily report Ia/Ic of 15.

8.44

a) Churchill's meeting with Tito on Italian territory favors rumors regarding preparations for an invasion of Dalmatia.

b) 1.) 12.8. Tracks blasted on railroad Lianokladi-Larissa between Nezeros and Angie (18 northwest of Lianokladi) demolition chamber, 2 explosive charges removed. No damage to personnel or property. 5 hostages shot in reprisal.

.....

Ia No. 13114/44 secret signed Kleinert Lieutenant Colonel TRANSLATION OF DOCUMENT NO.

Page 1,661

[NOKW-647](#) (CONT'D.) EXCERPTS No. 200 Commander Greece Ia 13.

8.44 1.) Military Commander Southeast Ia Belgrade

2.) High Command Army Group E Saloniki for information Daily report of 14.

8.44.

a).....

10 to 12.8.44 Wrasdamites, 15 southeast of Lewadia, destroyed in reprisal for attack on Panzer Jaeger Company/SS-Police Mountain Jaeger Regiment 18. Population arrested and transferred to Secret Field Police Lewadia. (See daily report 11.8.44 b 1.)).

Commander Greece Ia Certified a true copy:

(illegible signature)

Captain Distribution:

Corps Headquarters, LXVIII Infantry Corps for information Felmy On the premises:

Qu Ia/KTB (War Diary) and Draft signed Kleinert Lieutenant Colonel TRANSLATION OF DOCUMENT NO.

Page 1,662

[NOKW-647](#) CONT'D. EXCERPTS (page 7 of original) ' a No. 195 T e l e t y p e dated 9.8.1944 From Commander Greece Ic To The Military Commander Southeast Ic, Belgrade (For information: High Command Army Group E/Ic, Saloniki).

I c - Evening report 9.8.1944:

.....

I c - Morning report of 10.8.1944;

2. Administrative sub-area Hqs. 817 reports:

50 communists shot to death at the scene of the incident at Manara in reprisal for band attack on the Road Athens-Thebes on 27.7.44.

The German Wehrmacht had announced it would not take any reprisal measures for this crime if the kidnapped lieutenant and driver should report before 6.8.44 12:00 o'clock noon.

The days of grace have expired.

.....

Supplement for Military Commander Southeast/Ic, Belgrade only.

.....

4. Concentration of stronger bandit groups in the Paikon Mountains (northeast of Edessa). Quarter are being constructed. 600 recruits are being trained.

Commander Greece Ic 18803 /44 secret.

Lieutenant Colonel.

Your Honors turn to page 69; we have another teletype message TRANSLATION OF DOCUMENT NO.

Page 1,663

[NOKW-647](#) CONT'D. EXCERPTS Ia (page 8 of original) No. 193 T e l e t y p e From Commander Greece Ic dated 8.8.1944 SECRET To The Military Commander Southeast/Ic, Belgrade (For information:

High Command Army Group E/Ic, Saloniki).

.....

.....

I c - Morning report of 9.8.1044:

1. 5.8.44. Railroad sabotage, means of transport train KorinthTripoli (45 Korinth). 7 cars derailed. No losses of our own. In reprisal 18 hostages who had been taken along were shot to death.

.....

6. 7.8.44. 1 SS Fuehrer with assault Detachment, killed in the communist quarter of Athens/Pangrati. Immediate measures taken:

10 Greeks executed. 600 arrested.

.....

Commander Greece I c 18785 / 44 secret Lieutenant Colonel.

On Page 70, your Honors, page 69 and 70 of the German Book.

Page 1,664

TRANSLATION OF DOCUMENT NO. [NOKW-647](#) CONT'D. EXCERPTS (page 9 of original)
No. 192 SECRET Commander Greece Ia that is, operations officer, 8.8.44.

1.) Military Commander Southeast Ia Belgrade

2.) High Command Army Group E Saloniki for information Daily report of 9.8.44.

.....

b) 1.) 7.8.44. A Motorized Gendarmerie Detachment 40 supporting the SD during search operations in Athens, city quarter of Peristeri. Skirmish with well armed band group. Enemy losses - 7 dead, captured materiel - 4 hand grenades. No losses of our own.

.....

On 3.8. Volunteer Battalion II encircles band group of about 400 men in the area of Kastania-Kasta, 16 southeast Nigrita, skirmish still under way. Enemy losses up to now: 43 dead. Captured material: 9 rifles. Losses of our own: 1 dead, 1 wounded (Greeks).

Then under

5.) It says: Supplement to daily report 6.8. h) 1.) shooting to death of 15 of the 60 arrested people and the release of the rest of them did not take place by order of Commander Greece but by order of the Commanding Officer of administrative sub-area HQs Athens, Generalmajor Eisenbach.

.....

Commander Greece Kleinert Ia No. 13032/44 secret.

signed Lieutenant Colonel Certified a true copy:

(illegible signature)

Distribution:

Corps Headquarters LXVIII Infantry Corps for information Commander of the Ordnung Police On the premises:

Qu Ia/KTB (War Diary) Ia/Draft Your Honors turn to page 71; we have another teletype
TRANSLATION OF DOCUMENT NO.

Page 1,665

[NOKW-647](#) CONT'D. EXCERPTS (page 11 of original) SECRET No. 188 T e l e t y p e : From:
Commander Greece/Ia dated 5.8.1944 To

1.) Military Commander Southeast/Ia Belgrade

2.) High Command Army Group E for information Saloniki Daily report of 6.8.44:

.....

b) 1.) 4.8. Shooting between communists and Wehrmacht in the city quarter of Petralona - Athens.
Commitment of 1 platoon of Evzon Regiment No. 1. 60 arrests. By order of Commander Greece 15
Arrested people were shot to death. The rest were released. No losses of our own.

.....

3.) 3rd and 4th. Aug. Attack by forces of the 2. Gov. Police Volunteer Battalion in cooperation with the
Navy on band supply base, Glifa Bay, 46 east of Lamia. Enemy base taken after combat. Enemy losses:
counted 51 dead, 1 prisoner. Losses of our own: 2 wounded. Captured materiel: arms and ammunition
numerous Italian deserters found on the side of the enemy.

.....

Commander Greece / Ia No. 12996/44 secret.

Distribution:

Corps Headquarters LXVIII Infantry Corps for information Commander of the Ordnung Police for
information On the premises:

Certified a true copy:

(signature illegible)

signed Kleinert Captain.

Lieutenant Colonel.

On the next page 72, your Honors, TRANSLATION OF DOCUMENT NO.

Page 1,666

[NOKW-647](#) CONT'D. EXCERPTS (page 12 of original) SECRET No. 166 T e l e t y p e From Commander Greece Ic dated 26.

7.1944 To The Military Commander Southeast/Ic, Belgrade.

(For information: High Command Army Group E/Ic, Saloniki).

I c - Morning report 27.7.1944:

.....

Supplement for Military Commander Southeast/Ic, Belgrade only:

1.) Attack on fuel supply dump in the area of Iraklion and Cania on Crete. Sabotage acts organized according to plan by the English.

.....

5.) 100 hostages shot in reprisal for band attack on ambulance convoy near Vlacherna (see Ic A. Report of 25.7.44, paragraph 4).

Commander Greece I c and then 18511/44 secret.

Lieutenant Colonel.

On the next page, your Honors, same teletype, under the date of 22 July, from the Ic officer of the Commander in Greece.

Page 1,667

TRANSLATION OF DOCUMENT NO. [NOKW-647](#) CONT'D. EXCERPTS (page 13 of original) SECRET No. 160 T e l e t y p e From Commander Greece, Ic., dated 22.

7.1944 To: Military Commander Southeast, Ic., B e l g r a d e High Command Army Group E., Ic., Saloniki (for information) Ic report dated 23.

7.1944Field Commander publishes reprisal measure - the hanging of 50 communists in retaliation of attack on 2 German officers.

.....

Commander Greece Lieutenant Colonel.

On the next page, the 13 of July 1944, at that time defendant Speidel was still Military Commander in Greece, to the Military Commander Southeast:

Page 1,668

TRANSLATION OF DOCUMENT NO. [NOKW-647](#) CONT'D. EXCERPTS I a (page of original) No. 140 SECRET T e l e t y p e From:

Commander Greece, Ic, dated 13.7.1944 To: 1.) Military Commander Southeast, Ic, B e l g r a d e

2.) High Command Army Group E Ic., Saloniki (for information)

Ic Morning Report dated 14.7.1944 Administrative subarea HWs 538 reports:

3 communists shot in reprisal for band attack (see A.M. 26.6.44) in Theses on 3.7.44.

.....

Sgd. Commander Greece Ic B.B.No. 18 206/44 secret.

Lieutenant Colonel.

Page 1,669

TRANSLATION OF DOCUMENT NO. [NOKW-647](#) CONT'D. EXCERPTS (page 19 of original) No. 123 Distribution:

Corps Headquarters LXVIII Infantry Corps for information Commander of the Ordnungs Police " " On the Premises:

Qu SECRET Commander Greece Ia 5.7.44 1.) Military Commander Southeast Ia Belgrade

2.) High Command Army Group E Saloniki for information Daily report 6.7.44

b) 1.) During a search operation in the city quarter of Guwa (Athens) by troops of the Evzon Regiment No. 1, the following material was captured: 2 machine pistols, 7 rifles, 10 pistols, 6 hand grenades, 137 detonators, 1700 rounds of ammunition, 23 flare shells. 2 communists were shot to death. No losses of our own.

2.) 3.7. Attack of strong band (about 400 men) on base 'Volunteer Detachment Euboea I' in Steni, 22.5. northeast of Chalkis repelled. Enemy losses: 1 dead. Losses of our own: 4 dead, 13 wounded.

.....

Commander Greece Ia No. 12609/44 secret Certified a true copy:

(signature illegible)

1st Lieutenant signed Kleinert Lieutenant Colonel If your Honors will turn now to page 76, please, we have a teletype from Military Commander Greece IC.

Page 1,670

, dated 14.6.1944.

To: 1.) Military Commander Southeast Ic, B E L G R A D E

2.) High Command Army Group E, Ic, Saloniki (for information) Ic Evening Report dated 14.6.1944 Administrative subarea HQs Athens publishes shooting to death of 20 communists as reprisal measure for the attack on 3 German soldiers and for sabotage of the Wehrmacht telephone lines.

As far as it is possible to evaluate the effect of the invasion on the political situation the assumption if waiting soberly before passing judgment prevails that our own counteraction will have the greater effect.

If retreat and a withdrawal of troops from the southeast area is considered it is feared that communists terror activities will increase. Minister President Rhallis, in connection with the current propaganda operation, issued a declaration published in the press which clearly emphasizes a turning away from Bolshevism and from the communist plague. The population receives the leaflets - the distribution of which is under way - with recognizable satisfaction.

Military Commander Greece Captain Ic Br.B. No. 17 570/44 secret On page 77, Your Honors, the distribution Corps Headquarters LXVIII Infantry Corps for information Commander of the Ordnungs Police for information (2. On the Premises:

Qu Ia/KTB Ia/Draft SECRET Military Commander Greece Ia

1.) Military Commander Southeast Ia

2.) High Command Army Group E Saloniki (for information) 13.6.44 Daily report 14.

6.44

b) 1.).....

Page 1,671

2.) 11.6. A tractor with trailer was stolen from the Wehrmacht estate Kopais near Keramidi, 8 east Lewadia. 2 German gendarmes wounded. Reprisal measures consisted of shooting to death of 25 inhabitants of Keramidi, besides the burning down of 4 houses. Safeguarding of bandit property.

Under the 10th June, we find the entry.

600 bandits attack bases 'volunteer Battalion 1' in Melecki and Nookastron, 15 east Verria. The attack was repelled after a combat of 10 hours duration. Both villages partially set afire by shooting Enemy losses: 14 dead, Losses of our own: 7 dead.

Military Commander Greece Ia No. 12314/44 secret.

(initials illegible)

1st Lieutenant If your Honor will turn to page 78 we find From Military Commander Greece, Ic., dated 12.

6.1944," another teletype To: 1.) Military Commander Southeast, Ic, B E L G R A D E

2.) High Command Army Group E, Ic, Saloniki (for information) (illegible init.)

The Intelligence Officer reported on evening of 12.6.44.

Administrative Subarea HQs Chalkis reports:

11.6.44 Band attack on tractor on the Road Thebes - Lewadia (6 east Lewadia). 2 Field gendarmes wounded, 1 kidnapped. During countermeasures 25 people suspected of belonging to bands were shot to death.

Military Commander Greece Major Ic Br.B. No. 17.

508/44 secret On page 79, Your Honors, the distribution shows that it went for information to Corps Headquarters LXVIII Infantry Corps Felmy for information Commander of the Ordnung Police for information On the Premises:

Secret Military Commander Greece Ia

Page 1,672

1.) Military Commander Southeast Ia Belgrade 3.4.44

2.) High Command Army Group E Saloniki, for information Daily report 4.6.44.

a).....

b) 1.) Search operation Piraeus concluded 2 communists shot to death. 81 were arrested, among them 63 functionaries. No losses of our own (see daily report dated 3.6.b) 3.)).

.....

4.) 30.5. Sizeable band group takes base 'Volunteer Battalion Macedonia III' in Karizias, 9 northwest of Edessa. Garrison disarmed. The bandits captured 100 rifles without a fight. After stubborn resistance, bands occupied the base of Vrita, 10 west Edessa. 2/3 of the village burned down. Village was retaken by troops of combat group Eberlein (Wehrmacht). Volunteers battalions Macedonia I-III dissolved because of unreliability. Weapons are taken over by the commander of the Ordnungs Police, North. It is intended to reconstruct the battalion at a later date.

Military Commander Greece Ia No. 12170/44 secret.

(initial illegible)

Major On page 80, Your Honor, on page 79 German defense counsel's book, we have a teletype from Military Commander Greece, Defendant Speidel, dated 14.

5.1944.

To: 1.) Military Commander Southeast, Ic, Belgrade

2.) High Command Army Group E., Ic, Saloniki (for information) Ic Evening Report dated 14.5.1944
Administrative subarea HQs Korinth reports:

13.5.44. Band attack on Masaras (7 northwest Sparta). 4 houses burned down.

13.5.44 10 Communists hanged in Patras as reprisal for attack (see A.M. 11.5.44).

Page 1,673

Administration subarea HQs Larissa reports:

25 Greeks hanged at the scene of the incident in reprisal for the attack on the railroad near Doxara (see A.M. dated 4.5.44).

Military Commander Greece Ic B.B. No. 16 942/44 secret.

If your Honors will turn now to page 81, please, we have another teletype from, Military Commander, Greece, Ic, dated 5.4.1944 To: 1.) Military Commander Southeast, Ic, Belgrade

2.) High Command Army Group E. Ic, Saloniki (for information) Ic Evening report dated 5.5.44
Administrative subarea Athens reports:

A communist road chick--post raided by SD in Athens on 2.5.44. 11 communists shot to death.

Military Commander Greece Ic Br. No. 16 722.

44 secret On page 82, Your Honors, the Military Commander Greece reports under the 3rd May 1944, to Military Commander Southeast, Ic, Belgrade High Command Army Group E., Ic, Saloniki (for information) The Field Commander publishes the shooting to death of 50 communists (attack, see A.M. 14.

4.44), and the hanging of 10 communists (attack on railroad train, see A.M. 25.4.44).

High SS and Police Fuehrer in Greece publishes the shooting of 30 communists in reprisal for the murder of 4 Evzones and of 2 legionaires on the period from 24th to 28th 4.44.

Military Commander Greece Major On page 83, your Honors:

Page 1,674

"Distribution: Corps Headquarters 68th Infantry Corps (for information) Commander of the Ordnungs Police, Military Commander Greece 1a:1) Military Commander Southeast Ia, Belgrade, 2) High Command Army Group E Saloniki (for information), 3) Administrative Sub-Area Headquarters 395 Saloniki (for information).

"Daily report dated 1st May 1944: Volunteer Detachment Euboca I, 30 April, Operation Buergerwehr with Troops of the North Caucasian Infantry Battalion in the area off Masilikon 7 km Southeast Chalkis. 30 bandit houses burned down. 16 people, suspected of being bandits, arrested.

"Military Commander Greece 1a No. 11703/44 secret (initial illegible) M Major."

If your Honors will turn to page 84 now, please, we have a teletype from the Military Commander Greece 1c, dated 1 May 1944 to: "1) Military Commander Southeast 1c Belgrade, 2) High Command Army Group E 1c Saloniki (for information).

"1c Evening Report dated 1 May 1944. Commander of the Ordnungs Police Athens reports: 60 Communists shot to death as further reprisal measure for attack on Police Official (Polizeioffizier) on 30 April (see morning dated 26.4.44). Military Commander Greece 1c 1y. 418/44 secret. Major."

Page 85 of our document book -- it is page 83 of the Defense counsel's -- is a teletype from the Military Commander Greece I to the Military Commander Southeast 1c Belgrade and High Command Army Group E 1c Saloniki (for information).

"1c Morning Report dated 30 April 1944.

"2) 29 April 44. The city quarter of Hymettos burst into flames during a raid on a communist ammunition dump in Athens.

Page 1,675

Explosions caused one to assume (the presence of)" -- that is, a translator's note -- considerable amounts of ammunition. 3 communist shot to death, 1 member of the Secret Field Police shot in the stomach.

"3) Administrative subarea HQs Korinth reports: 25.4.44 Band members kidnapped 7 families of members of the Free Corps from the villages near Pylos (35 southwest Messini). Food and cattle was stolen.

"4) 200 Greeks will be shot to death as a reprisal measure for the killing of General Krech and his escort detachment (see 1c A.M. dated 28.4.44, paragraph 1) on the 1 May 44. Furthermore 100 communists have been shot by Greek volunteer units.

"Military Commander Greece 1c Br. B. No. 16 391/44 secret."

The next page, your Honors, is page 86:

"Distribution: Corps Headquarters 68th Infantry Corps (for information).

Commander of the Ordnungs Police.

"On the Premises: Qu, 1a/K.T.B. (War Diary), 1a/Draft. 2 April 1944, to: 1) Military Commander Southeast 1a Belgrade, 2) High Command Army Group E Saloniki (for information), 3) Administrative area Headquarters 395 Saloniki (for information)."

An entry under the 28th of April:

"Further 60 Communists shot as a reprisal measure for the attack on the truck convoy of the Commander of the Ordnungs Police on 25th of April (see evening report 1c dated 26 April). Military Commander Greece 1a, Br. B. No. 11669/44 secret."

And then it says in the lefthand corner: "Do not pass on. Major."

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On page 87, your Honors, we find the distribution:

"Corps Headquarters 68th Infantry Corps (for information)" -and then the "Commander of the Ordnungs Police. On the Premises: QU 1a/KTB (War Diary) 1a/Draft. Secret. Military Commander Greece 1a. 16.7.44; 1) Military Commander Southeast 1a Belgrade, 2) High Command Army Group E Saloniki, Daily report 17.7.44:

2) 11 July, 90 suspects arrested by Motorized Gendarmerie Platoon 35 in Topsitea, 6 West southwest Larissa and given over to the SD.

"Military Commander Greece 1a No. 12768/44 secret. Signed Kleinert, Lieutenant Colonel."

This, your Honors, concludes Document 647 which was offered as prosecution exhibit 439.

If your Honors turn now to page 88, please -- defense counsel will find this on page 86 -- we submit [NOKW-668](#) as prosecution exhibit 440. This is again a number of reports from the Military Commander Southeast Felber whose Chief of Staff was the defendant Geitner, at that time to Army Group F, which was commanded at that time by the defendant Weichs.

"(By messenger) Secret War Diary 15 May 1944. For information: OKW/General Quartermaster (Administrative Branch) OKW/West, 2nd Panzer Army" -- the 2nd Panzer Army at that time was commanded by the defendant Rendulic -- the "German General Plenipotentiary in Croatia, German Plenipotentiary General in Albania, Fliegerfuehrer Croatia, Zagreb, 5th SS Mr. Army Corps (only Serbia).

"Daily Report of 15 May 44: Remaining Serbia. Continuing local Communistic and DM bandit activity and combat between both groups. At Kremna (West of Uzice) DM Cetniks who fought against the Communists a short time before, prohibit the carrying off of wood obviously in order to win back with the population the prestige, lost by collaboration with the occupying power."

Page 1,677

"Military Commander of Greece" which is defendant Speidel: "34 communist reprisal prisoners hanged in Peloponnesus. Military Commander Southeast 1a No. 3048/44 secret. Signed von Geitner"; and then "Certified: First Lieutenant."

On the next page, your Honor, the same distribution and "for information" and to Army Group [F](#) [which](#) was headed at that time by the defendant von Weichs, under the 16th of April 44, War Diary, Daily Report, German General Plenipotentiary in Albania: 300 Jews arrested in Pristina by the SS Division 'Skanderberg'. Military Commander Southeast 1a No. 3078/44 Secret. Signed von Geitner. 1st Lieutenant Certified (Illegible signature)" Then Rubber stamp and pencilled notes.

"To: Army Group F (by messenger). Secret. 19 May 44. For the information of: "-- the same information as in the daily report of 19 May 1944.

"Daily Report of 19 May '44. Serbia. Increasing preparation for negotiations by the previously reserved Cetnik Units, under Red pressure and on account of lack of munition.

"The German General Plenipotentiary in Albania" -

DR. FRITSCH (Counsel for defendant Rendulic): I apologize for the interruption but my client, defendant Rendulic, doesn't feel very well and would like to go out for ten minutes. We, therefore, would like a recess to be taken now for ten minutes.

Page 1,678

PRESIDING JUDGE CARTER: Will you state again just why you need a recess now?

DR. FRITSCH: The defendant Rendulic doesn't feel very well.

PRESIDING JUDGE CARTER: Very well. We will recess for 15 minutes.

(A recess was taken)

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MR. RAPP: Your Honors, we stopped prior to the recess on page 90, page 87 of the German defense counsels' books, and we concern ourselves with [NOKW 668](#), which became Prosecution's Exhibit 440.

The last entry on this document was, "German General plenipotentiary in Albania."

"29 Albanian deserters and 20 hostages arrested in operation of the Albanian Gendarmes in the area NW of Prizren".

Signed, Military Commander Southeast Ia, No 1 3152/44 secret, signed von Geitner".

This, your Honors, concludes the particular document.

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MR. RAPP: If your Honors turn now to page 91, please, you find document No. [NOKW-611](#); that is page 88 in German Defense counsel's book. And then if you will turn to page 102, please -- German Defense Counsel's book page 100, we have Document No. [NOKW-1731](#). Your Honors, these two particular documents we are not offering into evidence at this time, but with Your Honors' permission we would like to have them marked for identification only, and suggest that [NOKW-611](#) be marked 440-a and NOKW1731, which is on page 102 be marked 440-b. No. 440-a-1, the second document. The first one to be marked 440-a and the second document 440-a-1. This, your Honors, concludes document book No. 18.

MR. DENNEY: May it please your Honors, at this time we would like to ask the Court to request the Marshal to produce the witness Felber, and Mr. Rapp will examine Felber. And, with your Honors' permission, he will examine him in the German language.

PRESIDING JUDGE CARTER: The Marshal will bring in the witness Felber.

(THE MARSHAL ESCORTS THE WITNESS TO THE STAND.)

PRESIDING JUDGE CARTER: The witness will be sworn. Raise your right hand please, and repeat after me: "I solemnly swear that the testimony I will give in the case on trial will be the truth, the whole truth, and nothing but the truth, so help me God." You may be seated. You may proceed, Mr. Rapp.

MR. RAPP: Witness, please talk slowly and distinctly into the microphone. If you talk too fast a light will appear in front of you. You must then stop and repeat your sentence slowly. Please state your full name.

A. My name is Hans Gustav Felber.

Q. When were you born?

A. On the 8th of July 1889.

Q. Where were you born?

A. In Wiesbaden.

Q. Are you married?

Page 1,681

A. Yes.

Q. Do you have children?

A. No.

Q. Were you ever a member of the NSDAP or any of its affiliated organizations?

A. No.

Q. What is your profession?

A. I am a professional soldier and officer.

Q. Since when?

A. Since 1907.

Q. Were you on active duty the whole time?

A. Yes.

Q. Please state quite briefly your military career, with dates and promotions, from first of September 1939, that is to say, the outbreak of the Second World War.

A. On the first of September 1939 I was Brigadier General and Chief of the General Staff of Army Group 3 in Dresden, Germany. In the Police campaigns I was employed as Chief of the General Staff of the 8th German Army. After the conquest of Warsaw, on the first of October 1939, I was promoted Major General. On the 15th of October 1939, the 8th Army was dissolved. I myself became Chief of the General Staff of the newly organized 2nd German Army in the West. In February, 1940, I became Chief of the General Staff of the Army Group C ("C" for Caesar) in Frankfurt on Main. After the end of the campaign in the West, on the first of August 1940 -- I was appointed General of the Infantry.

JUDGE WENNERSTRUM: Judge Burke is having difficulty in getting the transmission of the Interpreter. Can we get a check on that of some sort?

(THE COMMUNICATIONS SYSTEM WAS CHECKED FOR APPROXIMATELY FIVE MINUTES.)

Page 1,682

Q Witness, will you kindly continue with your career.

A On 20 October 40, I became Commanding General of the XIII Army Corps in the West. In the Spring 1941, I was transferred to the East with the staff of my corps where on the 22nd of June we took part in the attack on Russia. At the beginning of January 1942 I was transferred to the Fuehrer Reserve. On the first of April 1942 I took over a high command in France and remained there until the invasion

of Southern France in November 1942. On the 29th of August I took over the newly created office of Military Command Southeast in Belgrade and I remained there in that capacity until the 29 of September 1944 on which date I took over the newly founded Army Group Serbia which I led until its dissolution on the 26th of October 1944. Then I was transferred to the West. At first I took over a combat group in the battle of the Ardennes and then on the 20th of February 1945 I was appointed to lead the 7th German Army which I led until the 26th of March. Then I was transferred to the OKH Officers Reserve (Fuehrerreserve). On the 12 of May I surrendered to the American Army in the Prison Camp Eger in Czechoslovakia.

Q Witness, did you take part in the first World War?

A I took part in the whole of the first world war from the beginning to the end, in the ranks and the last year in the General Staff.

Q What German awards or medals did you receive during world wars I and II?

A In the first world war I received the Iron Cross, second and first class; the Hessian Medal for Bravery; and the Brunswick Medal for Bravery. In the second World War I received the clasp to the Iron Cross I and II class and the Knight's Cross.

Q In what internment camps have you been since you were taken prisoner?

A First of all in Eger, then in Pilsin, then in Freysing, in Wiesbaden, in Toucainville near Cherbourg, in Paris, in Neustadt near Marburg, in Hersfeld, in Zufeuhhausen near Stuttgart, in Dachau, in Allendorf near Marburg and now in Neustadt near Marburg.

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Q Are you a prisoner of the United States?

A Yes.

Q Now long in the Nurnberg Jail?

A I am here since the 3rd of May.

Q Approximately how much was that altogether?

A The first two times each for six weeks; now I have been here for eight days.

Q Approximately how many times were you interrogated in Nurnberg by members of the Prosecution?

AAproximately ten times.

Q In the prison of Nurnberg were you treated exactly in the same way as the other inmates?

A Until now, yes; since three days I have been guarded with special severity.

Q Have any promises been made to you by the Prosecution?

A No.

Q In connection with the interrogation were you subjected to any physical or mental pressure from the part of the prosecution?

A Besides of the last three days, no.

Q In the last three days have you seen members of the prosecution?

A No.

Q When did you see members of the prosecution for the last time?

A I believe that must have been on the 15th of June; no, that is a mistake; it must have been in the first week of June.

Q From when to when exactly were you Military Commander Southeast and at the same time Military Commander Serbia?

A I was that from the 29 of August 1943 until the 29 of September 1944.

Q Which headquarters or person gave you the assignment?

Page 1,684

A I got this assignment from the Army Personnel Office.

Q Before you took over your position as Military Commander Southeast and at the same time Military Commander Serbia, did you receive any instructions with regard to your position?

A Yes, I had to report to the Fuehrer's Headquarters, that was on the 20th of August 1943; there I was received by the General Quarter Master General Wagner, by the then Field Marshal Keitel, and subsequently by General Jodl.

Q Whom were you directly subordinated in your capacity as Military Commander Southeast and simultaneously Military Commander Serbia?

A I was officially subordinated to the High Command of the Army and the Quartermaster General who at the same time looked after things in the OKW.

Q Who were the people with whom you had to deal in the OKW and in the OKH respectively?

A I can only remember the then Lieutenant Colonel Gartmeyer who especially had to do with affairs regarding the Balkans.

Q And of which department was Gartmeyer?

A He was attached to the Quartermaster General, the number of his department I don't know.

Q In the OKH or OKW?

A That is the same department, the same officers worked there, under the designations of these departments, that is, OKW and (OKH).

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Q. Witness, what were your tasks as Military Commander Southeast?

A. When I took over my position I received so-called directives for the activities of Military Commander Southeast. When I was introduced to my job I was, however, told by General Wagner right away that these directives had not been worked out definitely. I received the order already on the 5th of September, that is after a fortnight, to submit new proposals for such directives to the quartermaster general.

Q. Did you have orders as Military Commander of Serbia?

A. No, this directive concerned the Military Commander of Serbia. This is not clear from these directives whether I should have to carry out these orders as Military Commander of Serbia and Military Commander Southeast. But in practice the union of these two offices in one persons worked itself out and as such it was tacitly acknowledged.

Q. During your time as Military Commander Southeast simultaneously Military Commander Serbia, who was the highest responsible personality in the Southeastern Theatre as far as Military Tactical and security matters were concerned?

DR. LATERNSE: I object. Your Honor, I believe the question which had been put in the form is not admissible. The witness cannot tell here who had the highest responsibility in this matter. The Court can decide that.

THE PRESIDENT: Objection overruled.

A. The highest responsible personality was Field Marshall Freiherr von Weichs, Supreme Commander Southeast, in my opinion.

Q. Did you know the Field Marshall von Weichs personally?

A. Yes, I knew him for a number of years, as a subordinate as commanding general of the Nurnberg Corps previous to the beginning of the war subordinate to the Army Corps 3 in Dresden, whose Chief I was.

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I knew the Field Marshall von Weichs in the Polish Campaign. I experienced from there the new organization of the 2nd Army, whose Commanding Chief I was. I became his Chief of Staff. Then in the East in the Russian Campaign, I was subordinate to him as Commander in Chief of the 2nd Army.

Q. Thank you, Witness. We will return to this later on. Can you recognize the defendant, former Field Marshall von Weichs, can you recognize him in this courtroom?

A. Yes.

Q. Where is he now?

A. He is just opposite from me under the window, counting from the left, he is seventh from the left, starting from Speidel.

Q. That is former Field Marshall von Weichs?

A. Yes, that is the fifth from the left.

Q. Who was the Chief of Staff to the Commander and Chief Southeast at that time, when you became Military Commander and Chief Southeast?

A. That would be General Foertsch.

Q. Did you know the Chief of Staff personally?

A. I only got to know him in Belgrade.

Q. Do you recognize the former Chief of Staff, the present defendant Foertsch, here in the courtroom?

A. Yes, he is the third from the left.

Q. Who was your Chief of Staff then, Witness?

A. That was the Col. Ritter von Geitner, who was later promoted to General.

Q. Do you recognize him here in the Court?

A. He is sitting between Foertsch and Field Marshall von Weichs.

Q. Who was, during your term of office as Military Commander Southeast, the Commander in Chief of the 2nd Panzer Army.

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A. General Rendulic when the office was taken over.

Q. Did you know General Rendulic personally?

A. Yes, in the East as Commander of a Division he was subordinate to me for a short time, and then I saw him again in Serbia?

Q. Is he here present in the Court?

A. Yes, the sixth from the left.

Q. What were your personal connections with the defendant von Weichs, as far as you haven't told us that before?

A. My personal relationship with Field Marshall von Weichs was mostly of an admiring nature. In the long years of the war I saw him, especially as an upright, a clever and judicious superior, and he was an exemplary man. He was, in contrast to many others, in my view in no way devoted to the interests of the Nazi Party, and on the other hand his strong leanings toward the church prevented him from doing that, even under the eyes of the Party he did not hesitate to show himself as a true leader; In my superior Field Marshall von Weichs I want to say I had kind of a fatherly friend to whom I had access at any

time, and I could tell him all my worries and my thoughts quite frankly and openly, and I often made use of that.

Q. Who was your predecessor in your capacity as Military Commander Southeast?

A. I did not have a predecessor and under this designation there was none. This staff had only been founded when I appeared.

Q. Was this position created especially for you?

A. Yes.

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Q. Was there then a Military Commander of Serbia previous to your time?

A. On this staff --- the one of my staff which I took over in Belgrade emerged under the leadership of my new Chief, Col. Ritter von Geitner.

Q. Who was your predecessor in the position of Military Commander Serbia?

A. That was General of the Artillery Bader, who then took over the XXI Mountain Corps in Tirana.

Q. Who was Chief of Staff with Bader when you took over from Bader?

A. That was Col. Ritter von Geitner.

Q. Did you have a successor as Military Commander of Serbia or as Military Commander Southeast?

A. No.

Q. Why not?

A. Because the Military Commander Southeast was disbanded when Military Commander of Serbia was founded. That must have been on the 5 of October 1944.

Q. Please state briefly what your staff consisted of in your capacity as Military Commander Serbia; in your capacity as Military Commander of Serbia what kind of a staff did you have under you in order to deal with this job in Serbia?

A. I had the same staff as when I was Military Commander Southeast. It was composed of two large departments, first of all from a really directive staff, a technical staff, Col. Ritter von Geitner, and a purely administrative staff, which first of all when I arrived there was only occupied by people as deputies, because the people in their designation of the definite chiefs of the administration had met with great difficulties and this had to be overcome and set geographically.

Q. The territory in which you were responsible as Military Commander Southeast, was that identical with the then territory of the Army Group-F?

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A. Yes.

Q. What were your tasks as Military Commander Southeast in Croatia?

A. In Croatia I didn't have any actual tasks as Military Commander, because the Croatian Government under Poglavnik carried out its administration.

Q. Under whose supreme command were the German Troops in Croatia, while you were there as Military Commander Southeast?

A. The German troops were subordinate to the Commander in Chief of the 2nd Panzer Army.

Q. Besides yourself in this position as Military Commander in Serbia were there any additional Military Commanders in the Southeast area?

A. Yes, there was a Military Commander in Greece, that was German Plenipotentiary General in Albania and Montenegro, whose offices were divided later on. The business of Montenegro was subordinate to local headquarters. Then the German Plenipotentiary General in Croatia. I was under my command.

Q. Could you give these Military commanders in the War required by you by name and also their successors, if there had been many, during your tenure of office?

A. I can in detail only remember the highest commanders, that was for the Southern area of the Balkans, the Commander in Chief of the Army Group E and the Commander in Chief of the 2nd Panzer Army.

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Q. Witness, I believe you did not understand my question. I asked you whether you could tell us by name, give us the names of the Military commanders or their successors during your tenure of office as Military Commander Southeast?

A. The Military Commander in Greece was, first of all, General of the Air Force Speidel. As far as I know on the 1st of July 1944, he was replaced by General Scheuerlen, again of the Air Force. The Plenipotentiary General in Albania was in the beginning a General Bessel and he was being replaced by the General of the Artillery Geip who simultaneously with General Speidel was replaced by a Major General Gullmann. The local headquarters in Montenegro was under the command, from the Spring of 1944, of Brigadier General Keiper. The Plenipotentiary General in Croatia also was the Lieutenant General of Infantry von GlaiseHorstenau.

Q. Who was the superior of these military commanders.

A. The superior of these military commanders was the military Commander Southeast. That is I.

Q. How often did you visit these Military Commanders?

A. During all the time of my activities as Military Commander Southeast I never left Serbia. The Military Commanders occasionally went to see me and to report to me in Belgrade; that was either Greece or Tirana, and happened only a few times.

Q. Were the military commanders disciplinarily subordinated to you?

A. On paper, according to the directives, the military commanders and similar personalities were subordinate to me. In practice, however, this subordination could not be carried out in this form. It soon appeared, that the Military Commander Greece was dependent on Army Group E which had always fought for complete subordination. The Commander in Albania soon became dependent on the 21st Mountain Corps which was likewise stationed in Tirana. This is explained by the fact that the Plenipotentiary General did not have any troops of his own.

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The Plenipotentiary General in Croatia had a special and rather peculiar position. He had no jurisdiction as regards territory and he was looked upon as political and military adviser of the Poglavnic.

Q. Witness, may I ask you to answer my questions briefly? We will come to all the other points; what did the independence of the Military Commander amount to in practice?

A. The Military Commanders Greece and Albania were more or less independent and, as far as they were not bound by the directives of the 21st Mountain Corps or Army Group E, they were also independent in the execution of their measures.

Q. Were these military commanders ordered by you at any time to collaborate closely with the individual troop commanders in their respective territories?

A. No, there never was such a directive.

Q. Which troops were subordinate disciplinarily to the Military Commander?

A. That is subordinate to Military Commander Serbia?

Q. No, this concerns every individual Military Commander as far as you got to know of that officially and had to know this.

A. I cannot say anything of the troops subordinate to the Military Commander in Greece and Albania. I cannot say anything exact and accurate about this. As far as I remember, there were very few troops. As far as Greece is concerned, I remember one police regiment which was, however, directly subordinate to the Higher Police and SS Leader, General von Glaise-Horstenau had no troops at his disposal at all.

Q. As far as you know, witness, in your position as Military Commander Southeast, was it possible that German troops and that native troops were at the disposal of the Military Commanders?

A. No, I have knowledge only of those troops which were subordinate to me as Military Commander but only as Military Commander for Serbia.

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Q. Do you know which two tactical main units were subordinate to Army Group [F during](#) your tenure of office?

A. That is the Army Group E in Saloniki and the Chief Command of the 2nd Panzer Army.

Q. Can you explain in general the military geographical jurisdiction of Army Group E?

A. Without a map, I cannot remember this in detail. The demarcation line between Army Group E corresponds about with the SerbianGreek frontier. That was the jurisdiction area of the 2nd Panzer Army without the Serbian area.

Q. Was there any tension, to speak of, between the military commanders and the troop commanders of which you got to know?

A. Yes, shortly after my arrival General Speidel visited me, the Military Commander Greece, and complained to me about the fact that somebody interfered in his capacity, that the Army Group E constantly interfered with his jurisdiction and command. I remember that he resented this so much he was thinking of asking for his transfer. The General commanding Albania, General Geip, arrived in the Spring of 1944 and told me the same story, that there was especially the will to power of the higher SS and police leader; General Geip was at his request replaced by a younger officer.

Q. In your capacity as Military Commander Serbia was the SD under your jurisdiction?

A. The SD consisted, as far as I know, of a group attached to the higher SS and Police Leader. Whether it was a group or a command-whatever the official designations are, that I cannot tell.

Q. Approximately how many men did the SD have during your period of service in Serbia?

A. I cannot tell that.

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PRESIDING JUDGE CARTER: We will recess until one-thirty.

(A recess was taken until 1330 hours).

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AFTERNOON SESSION The hearing reconvened at 1330 hours, August 11, 1947.

HANS GUSTAV FELBER - Resumed DIRECT EXAMINATION - (Continued) BY MR. RAPP:

Q Witness, who was highest ranking person of the SD in Serbia during your term of office there?

A The highest ranking person in the SS was Oberfuehrer Schaefer-Oberfuehrer Doctor Schaefer.

Q Whom was he subordinate to?

A Dr. Schaefer was subordinate to the higher SS and police leader, Meissner.

Q Who was the successor of the higher SS and Police leader Meissner?

A That was a Brigadefuehrer Behrens.

Q Was Meissner subordinate to you?

A Meissner was subordinate to me only regarding his own person, not with regard to his position within the police.

Q Whom was Meissner subordinate to with regard to his directives, etc.?

AAs to his directives, Dr. Meissner was subordinate to the Reichsfuehrer SS Himmler.

Q Did this same subordination later apply to Behrens?

A Yes.

Q Did Meissner or Behrens ever accept any orders or instructions from you?

A They only received orders from me in respect to a military affair, for instance, an order to put police troops at my disposal for combatting of bands, and secondly, orders with regard to reprisal measures against hostages.

Q Can you name other higher SS and Police leaders, who during their term of office were active in the southeastern area?

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A I can name for Albania, the higher SS and police leader Fitzthum; for Greece the higher SS and police leader Streck) and about from October 1943, the Brigadefuehrer Schimana. In Croatia, I know by name, Kammerhofer.

Q These higher police and SS leaders in Albania and Greece, who were just named by you -

A No.

Q Just a moment, witness, my question was not yet finished. These leaders were they subordinate to the military commanders in Albania or Greece at that time?

A Yes, indeed.

Q In what respect?

A In military matters Meissner was subordinate to me.

Q Would you say that a little more detailed?

A Meissner as well as the other higher SS and Police leaders in respect to military tasks, were subordinate to the military commanders in their respective areas, solely for these tasks.

Q Did the higher SS and police leaders Fitzthum and Schimana, did they have SD subordinates?

A I cannot answer this question. I do not know anything about it.

Q You as military commander Southeast -- did you hold the same rank as the Commander in Chief of an Army?

A Yes, my position was expressly designated as that of a Commander in Chief.

Q Where, in your opinion, lay the difference between your service instructions, and the instructions of Fieldmarshal Weichs, so far as you were notified of this officially?

A The Supreme Commander Southeast was responsible for the entire military area of the southeastern area; my responsibility was limited first of all to the security and to the maintenance of order – law and order – and further to the administrative action of the southeast area.

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Q In what respect, witness, did you have executive power?

A The conception, executive power, was not very clear to me. I expressly received from the Army Group F, at the end of September, the executive power for Serbia, that was in September, 1944. Therefore, I assume that the idea "executive power" did not apply at all to the southeast theatre. That would also comply with the fact that my sphere of work geographically seen fell together with that of the Army group. There was not the usual distinction made between combat and rear areas. Everything was combat area.

Q Witness, if I understood you correctly, your testimony says that neither you nor the then military commander of Army Group F, up to September, 1944, had any executive powers?

A That is correct, inasmuch as, so far as I know, this was not expressly ordered by the Supreme Commander Wehrmacht.

Q Did this situation change before September, 1944, at all?

A No.

Q The situation in Croatia, with respect to executive power, was it any different?

A In Croatia the Croatian government had the executive power in the person of Poglavnik.

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Q. What troops were directly under your command in Serbia?

A. The foreign troops.

Q. That is, inasmuch as it is important for these proceedings here?

A. When I started my term of office, the following were subordinate to me: Police Regiment 5, which was under the command of the Higher SS and Police Leader; further, a security regiment for the security of railway lines; a field gendarmerie unit; and a company of Panzers; a third of a division stationed in Croatia; further a replacement unit which was stationed in the area west of Belgrade. Apart from these there were a few Field Gendarmerie units which were mainly active in the security of railway lines. Further, a Serbian Free Corps, a Russian protection corps and a Bulgarian occupation corps with four divisions. That was everything of importance.

Q. Did you know for a fact, witness, whether your former chief, Geitner, and the chief of Weichs, that is, defendant Foertsch -- did you know whether they knew each other personally?

A. I had the impression that those two not only knew each other well but also got along well.

Q. Were you, witness, satisfied with the defendant Geitner as your Chief of Staff?

A. I can only say that General von Geitner – from a military view I was very happy with him. Although he was older than I, he always behaved very correctly and he carried out his duties in a very special manner. I hold him in high esteem as a man of rich experience of life, of extraordinary personal bravery, which his high awards from the First World War show. On his staff, to his subordinates he was known as the true father of the staff, especially when he was promoted to general, and on the occasion of his 60th birthday was this fact pronounced clearly. He was a man free of all personal ambition. He was only devoted to the cause. He had nothing to do with Party ideology and ideas. The proof of this are the daily, very frank discussions between the two of us.

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General von Geitner -- I as his superior can only give him the highest recommendations.

Q. Between you and Geitner were there ever any differences of opinion of basic value?

A. I do not know of a single occurrence of this nature.

Q. Witness, did you, in your command as Military Commander Southeast -- did you receive Daily Reports or reports of activity?

A. One has to distinguish, I believe, between two things. First, the Daily Combat Reports and secondly the Monthly Reports which were issued by the Military Commanders and in the equivalent staffs and given to us, and by our echelon to the Army Groups and to the OKW.

Q. These reports or these two different kinds of reports of which you're talking – did they come to your office in regular intervals?

A. The Daily Reports, as far as I recollect, arrived twice daily – noon and night. The Monthly Reports arrived towards the end of the month – that's once a month.

Q. You've already said that Army Group F passed on these reports. Were those original reports or copies?

A. I believe they were copies. That is, at least the Monthly Reports were copies, which at the same time were sent to the Army Group and to the OKW.

Q. Who in your staff, witness, was the responsible officer or the responsible authority whose task it was to pass on these reports to the Army Group?

A. The responsibility was that of the Chief of the General Staff. The reports were submitted to me and they were signed by me.

Q. Witness, why were those reports sent to Army Group F?

A. I assume it as a matter of course that the Army Group wanted to be kept posted on everything which happened in its area. Whether an order from above was given to this effect I do not know.

Q. Witness, did your reports – those which you sent directly – did they go to the OKH or to the OKW?

A. They were sent to the very same department of the staff of the Quartermaster General, who, as far as I can suppose, passed them on to the Wehrmacht Leadership Staff, at least as to their contents.

Q. Can you tell the Tribunal whether it was the task of the defendant Geitner to study the incoming and outgoing reports of their districts?

A. Naturally. He was the expert and collector of these reports which then, after he had seen them and shown them to me, were given to me for signature.

Q. Do you know whether the 2nd Panzer Army received directly those reports from your headquarters?

A. I think it is correct that we were requested by the Second Panzer Army to let them have our reports too for their information, that is, as an act of friendship, so to speak.

Q. Was that done, witness?

A. At least in the summer of 1944 that was done. I assume it happened earlier too. That was a more or less personal agreement between two chiefs of staff.

Q. When, witness, did you, for the first time, in your capacity as Military Commander Southeast -- when did you hear for the first time of so-called collective reprisal measures?

JUDGE WENNERSTRUM: Just a moment, please. I think probably the witness ought to be advised at this time that he is not obliged to answer questions that might incriminate him, that anything that he here says may be used against him in any subsequent prosecution or trial. I don't know whether the witness understands that in America that's the principle to be followed, and we deem it our duty to advise him of this at this time.

MR. RAPP: Your Honor, do I understand that this statement, as just made, is the advisement to the witness or does Your Honor wish that I should tell him that again?

JUDGE WENNERSTRUM: I think it's sufficient, but we have no objection, I'm sure, to your advising him yourself if you see fit to do so.

BY MR. RAPP:

Q. Witness, did you understand the words of the Judge completely?

A. Yes.

Q. Are you aware of the importance of these words of the Honorable Judge?

A. Yes.

Q. Therefore, could I ask you to answer my previous question, when for the first time you heard of collective reprisal measures in your capacity as Military Commander Southeast?

A. The first knowledge which I received of this collective order -- the first knowledge when I reported to the Fuehrer's headquarters.

Q. When was that, witness?

A. That was on approximately the 20th of August 1943.

Q. Witness, what were you told at that time?

A. I received an order through the then Field Marshal von Keitel who introduced me to my new office and my new responsibilities, and he pointed it out explicitly that I had to take ruthless measures to an extent. And he showed me an order of Hitler which said the same thing, and which went as far as to say that Hitler emphasized he would cover every superior who exceeded his responsibilities.

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In this exaggerated sense the introduction of this order was carried out by Keitel. Subsequently I went to Jodl, whom I knew from earlier days, and in my new commission I can only say I was shocked by it. He calmed me down and emphasized that Keitel's conception was exaggerated. With this attitude in mind I arrived in Belgrade.

Q. Witness, do you know for a fact whether your predecessor, in his capacity as Military Commander of Serbia, that is General Bader, whether he ordered and carried out collective retaliation measures?

A. It was made known to me that during the years of 1942 and 1943 considerable retaliation measures were necessary.

Q. Who was Bader subordinate to?

A. As far as I know, he was subordinate to Army Group E, that is, General Loehr.

Q. Did you discuss the question of retaliation measures as far as it was connected with Bader, his chief, and your later chief Geitner?

A. I must assume that we did discuss these matters. I cannot remember details at this time.

Q. What impression did Geitner make on you with respect to the retaliation measures?

A. Geitner and I from the very beginning in this as in all other matters understood each other completely. I made my attitude clear to him and I explained to him that under no circumstances was I willing to carry out these collective retaliation measures, which in my opinion were senseless, without special pressure on me. In this connection I might mention that this conception of mine I also made clear to my supreme commander Field Marshal von Weichs and that I found his consent.

Q. What, in your opinion, was the purpose -- I am not talking about the cause -- of these collective retaliation measures?

DR. LATERNER: I object. The witness, Your Honor, is to be asked the facts only, not his opinion and judgment. For this reason I object to the question.

PRESIDING JUDGE CARTER: I think the objection is good; it is sustained.

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Q. Witness, what was known to you as fact and the purpose of these retaliation measures?

DR. LATERNER: I object. Your Honor, that is the same question as before.

PRESIDING JUDGE CARTER: Sustained.

A. The collective retaliation had--

DR. LATERNER: Your Honor, since the question was not admitted, the witness may not answer.

PRESIDING JUDGE CARTER: That is correct. Proceed with another question, Mr. Rapp.

Q. Witness, did the retaliation measures prove effective? I mean, was their purpose fulfilled?

DR. LATERNER: I object again. The question refers again not to a fact but the question is asked to judge something.

MR. RAPP: Your Honor, if you will pardon me please, we submit that the witness was the expert in the Southeast Theater. He was responsible for these measures and I am asking him as a matter of fact whether or not his success or failure in relation to the retaliation measures was obtained.

PRESIDING JUDGE CARTER: I think, Mr. Rapp, if you have him testify as to what happened, testify as to the facts, the balance of it is a conclusion.

MR. RAPP: Very well, Your Honor.

Q. When we talk about so-called retaliation or reprisal measures, does this concern matters of security or of tactical nature?

DR. LATERNER: Your Honor, this question too is not admissible; this question again asks the witness to judge something; the prosecutor may ask the facts but he may not ask the witness to judge certain facts. I, therefore, object.

MR. RAPP: Your Honor, if you permit, we believe in this particular instance, as far as this question is concerned, that the witness must have known himself whether these collective measures are of a tactical measure or of a security measure.

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He was in charge of them and he is merely being asked which one of the two it was.

PRESIDING JUDGE CARTER: We will permit him to answer that question.

MR. RAPP: Very well, Your Honor.

A. The collective measures were of a tactical nature as well as of a police nature. In the Balkan area, as matters stood at that time, in my opinion the police nature - aspect - of the matter is the more important one.

Q. Did you talk to the then Commander in Chief of Army Group F with respect to these retaliation measures?

A. Yes, indeed, on repeated occasions, and quite frankly Field Marshal von Weichs was from the very beginning of exactly the same opinion, that is, that the collective order, at least as of the autumn 1943, was completely nonsensical. He and Ambassador Neubacher, who was an important person with regard to these matters, were in my opinion a great support to us.

Q. Do you know whether the defendant Foertsch was present with this kind of discussion you had with Weichs?

A. These discussions took place in the inner circle, that is, at the office of the Supreme Commander, and as far as I recollect Foertsch was present every time.

Q. Your chief, Geitner, was he present too at these discussions?

PRESIDING JUDGE CARTER: Pardon me, we are getting a little ahead. Could you slow down your questions?

A. I think I recollect that General von Geitner was only present a very few times, but I am certain that he was present at the beginning of my activities.

Q. Did you at any time discuss these things with your subordinate military commander, that is, did you discuss retaliation measures?

A. The very few times when the military commanders were presented to me personally we discussed all of these reprisal questions as a matter of course.

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Q. What else was the attitude of the military commander subordinate to you to these retaliation matters?

A. I did not find a single person who was against my conception, with the exception of the Higher SS and Police Leader Meissner.

Q. Witness, who had the right to order retaliation or reprisal measures?

A. The military commander had the right to order retaliation measures.

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Q. To whom was the Military Commander responsible as far as retaliation measures were concerned?

A. In the first place he was responsible to his superior office; that was as regards the Military Commander in Greece and Albania; my office and as far as I was concerned, in the first place, the OKW.

Q. Did the Military Commander in each single case request your permission for the orders of retaliation measures?

A. No. In this respect they were independent.

Q. When the troops under your command in Serbia were employed in the fight against the partisans, were the troops under your command or under that of Army Group F?

A. No, they fought under my tactical command.

Q. Who, in such cases, was your tactical superior, witness?

A. My tactical superior was the army group.

Q. Which army group?

A. Army Group F.

Q. Then the German Plenipotentiary General in Croatia, Glaise-Horstenau -- was he subordinate to you?

A. Glaise-Horstenau was subordinate to me.

Q. What was his official relation to Army Group F?

A. I have said previously that Glaise-Horstenau had a more political position, that is, he was a political advisor to Poglavnik, and in this capacity he was, in my opinion, also subordinate to Army Group F, which was expressed by the fact that he was often in Belgrade, and as the first thing always visited the army group.

Q. Did he have the right to order reprisal measures?

A. No.

Q. Who was responsible for the ordering and carrying out of retaliation measures in Croatia?

A. As far as I remember, Poglavnik with his Ustascha bands and the tactical commander in chief, the commander of the Second Panzer Army.

Q. Did Glaise-Horstenau ever report to you about the carrying-out of so-called retaliation measures in Croatia?

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A. No, not in writing, only orally. He outlined the political situation in Croatia to me.

Q. Did your subordinate officers in connection with retaliation measures repeatedly or at all -- did they suggest to you ratios for retaliation?

A. It did occur repeatedly that local commanders requested me to order a reprisal measure and put suggested ratios to me.

Q. If I understand you correctly, witness, you are now talking of the local commander, who was subordinate to you only in Serbia, is that correct?

A. Yes.

Q. The Military Commanders subordinate to you -- did they ever suggest ratios to you?

A. No, there were no suggestions from these quarters.

Q. Did you have the right to order reprisal measures when there were attacks against your own troops, which were subordinate to you?

A. No, these reprisal measures were also requested for attacks, murder and such things carried out on the Serbian people who were under the protection of or employed in any way by the German Wehrmacht, as for instance, mayors and such people.

Q. Did you, as Military Commander Southeast, ever order reprisal measures outside of the Serbian area?

A. No, it was out of the question.

Q. Did the tactical troops or their commander in Serbia know that retaliation measures as a reprisal were ordered?

DR. LATERNSEER: I object. The witness cannot testify to what somebody else knows. He can only testify to his own knowledge.

JUDGE CARTER: I think you had better establish that by preliminary questions.

MR. RAPP: Very well, Your Honor.

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Q. Witness, did you ever tell the tactical troop commanders that you ordered reprisal measures?

A. No.

Q. Who, I mean what authority or what person, informed you that the enemy had attacked German troops?

A. These reports generally came in from the local headquarters. If attacks were carried out on the troops themselves, as for instance on the professional police of the Higher SS or Police Leader, then the request for a retaliation measure came from the Higher SS and Police Leader.

Q. Witness, did you ever order retaliation measures as a reprisal for attacks, that is for attacks on material or members of the German troops which were tactically under the command of Army Group F?

DR. LATERNSEER: I object. The question is put in such a general way that the witness cannot personally answer it. It is kept in such a general manner that one can hardly say that the witness is being asked about effect.

JUDGE CARTER: He may answer it if he can.

Q. Witness, if you can, answer the question.

A. May I ask you to formulate this question again?

Q. Did you directly order retaliation measures as a reprisal for attacks, that is attacks on material or members of the German tactical troops which were subordinate to Army Group F?

DR. LATERNSEER: I object again.

MR. RAPP: I believe, Your Honor, Dr. Laternser did not hear you say that the witness could answer the question if he was in a position to answer it. I am merely repeating the question. The witness did not get the question.

DR. LATERNSEER: Your Honor, as far as I understood, it was now even more generally put. The witness could only be asked whether he knows certain troops he was subordinate to. Whether attacks were made against those troops and whether for that reason he ordered reprisal measures;

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it is impossible - it doesn't make sense - that the witness should have to answer this question.

JUDGE CARTER: The witness may answer it. Overruled.

A. Requests from the troops for retaliation measures generally did not come to me at all, for everything that happened to the troops happened generally speaking during combat, and in combat no reprisal measures were ever taken. It cannot merely here concern attacks on police units who perhaps were attacked while supervising the harvesting or carrying out of other similar tasks. In those cases the Higher SS and Police Leader did request retaliation measures, and in as high a ratio as possible in those instances.

Q. Witness, did you inform Army Group F when you wanted retaliation measures, and as to when it was carried out?

A. The information on retaliation measures which had been carried out was received by the Army Group through our daily reports. Generally speaking the Army Group was informed by me, not about details, for instance, when only three or four people were concerned.

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Q. Witness, in which manner was an execution ordered by you carried out?

A. The carrying out took place on the basis of an order which was given to the higher SS and Police Leader. The troops, at least in the Serbian area, refrained from all reprisal measures and from the carrying out of all reprisal measures

Q. You, therefore, do not know, witness, how the execution was actually carried out?

A. No, Meissner was usually quite strange, he also treated these matters very secretly and discretely.

Q. Who gave the order for the arresting of hostages?

A. I believe one has to distinguish, that general arrests of hostages were carried out by the Police for purely political reasons; that is to say, out of certain classes of the population they collected persons who seemed suitable to them. Hostage arrests by the local headquarters, as far as I can recollect, did not take place during my time, because we were of the opinion that we would never get the right people and

that, in the last instance, the Communists would feel a quiet satisfaction about the fact that we would take people as reprisal measures who were politically their opponents. Therefore, the arrest of hostages -- at least, that is, up to 1943 -- was in the main in the sector of the High SS and Police Leader. We had no possibility whatsoever of applying any methods to really find out whether the hostages taken were actually Communists. The Staff or the Higher Police Leader never showed his cards.

Q. You said, witness, that this situation only applied up to autumn 1943. How were hostages taken as of the Fall of

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1944.

A. The arrest of hostages took place then, too through the activities of the Higher SS and Police Leader. I was in October -- that is, on the 12th of October 1943 -- I found out through a report which came to me by mistake, a report by the Deputy of the Higher SS and Police Leader, Dr. Schaeffer -- then I was informed that Meissner only had five hostages available at that time at his so-called "hostage camp." Therefore, I had to assume that the figures which he usually gave us and which went up to the hundreds, were probably never correct.

Q. Was the number and equipment of the troops subordinate to you in Serbia sufficient to maintain law and order?

A. No, from a purely numerical point of view, I had about 70 to 80 thousand men subordinate to me, in this difficult mountain terrain, the combat troops as well as equipment; also the number was completely insufficient; especially bad was the Bulgarian Occupation Corps.

Q. Witness, what was the highest ratio which you ordered as retaliation measure?

A. I may refuse to answer this question.

Q. Did the ratios go down?

A. Yes, they went down considerably in the daily reports. I received in the reports 50 cases of murder, kidnapping or wounding within my own Serbian area; when I had applied the ratio even to a small extent, I would have had to kill thousands of people.

Q. Why, witness, did you order that ratio to go down?

A. I did not have to give an order to this effect, because the decision rested solely with me, and from the very beginning I had been determined to diminish reprisal measures where at all possible and to raise them in cases where they were really necessary and to apply them according to the severity of the case.

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Q. Witness, did you ever, as retaliation, order the burning down of houses?

A. Immediately after my arrival in Belgrade, I was confronted with a request for retaliation -- I think a request by the Higher Police Leader -- I cannot say that for sure, I was asked to order the shooting of about 800 hostages and the burning down of one locality. I, after a long struggle with the Police Leader, decided this order to the effect that this complete reprisal request was not fulfilled; whether at a later date the burning down of houses took place here and there, I cannot say. I think it is, especially in the sector of a Bulgarian unit, quite possible.

Q. Were, according to any of your orders in connection with the reprisal measures, cattle or grain stores of the population confiscated?

A. This question I cannot answer. If it did happen, it can only concern individual isolated cases.

Q. Witness, did you, in your capacity as Military Commander for Serbia and Military Commander Southeast, ever give orders which concerned the taking of hostages from members of families of so-called bandits or partisans?

A. I never did anything like that because I would have considered it nonsensical.

Q. Did you, in your capacity as Military Commander Southeast and Military Commander of Serbia -- did you transfer the population able to bear arms or to work to Germany for work?

A. I had no influence on these matters. I only heard that in earlier years transport of civilian population to Germany was said to have taken place.

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At my time the lack of harvest workers was so great in the whole area, especially in Serbia, that we were glad of every single person whom we had received for this work. But it is possible that the Higher SS and Police Leader transferred prisoners of his units to Germany without our knowledge.

Q. Where there hostages camps in Serbia?

A. In my time I knew nothing of a hostage camp.

Q. I am not talking about one hostage camp. I am talking about several.

A. I only heard through a complaint by the Minister President, Nedic, that a collective camp of the Higher SS and Police Leader was the Croatian Area in Semlin; apart from this, I know nothing of any such police camps, in the Serbian area.

Q. Witness, were there concentration camps in Serbia?

A. Not in my time -- at least, not then.

Q. Did Gruppenfuehrer Meissner, in his capacity as Higher SS and Police Leader in Serbia, on the basis of any orders by you, carry out shootings or hangings?

A. When retaliation measures were ordered by me, they went to Meissner as an order.

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Q Witness, did the former Fieldmarshal von Weichs ever protest to you about the carrying out of your business?

A No, I had the impression that my Supreme Commander and I agreed completely in this respect.

Q Did the military commanders subordinate to you – at least on paper subordinate to you – did they protest to you about the carrying out of so-called retaliation measures?

Q Do you know in your capacity as former military commander Serbia, whether the units subordinate to you, sent delegations to Serbia?

A I never heard anything about such a delegation, and I think it is quite impossible, since this was merely the territory of the SS and police leaders, which was made clear to me by the initial discussion which I had with Keitel.

Q Witness, did you in your headquarters, in your capacity as Military Commander Southeast, as well as in your capacity as military commander Serbia, – did you hold a court martial?

A No, at least not for these purposes.

Q When you are talking about these purposes, you are talking about retaliation measures?

A Yes, retaliation measures, because the legal business for retaliation measures, these were orders to the SS and police leaders. While under his jurisdiction the Higher Police Leader had his own SS court.

Q I would like to put my question a little clearer.

There ordered shot by you as reprisal, – shot to death, – were they sentenced by a court martial?

JUDGE BURKE: It is not any clearer to me, so far as the translation is concerned.

Q Those who were sentenced by you as reprisal, sentenced to death as reprisal, were they first of all judged by a court martial?

A The persons concerned did not come under my jurisdiction. They were under the jurisdiction of the High SS and Police Leaders. I merely ordered for a certain case, a certain number of hostages to be shot.

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One of the Higher SS and police leaders had a court, – legal court proceedings, I do not know which persons he chose.

Q Your order was an order, not a directive?

DR. LATERNSE: I object to this question. This question is a leading question, and I definitely object to it.

PRESIDING JUSTICE CATER: He may answer.

A In my staff, these persons were not judged by a court martial.

Q Witness, I asked you whether your order was considered a strict order?

DR. LATERNSEER: I object. It is purely a legal question which the witness cannot answer. He is not a legal expert.

PRESIDING JUDGE CARTER: Whether it is a strict order or not, can only be answered by a court. I do not see how he would construe how it might be interpreted by someone.

MR. RAPP: I beg your pardon.

PRESIDING JUSTICE CARTER: I do not see how he could construe how it might have been received by the receiver of the order.

MR. RAPP: Very well.

Q Witness, was an execution actually carried out in accordance with your order by the Higher SS and Police Leader?

A I assume that.

Q Did the partisans or bands during your term of office, as military commander southeast, simultaneously military commander, supreme commander, Serbia, -- did the partisans wear uniforms during that time?

A They cannot be regarded as wearing a uniform. As partisans they were everything one could possibly imagine. Only in July or August, 1944, when they had Tite did they get it.

DR. LATERNSEER: I object, your Honor. The question as it was put is not admissible. The witness was asked whether the partisans wore uniforms.

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The witness has said no, he cannot answer that. He has to be asked whether he saw the partisans wear uniforms.

PRESIDING JUSTICE CARTER: It might be well to inquire about his knowledge before you ask him a question.

MR. RAPP: Very well, your Honor.

Q Did the military commander subordinate to you, or in the area of Serbia, -- two commanders subordinate to you, ever report to you that the partisans wore uniforms?

A On the part of the troops, generally speaking, the partisans as I said before, did not wear any common uniform at all. In a few individual cases they wore insignia, the hammer and sickle, and others wore German uniforms, Italian uniforms, and every kind of civvies. When I was personally present at band quarters I personally convinced myself of the truth of these facts.

Q Witness, were you ever given reports, or did you at any time yourself, during the experiences at the front, see that the partisans' leaders were wearing uniforms?

DR. LATERNSEER: I object to the question, whether the partisans were led as a unit cannot be answered by the witness because it cannot be seen. It is therefore not a fact, but again a judgment, and therefore the question is not admissible. He cannot see whether the partisans were led. That is no fact.

PRESIDING JUSTICE CARTER: You should let the witness testify to the facts. The Court will draw its own conclusions.

MR. RAPP: Very well.

Q State whether you saw immediately at the front, the enemy which confronted you, and which fought you, were they led?

DR. LATERNSEER: I object. I object to the witness answering. He cannot know it; he cannot see it.

PRESIDING JUSTICE CARTER: Objection sustained.

DIRECT EXAMINATION BY MR. RAPP:

Q What impression did you gain of the troops that confronted you from the point of view of leadership?

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AAAs I said before, up until the summer of 1944, one had the impression that the enemy were what we call in military language a "band". We knew partly also the names of these band leaders. The bands were even partly named after the person, after the name of the band leader.

In July 1944 this picture changed, and from that day on, there was really a kind of military organization recognizable. Even the conception, "division" which Tito gave to his unit, was a bit exaggerated.

Q Witness, did you receive through the so-called Ic channel, reports about the units of the enemy, or did you receive any such report?

AAAs it is militarily usual, we tried to estimate the enemy exactly, and for this purpose too the department mentioned just now, Ic, was mainly responsible. This department submitted exact figures on the material and equipment of the enemy, inasmuch as they could recognize it themselves.

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THE MARSHAL: The persons in the court room will be seated.

The Tribunal is again in session.

Q Witness, did you ever see, yourself, how retaliation measures came out?

A No.

Q Did the representatives of the OKH or OKW ever come to your headquarters and order you to witness the executions in retaliation measures?

A No, I cannot remember such a measure during my presence in Belgrade. I remember Colonel Gartmeyer and General Warlimont of the Wehrmacht Fuehrungsstab but this visit was carried out for formal reasons, that is, on directives; that did not concern the reprisal measures.

Q Did any of the representatives of Army Group [F come](#) to your headquarters for specific reasons in order to witness the implimentation of an execution?

A No.

Q Did you, in your orders, give instructions that parts of the population concerned had to witness the execution?

A No.

Q Witness, do you know the Military Commander Greece personally?

A Yes, I do; I have seen him several times.

Q Do you recognize him here in the court room?

A Yes.

Q Will you kindly point him out?

A Yes, that is the person furtherest on the right.

Q Did the defendant Speidel, the former Military Commander in Greece, ever receive the permission from you to carry out a reprisal measure?

A I cannot remember; I don't believe it.

Q Did the defendant Speidel report to you about the carrying out of retaliation measures?

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A I cannot remember retaliation measures on the part of Speidel apart from one case. That is as far as I know of any extensive strike, and that was in Athens in the Spring of 1944. Otherwise as far as I believe Speidel had nothing to do with retaliation measures because he had practically no troops in contrast to myself.

Q As an evaluation, witness, what of the fighting potential of the troops under your command in Serbia?

A I can only say that until the summer of 1944 this fighting potential was a very small one because as I emphasized before, which is clear from what the state and the training of these troops show, only in the summer when active troops appear in the Balkan Theatre, and in September active divisions were put under my command this picture changed.

Q Which field headquarters were subordinate to you in Serbia?

A Of the field headquarters in Sabac, then in Cacak, in Nish, and in Belgrade. Then a special sub-headquarters which was immediately subordinate to me in Great-Bekerek-Banat and then there was another administrative sub-headquarters in Belgrade. At the same time there were counter headquarters.

Q Did you ever visit these sub-headquarters?

A Yes, I often visited the sub-headquarters.

Q Did the defendant Geitner often visit the sub-headquarters?

A Geitner was often visiting these sub administrative headquarters.

Q Witness, at the beginning of your statement you said that you were against retaliation measures and reprisal measures on principle. Is that correct?

A Yes, it is.

Q For what reasons, witness?

A Because it is against my personal views as a human being; every retaliatory measure I could only understand and comprehend if the cause for it constituted such a danger for the troops and the lives of the troops, that I could not pass this aspect and must not pass it.

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When I started in my position, when I asked the Serbian Government the second or third day about my headquarters, I made it quite clear that I was interested in maintaining peace and order, and that I was interested in not carrying out any reprisals. The Serbian Government promised that it would do its part in this task and it has done that as far as it had any connection with Mihalovic; it has undoubtedly done so.

Q Witness, apart from humane reasons did other reasons prompt you to be against retaliation measures?

A Well, I thought for tactical reasons too; an exaggeration might bring about the opposite of what I intended, that is, it might bring about unrest.

Q Did any unrest break out, witness?

A In my time in general it did not break out but I remember at the beginning of the year 1944 two very conspicuous occurrences called for my attention. There was, for instance, near Sabac a train crammed with people and soldiers, had been attacked by partisans; the people were dragged away; 40 or 50 were murdered; the rest were plundered, and sent home. Two days later 7 field police in Ivanica were attacked by the population, at least in collaboration of the population, and were killed. I myself helped to bury them in Belgrade. Apart from that I do not remember any major occurrences during that time.

Q Witness, did you have a legal advisor on your staff?

A On my staff I had several legal personalities since I supervised the jurisdiction over my soldiers and then I also had to intervene if the civilian population did not carry out our orders, - those were under the Judge Advocates, about five or six.

Q: Did you ever talk with the Judge advocates about the retaliation matters?

A: I have done that very often, because I was of the view that these retaliation measures were a very important factor for my task.

Q: What did the officials of the Judge Advocate Department tell you about the retaliation measures?

A: Their view was that retaliation measures as a reprisal was an admissible measure. From my training I learned that in other armies the question of hostages had played a part. I knew also that even innocent persons, if there was need, would be made responsible. For me the question of hostages was a question which had been founded on legal arguments.

Q: Witness, do I understand you correctly when I say that your legal advisors did say that the so-called ratio was legally admissible?

A: I never talked to anybody about the ratio, either my legal advisors, because I rejected it from the very beginning.

Q: Did you, witness, ever visit the War Academy?

A: In World War I, I took part in a short training course that was a substitute for War Academy during the war.

Q: Witness, in your capacity as an officer were you instructed about the land warfare regulations?

A: That happened occasionally that something was said about these matters in a larger circle. Essentially every single individual was responsible for reading up on these matters.

Q: Witness, do you know what a war diary is?

A: The war diary which each unit start from the company upwards was forced to keep in very brief outlines the happenings of the day and the most important decisions of the higher commands, if the War Diary is kept by the Chief of the General Staff of that unit.

Q: Is there someone who is responsible for the correctness of the war diary?

A: That is the Chief of the General Staff. In case of a higher command and in the case of troops the Regimental Commander, whoever it may be in that case.

Q: Did you ever order so-called sham executions?

A: Yes, indeed, I may say in this connection that they were carried out on my orders, which was caused by the information which I had received by mistake that the troops of the Higher SS and police leader had very few hostages.

Q: From what date onwards, witness, did you order sham executions, approximately?

A: This took place approximately on 12 October 1943, perhaps a week after that the first sham measures were ordered.

Q: Witness, from this date onwards were all executions or so-called executions sham executions?

A: No, these sham executions were interdispersed with the so-called reprisal measures so far as necessary at that time. I cannot say anything about the number of the sham executions ordered by me.

Q: Can you perhaps tell us the percentage with which they were, compared to the real executions?

A: No, I had no percentage in that case. I was only influenced from case to case as they happen. Retaliation measures were not carried out by me at all and were not decided on by me.

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Q: Who apart from you knew about these so-called sham executions?

A: I believe that the circle was a very small one for very definite reasons. I can believe that it was merely my chief and perhaps the expert for retaliation measures, and the Adjutant of the Department 1-A.

Q: Did the Area headquarters know of this?

A: Yes, insofar as I told the administrative area commanders when visiting them that I thought this was a very good measure, and the collective order which was still in force then could thus be circumvented, which seemed suitable to us.

Q: Were you at all afraid that the circle of the people who know about these so-called sham executions would have to be kept small?

A: Yes, indeed. As I have just hinted here I had to consider the great distrust which was especially prevalent in the SS Sector. The higher SS and police leader had his through the channel of command to the highest SS authority, Himmler, after he had been told by Meissner that we did not succeed in carrying out severe measures and did not keep to the Fuehrer Collective Order. Then we had to reckon that Himmler would at once create a frightful row with Keitel, and we would have been held responsible through that channel, and for this reason we had, as far as the so-called sham executions were concerned, to be very careful.

Q: Did Army Group [F know](#) of these sham executions?

A: I myself cannot answer that. I must assume that the Chiefs, among each other, in their personal talks talked about this point.

Q: But, witness, you personally, in spite of your good connections to Weichs, did not talk to Weichs about these measures?

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A: I cannot answer that with any certainty today, but it is quite possible.

Q: Now, how were these sham execution entered into the War Diary?

A: Whether they have been entered I do not know. I don't really see any reason for that, apart from the fact that for a long period of time a retaliation measure was not ordered by us, and that one considered it an expedient to enter some figure again.

Q: Apart from Serbia, that is from this, were sham executions carried out in other areas, which were under the command of the Military commanders?

A: I don't know anything about that.

Q: Witness, for what reasons was the life of a German soldier estimated at a higher value than that of the enemy?

A: For that I cannot give an explanation.

Q: Was it estimated at a higher value, witness?

A: No, not by me. The proof of that may be a charge of a higher police leader from October 1943, where he charged me that the Serbian civilians were judged by me at a higher value than his auxiliary police, that he wanted to find out himself.

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MR. RAPP: If Your Honors permit, we would like now to refer to Document Book 18 again and, if Your Honors turn to it, to the last document in this particular book -- Your Honors, if Your Honors turn please to page 91 and page 102, German defense counsel page 88 and page 100, these two documents, Your Honors, were marked for identification 440 a and 440 a/1; these two documents, Your Honors, are two affidavits executed by the witness Felber and, with Your Honors' permission, I would like now to put these documents to the witness to refresh his memory, to have him identify these documents and then, in connection with the contents of these documents, ask him some further questions.

DR. LATERNER: Your Honors, I object to these intentions of the Prosecution because it does not conform with the regulations of Anglo-American Law. The witness is at this time a prosecution witness. He is stating here what he must know; that is to say, he must answer when questioned. It is not admissible that in the direct examination the memory of the witness is refreshed. If you do this, what the witness says is not what he knows and only this, his own knowledge, is at issue. For this reason, it is inadmissible and, if the prosecution now submits or leaves them to the witness and then subsequently puts questions to him, I emphasize and for this reason, because the witness has only got to state his knowledge in the direct examination, refreshing of his memory may not and must not take place.

DR. SAUTER (Counsel for defendants von Geitner and Lanz): I join this protest of my colleague and for another reason -- rather, for two other reasons.

First of all, our procedure is taking place under acceleration. We have always been told at all times, in every trial, the trial should be expedited as much as possible as far as can be reconciled with justice and fairness; but in my view a lot of time will be lost if, first of all, a witness is examined orally at great detail

and then an affidavit of many pages being read, there is no purpose to hear this twice on the part of the prosecution.

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There is another point of view which, in my view, is of a very serious nature. We have heard that the witness is in danger of being tried before this or another court because of his connections. For this reason, the prosecution was, too, careful not to examine this witness as a prosecution witness and propose to have him here as a court witness.

For the same reason, the Court told the witness that he cannot be asked to state, to testify, against himself under oath. I don't know whether the witness, during his several interrogations on the part of the prosecution, has been told about his right not to make any statements since he might incriminate himself by this. According to my experiences, this did not take place in general.

We now have the situation, the witness may only testify here about things about what he wants to testify. He can refuse to give any information regarding questions by which he might incriminate himself. This right, this privilege, is given to the American Law, and to the witness and the situation of General Felber, but this right would be taken from the witness if here as a witness he may refuse to testify regarding questions about which he does not want to give any evidence; but if, on the other hand, evidence would be submitted or read to him which, in the preceding procedure he had to give and, because he had not been told about his right to refuse to testify I don't know, Your Honors, whether the witness Felber is interested that his former testimony is not being read. I never talked to him about it. I am seeing him here for the first time but, however the situation may be, or whatever point of view the witness Felber himself takes, for fundamental reasons it should be prohibited that in such a case the previous evidence possibly given under oath should be read to his disadvantage and utilized. For these reasons I join the objection of my colleague.

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DR. LATERNER: Your Honors, I want to submit a further legal reason which should equally make it impossible for the prosecution to read these affidavits. The reason is the following one:

Every person who wants to prove something must, in every individual case, submit the best evidence for every point of evidence. We have here the witness himself and, in the presence of the best evidence, secondary evidence like an affidavit can not be used on no account in order to refresh the memory of better evidence by means of worse evidence. For these reasons, the reading of these affidavits has become impossible.

PRESIDING JUDGE CARTER: Just what is the purpose of the offering of these affidavits, Mr. Denney?

MR. DENNEY: Well, if Your Honors pleases, first, this man is not what one would consider a normal witness. He has spent a lifetime in the German Army. He has been closely associated with some, if not all, of the defendants and we have not talked to him, as we indicated to Your Honors last week. We have several affidavits which he wrote in long hand and which he signed himself which were the basis

for our calling him to testify here. In some respects he has made statements on the stand which are inconsistent with those affidavits.

First, with reference to Dr. Laternser's lecture on the right to refresh the witness' recollection, it is submitted that at any time a witness may be given anything for the purpose of recalling to him presently his impression at a prior time, if these affidavits do recall to him what he said at that time and he is willing to admit that he said them at that time, then we at least have shown that he has made a statement now which is inconsistent with what he said before.

If, on the other hand, he says he never made the statement and we point out to him in his affidavit what he has said, why, of course, we submit that the affidavits are admissible for the purpose of showing these prior inconsistent statements.

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We have not talked to the witness since -- I believe Mr. Rapp said last June and we are only calling him an effort to cast further light on this situation down in the Southeast.

DR. LATERNSE: Your Honors, may I add something? In answer to what the prosecution has just said, it is my view that the prosecution wants to make, conduct a cross examination with it's own witness. I have to assume and must assume that a witness provided by the prosecution will testify something which is in accordance with what the witness has done.

It does not seem to be admissible that the prosecution now wants to influence the witness by submission of former evidence to change his statements here in court. In any case, it is not possible for the prosecution to cross examine its own witness and if it could now submit his own affidavit, that would amount to a cross examination.

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PRESIDING JUSTICE CARTER: It is the opinion of the Tribunal that the affidavits themselves are not admissible in evidence. However, the prosecution may inquire of the witness regarding conflicting statements or anything, or even refreshing his memory, but the evidence given by the witness himself will be the controlling evidence. To that extent the prosecution may use the affidavits.

MR. RAPP: If your Honors will permit, at this time I would like to refer to the identification No. 440-a, [NOKW 611](#). I would like now to pass to the witness this particular document so that he can familiarize himself, and then after we have given the witness some time to look this document over, I would like to ask him a few questions in connection with that document.

DR. LATERNSE: Your Honor, I do not know whether it has been rightly translated, or whether I understood the ruling of the court differently. I understand that the things which have been stated in this affidavit may be touched upon by questions to the witness, but that the affidavit may not be submitted to him.

PRESIDING JUSTICE CARTER: I think the proper method would be to ask him about the conflicting statements that are in the affidavit. Read the part to him that is in apparent conflict, and have him harmonize it, if he can. I doubt if it is proper to hand him the entire affidavit at this time.

MR. RAPP: Your Honor, I was trying to avoid getting any part of the affidavit read into the record, - citing parts of the affidavit to him. I thought that it would be better to have the witness take a look at the affidavit, take the affidavit back, and then ask him some questions in relation to the answer he has given at that time. However, if your Honors feel that this is not satisfactory, I would be only too glad to follow your suggestion.

PRESIDING JUSTICE CARTER: I think if the defendants object, that we should sustain that objection.

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DR. LATERNSEER: I object, your Honor.

PRESIDING JUSTICE CARTER: Objection sustained.

DR. LATERNSEER: Because it is my point of view, the witness at this moment -

DR. SAUTER: In addition to this objection, I want to point to something else. We have in this document, the two affidavits of the witness. The witness, as we have heard today, has been examined seven times by the Prosecution, and I take it that he gave seven affidavits, - not less than seven affidavits.

In my view it would be all right if we want to follow the procedure which has been suggested by the prosecution, that these seven or ten affidavits should be read, then we would not only see what is in two, but we shall see what is contained in all 7 affidavits, and then the Court can form a picture much easier regarding the value or absence of value of these affidavits. As long as only two records of interrogations are submitted, there only remains a fraction.

PRESIDING JUSTICE CARTER: The prosecution may interrogate the witness about any conflicting statements he made in these affidavits. When the defense cross-examine they can put in as many other parts of these affidavits as they see fit, but I think the prosecution can pursue its own methods. You may proceed.

DIRECT EXAMINATION BY MR. RAPP:

Q. Witness, you have at one time, written in your own handwriting, a report about your activities in the Southeast theatre. I believe I shall go back to the German language.

You once wrote a document in your own handwriting. So far as I know, this document was not written here in Nurnberg. Is that correct?

A. Yes, that is correct. I once made a statement about the southeastern area, and that was the summer of 1946 in the camp of Zuffenhausen.

Q. And later, during your internment in Nurnberg, you wrote two affidavits, that is two, to be exact, here in Nurnberg?

A. So far as I remember, I believe three.

Q. I am talking about Nurnberg. Two or three, in Nurnberg, witness?

A. I believe three. There was an addendum. One affidavit to which I wrote a short addendum, and then a second affidavit.

Q. Witness, you told us some time ago**, in direct examination, that you were only competent for retaliation measures in Serbia. Is that correct?

A. Yes.

Q. Witness, did the military commanders subordinate to you, -did they not in each and every single case, have to get permission to carry out the retaliation measures --- did they not?

DR. LATERNER: I object. This is a leading question. The question is, did the military not have to have permission. It is impossible to cross examine their own witness. I must energetically protest against this procedure by the prosecution.

MR. RAPP: That is what the witness had already testified to previously this afternoon.

PRESIDING JUSTICE CARTER: Proceed with the question.

BY MR. RAPP:

Q. Will you kindly answer this question.

A. The military commanders were independent as regards to provisions on retaliation measures. They were generals of the Infantry, the artillery and Airforce, under oath, and they were for that reason, in the same manner as I myself; it was not the case that a military commander in Greece would have to get permission from me in order to carry out a retaliation measure which he found suitable.

Q. Witness, you are telling us now that on the strength of the fact that the military commanders subordinate to you were also generals, it is proved that for this reason they did not have to have your consent for the implementation of these measures; is that correct?

A. Yes. There is a regulation that the ordering of retaliation measures may be ordered independently from the regional commanders upwards.

Q. Witness, did you ever during your preliminary interrogation, tell us in writing, and under oath, that before every execution, your personal consent would have to be obtained?

DR. LATERNER: I object to this question. It is not -- it is inadmissible because it is a leading question in direct examination.

PRESIDING JUSTICE CARTER: I think you should quote what he said and ask if he did not make that statement; quote from his affidavit; give him an opportunity to affirm or deny or explain, as he sees fit.

It seems to me, that is the way you should proceed.

MR. RAPP: Very well, your Honors.

I am going to read to you, witness, the paragraph to which I refer. I would like to put another question to you.

Did you at any time order that whole villages, whole communities were to be burned down?

A. In my recollection I have emphasized that frequently, that I did not burn down a single community which I had ordered to be burned down, but I believe it is possible that in a battle perhaps, by the police, by the Bulgarians, communities were, against my will, burned down, or at least houses were burned down, which I was told only later.

Q. Witness, did you in your capacity as military commander southeast, at any time, -- did you reserve to yourself the right or rather the vote right regarding the executions carried out in areas of other military commanders?

A. It never got to that.

Q. Why not?

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A. Because I cannot remember that the military commanders in Greece or Albania, --- that is these two military commanders, -- reported any greater major retaliation measures to me.

Q. You said that you received daily reports from the military commanders; is that right?

Page 1,733

A. Those were very brief reports which we received daily, comprising about three to four lines regarding the Albanian or the Croatian area, that is, not very detailed reports. The detailed daily reports went, as far as I remember, to the local tactical departments. That was in the case of the Military Commander Greece, the Army Group E, and in Albania. During my time I probably never got as far as retaliation measures by the Plenipotentiary General.

Q. Did Army Group [Fever](#) order any retaliation measures?

A. The Army Group F, in the summer of 1944 on the first of July--that was the date of the receipt of this order--gave a collective retaliation order for the entire Southeast area which was harmonized in relation to my staff and with our experiences regarding retaliation measures. These experiences were used by the Army Group.

Q. Witness, now I would like to quote from your document to which I directed your attention previously.

DR. LATERNSEER: This is an admissible. I object to this quotation. I object to this document's being quoted. The Witness may, at the most, be asked, in order to show the way to the Prosecution, "What did you say on the so and so of May, etc.?"

PRESIDING JUDGE CARTER: I think the Prosecution is entitled to ask the Witness if on such and such a date and if on such an occasion he didn't make the following statement in writing and then quote the statement, as long as the affidavit is not to be in conflict with his testimony. I think, to this extent, the Prosecution may use the affidavit.

MR. RAPP: Your Honors, that's all we had in mind.

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PRESIDING JUDGE CARTER: All right; you may proceed on this basis.

MR. RAPP: We have a document before us which was written by you on the 15th of July 1946 in the Internment Camp No. 78. This document to which I refer bears on the top the words, "Felber, Hans, General of Infantry No. 365-D-/35, Statement About my Activity" I quote: "Military Commander Southeast." I quote and ask you whether on Page 22 and Page 24 respectively, you wrote the following lines: "Retaliation Measures: From the OKW: Whereas in other occupied countries special directives were decided on regarding retaliations measures, the collective retaliation order of Hitler is known. That in case of ambushes we should take the most severe measures. The burning down of villages, the shooting of hostages, that is, for every killed German soldier, 50; for every wounded native of Germany, graduated figures according to the importance of the person." These had been laid down as directive. Now, another question, Witness: Are these, so far, your own statements?

DR. LATERNSEER: Your Honor, it is my duty to object to such a procedure in direct examination. And I shall object therefore on every question which is put in this way, and I shall repeat it. We are now in direct examination. The witness, can, at the most, be asked, Your Honor, "Were you interrogated on such and such a date, and what did you say on such and such a date?" And only in this manner can we ascertain what the witness knows today. In this proceeding it is only necessary to know what the witness knows today. And for this reason it is forbidden that a witness use any notes. The reason for this is that the Court may only want to find out what the witness knows now and not what he had written sometime.

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I repeat, it is my duty to object to such a procedure.

PRESIDING JUDGE CARTER: We'll let the witness answer the question.

MR. RAPP: Witness, would you answer my question?

A. Yes, this sentence was written by me at the time.

Q. "In the Fuehrer Headquarters when introduced to his duties before he took up his new duties, the Military Commander Southeast was expressly asked to keep to this order as emphasized already. The

new Military Commander Southeast took up his duties with an attitude which contravened such retaliation measures, and a special case, during the first weeks, gave an opportunity to put these views to a test." Are these then your statements?

A. Yes.

DR. LATERNSE: Dr. Laternser, Your Honor, it is again my duty to object to this question.

PRESIDING JUDGE CARTER: Overruled.

MR. RAPP: I quote from Page 23 and want to ask you at the end of my quotation whether this is what you deposed. "The Supreme Directive of the Military Commander Southeast, who was aware of his enormous responsibility just in this field, it has always been to lead the struggle in a soldierly and humane manner and that was taking over responsibility in the Serbian area. Through the newly organized Military Commander Southeast a thorough change in the execution of retaliation measures would take place. The implementation of the Hitler quota, retaliation measures was, in spite of knowing that we would thus deviate from the Fuehrer order from the collectives. This was now taken over by a purely soldierly and German procedure. Many lives may thus have been saved." Witness, are these your depositions?

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A. Yes.

Q. And you remember that you talked your position as Military Commander Southeast. Why, in your capacity as Military Commander Southeast, did you have influence on the way and manner of the retaliation measures when, is as you said this afternoon, the Military Commanders were not subordinate to you in this respect?

DR. LATERNSE: Dr. Laternser, Your Honor, I also object to this question. That is a suggestive question which is not admissible in his direct examination.

PRESIDING JUDGE CARTER: You may answer the question.

MR. RAPP: You may answer the question.

A. I did write this formula at the time, clearly recognizing that it merely concerned the activity of the commanders in the Serbian area. And this formula, I did not want to have the conditions in Greece and Albania included. In order to put it quite clearly it only concerned what happened to Serbia in this formula.

PRESIDING JUDGE CARTER: We will recess until 9:30 tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until 9:30 tomorrow morning.

(THE COURT RECESSED AT 1630, to RESUME SESSION TUESDAY, 12 August 1947, at 0930)

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Official Transcript of the American Military Tribunal in the matter of the United States of America vs. Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 12 August 1947, 0930-1630, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V. Military Tribunal V is not in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

May it please your Honors, all defendants are present in the Courtroom.

The persons in the courtroom will be seated.

PRESIDENT WENNERSTRUM: You may proceed, Mr. Rapp.

MR. RAPP: Thank you, Your Honor.

HANS GUSTAV FELBER - Resumed DIRECT EXAMINATION (Continued) BY MR. RAPP:

Q. Witness, yesterday during the examination you were asked whether you had at any time ordered that the able-bodied population or a number of the able-bodied population in Serbia, had been transported to Germany on your orders, for forced labor. Witness, thereupon, if I remember rightly, you answered that it did not conform with the facts since you yourself wanted this kind of population as a cultural worker for harvest and for any other kind of agricultural or industrial work, -- that you wanted this part of the population. Is that right, witness?

A. Yes, indeed.

MR. RAPP: Your Honors, if you permit, I would like to call your attention to Document Book No. 18, at this time, please. I am referring to [NOKW 717](#), Exhibit 435, I believe it is on page 22 of the English, page 26 of the German document book. If your Honors permit, I would like now to ask the assistant secretary general to hand me the original of this exhibit.

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I am referring to, so that I may show this exhibit to the witness. Is this agreeable, your Honors?

PRESIDENT WENNERSTRUM: It may be handed to the prosecutor.

MR. RAPP: I have asked the assistant Secretary General very early this morning to be sure that we have the original exhibits here. I do now know whether or not they have arrived as yet.

SECRETARY GENERAL: The Courier is on his way, Sir.

MR. RAPP: Shall I go on, your Honor, to the next question, and we can come back as soon as the exhibit has arrived?

PRESIDENT WENNERSTRUM: If you will, please.

MR. RAPP: In order to save time.

Q. Witness, yesterday you were asked whether there had been so-called "hostages camps" in Serbia, and I believe that you answered: "During my time I did not know anything of a hostage camp". Is that correct?

A. Yes, with the qualification that a collective camp of the higher SS and Police Leader in Croatia was supposed to have been in Semlin as I was told by people, but personally I did not know anything about it.

Q. If your Honors please, I refer you to document book 17, - this is [NOKW 174](#), Exhibit 410, your Honors will find this on page 55, I believe, and German defense counsel on page 41. There again, with your Honors' permission, I would like to put the original exhibit to the witness as soon as it arrives.

PRESIDENT WENNERSTRUM: You may do so. Will you give the page again?

MR. RAPP: Page 55 of the English, your Honor, [NOKW 174](#), Exhibit 410.

PRESIDENT WENNERSTRUM: You may proceed.

MR. RAPP: I believe the original exhibits have arrived. The first exhibit, Assistant Secretary General, I need, would be Exhibit 535.

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Q. Witness, coming back in detail to your statement yesterday, I want to read that part of the document of which we are talking, and I am reading this in English and would ask the Court interpreter to translate this, because I have the English document book in front of me.

"During the operation in Belgrade", I am citing from page 22, your Honor, "against these who broke their work contract, 86 persons were arrested and transferred for labor employment to the Reich."

Witness, did you read this in the document yourself?

DR. LATERNER: I must object to this translation. I would like to ask that the original German text be translated which reads as follows:

"Bei Aktionen in Belgrad gegen Arbeitsvertragsbruechige wurden 86 Personen festgenommen, die dem Arbeitseinsatz im Reich zugefuehrt worden."

I would now ask for a new English translation.

PRESIDENT WENNERSTRUM: It may be handed to the translators. I do not see what way it particularly affects the witness here.

TRANSLATOR JACOBSON: The translation of this paragraph which is on page 22 of the English document book, and just below the center reads as follows:

"During the operation in Belgrade, against those who broke their work agreement, 86 persons were arrested and will be transferred for labor employment to the Reich."

DIRECT EXAMINATION BY MR. RAPP: (Continued) Witness, was this document which I have just show to you, signed by you?

A. No, this was not signed by me, and was not initialed by me either. I might be possible, therefore, that I never had any knowledge of it personally.

Q. Who has signed this document, witness?

A. The chief of the General Staff, Colonel von Geitner has signed it.

Page 1,740

Q. This was your chief?

A. Yes.

Page 1,741

BY MR. RAPP:

Q. Have you got any other explanations to this document?

A. May I say something to the concept of "people who break their work agreements?"

Q. Witness, I don't want to interrupt you, and I don't want to deprive you of the right to go on. Now, it is a question whether these people were transported to Germany for labor employment or not.

Yesterday you told us no. What is your answer today, witness?

A. I could only find an interpretation that here it was a case of people who in their work in Serbia were not of sufficient value, and it may be that as a kind of punishment, since they did not want to work in Serbia, they were sent to Germany. I believe that in this case here it is an exception to the procedure.

Q. Thank you. Your Honors, the next question and document to be put to the witness is Exhibit No. 410, Document Book 17, Page 55-page 41 in the German Document Book. Page 55, Document book 17, Exhibit 410. This is the question the witness already answered that he did not know of any hostage camp in Serbia, with the possible exception of the hostage camp in Croatia which he heard about from the Higher SS and Police leader, which was supposed to have been in Croatia.

(MR. RAPP HANDS DOCUMENT TO THE WITNESS) I read from the document:

"As revenge for the surprise attack on the village of Duplja west of Weisskirchen on 30 Aug 43, in which 3 Volksdeutsche members of the Banat State Guard and one community official were murdered and the community records were set on fire, 160 communist reprisal prisoners are to be shot. The utilization of the bandit members confined in the Gross-Betschkerek hostage camp for execution and of women, so far as they are convicted bandit helpers, is approved. Completion of the action is to be reported by enclosure of one copy of the publication. Military Commander Southeast, Ia No. *4/43, sgd. Felber." Witness, do you know about this exhibit?

Page 1,742

A. It is a document which is not counter-signed by me personally, nor is it signed by me, it only bears my signed signature. It might be possible that I had no knowledge of this document personally. In any case it cannot serve as proof. Personally I don't know anything of this hostage camp Gross-Betschkerek.

Q. Where is Gross-Betschkerek?

A. Gross-Betschkerek is situated in the Banat.

Q. I mean is it in Croatia or in Serbia?

A. No, it is a camp. That is, if Gross-Betschkerek is in the Banat, it is in Serbia.

Q. Who was the Chief of the Airway Headquarters? That is, the Commander of the Airway Headquarters in Gross-Betschkerek?

A. I believe his name was Captain Ameluneu.

Q. Weren't you personally?

A. No, it was not me.

Q. Now, what does "signed Felber" mean?

A. From time to time orders were issued which had been reported orally which, however, I could not sign personally because I was, at the time the orders was issued, officially on duty somewhere else. It has also happened that such orders were issued by my deputy, of which I gained knowledge later on. Occasionally, in the course of business, he had forgotten to tell me about it. Generally speaking, however, the order with a signed signature equivalent was an order signed by me personally. The responsibility of the whole duties in my staff I also bear, as Commander in Chief.

Q. Witness, I asked you yesterday what kind of methods were used in order to actually test that the hostages taken were so-called Communists. Do you remember this question?

A. Yes.

Q. Your answer, as far as I recollect was this: "We had no possibility for doing this because the staff of the Higher SS and Police Leader never showed their cards."

Page 1,743

Is that right?

A. Yes.

Q. And you told us in connection with this: that "This situation from the autumn of 1943 onwards changed, "and I asked you then how hostages were taken after the autumn of 1943. And you told me "The taking of hostages took place even then only through the Higher SS and Police Leader." And then you related a story which took place in October, 1943 where you got wind of the tricks of the deputy of the Higher SS and Police Leader. Is that correct, witness?

A. Yes.

Q. If Your Honors please, we will refer to Document Book 17, NOKW-162, Exhibit No. 412 and [NOKW-174](#), Exhibit No. 410 of Document Book 17. The first exhibit, your Honors, will be found on Page 60 of your document book. The second reference will be found on Page 56 of your document book. German defense counsel, the first reference is on page 46 of your document book; the second reference, I believe, is on page 42 of your document book. I shall read from [NOKW-162](#), Exhibit No. 412, on page 60: "Danube Security Staff, For Information: Administrative Sub-Area Headquarters 809. Arrests of suspects from Petrovo Selo as hostages approved up to 50. Only such persons may be arrested who, if necessary, may be shot to death also. Safekeeping must be guaranteed. The liability of the hostages is to be announced publicly. Military Commander Southeast, Ia, No. 228/43 secret of 18.10.43, (signed) Felber." Witness, did you sign this document?

A. Yes, it bears my signature.

Q. Would you like to give an explanation to this document?

A. I can remember looking at this document about the taking of hostages at this place even in October 1943, and they were carried out by departments subordinate to me. That is, not only by the Police Leader. It is not a case of Communists but of hostages generally. I did not remember this fact.

Page 1,744

Q. Witness, I asked you further yesterday in what manner executions ordered by you were carried out. You said the execution took place by a directive given to the Higher Police and SS Leader, the troops, at least in the Serbian area, did not take part in any carrying out of retaliation measures. You do not know then, witness, how the execution was in fact carried out?

A. No.

Q. Meissner, who was otherwise very open, he knew how to hide this very discreetly?

A. Yes.

Q. Can you remember these questions and answers?

A. Yes.

Your Honors, please turn first to Document Book XVII. I have references which I would like to put to the witness. This first one is NOKW 174, on page 53; it is page 39 in German; Exhibit 410. That is Document Book XVII, your Honors. The next reference is [NOKW-044](#), Document Book XVII; Exhibit 418; that is page 102; it is on pages 73 and 74 in German. Then [NOKW 675](#); Exhibit 429; Document Book XVIII. Your Honors will find it on page 7 of the Document Book, Defense Counsel on page 8. The first document is Exhibit 429. I shall read the paragraph I have reference to:

"Page 4 of the original). War Diary, Military Commander Southeast, Chief Ia, 1-30th April 1944:

"The hanging of the convicted bandit Jaksic in Losnica applied for by the Feldkommandantur 816 Administrative Sub Area Headquarters-----"

It is in the German Document Book No. XVIII, on page 8, 9 and 10. The part I am quoting is actually on page 10. Did the interpreter find that? Thank you. I will repeat this for the record, Your Honors.

"The hanging of the convicted bandit Jaksic in Losnica applied for by the Feldkommandantur 816 Administrative Sub Area Headquarters is approved. The population is to be informed in a proper manner of the reason for the execution."

Page 1,745

Q. Witness, do you recognize this document?

A. This document is not known to me. It seems to be an excerpt from the war diary and in any case I cannot remember to have had knowledge of these two occurrences.

Q. Have you got anything to add to what you said about this document?

A. Yes, I would think that in this special case where a bandit was clearly proven to be guilty as an especial exception the Administrative Sub Area Headquarters had asked for his execution in order to cause a corresponding impression in the population. It appeared in any case that there could have been no question of retaliation measures in the collective sense and likewise I can explain the second case of the second Sub Area Headquarters as an exceptional case concerning Mihajlovic, people who by this burning of their houses or of those people who participated in the attack, one made use of these people if the sub-marine pistol loss was not too great.

Q. You were Military Commander Southeast at that time. Is that correct?

A. Until April I was in Belgrade.

Q. Witness, were you, during that time, Military Commander Southeast?

A. Yes.

The next document, your Honor, will be [NOKW 174](#) on page 53 of your document book; on pages 38 and 39 of the German Document Book and this is Document Book XVII, your Honor. The Exhibit number is 410. I shall read this document I am having reference to.

"To: 610th Administrative Sub-Area Headquarters:

Reference: Your teletype of 31 August 1943.

"400 D.M. reprisal prisoners are to be shot as revenge for the surprise attack on the security detachment of the 21st Auxiliary Police Company in Stragari, in which 3 members of the company were killed and 5 missing who did not return after expiration of the established time period. Reprisal prisoners lacking are to be furnished by the Commander of the Security Police.

Page 1,746

"The burning down of Stragari as a reprisal measure is to be reported in the proclamation.

"Completion of the action is to be reported.

Military Commander Southeast.

Signed Felber."

Q. Witness, do you recognize this exhibit?

A. Yes. It bears my initial.

Q. What have you got to say in connection with this exhibit?

A. The incident in itself I cannot recall. The case of an occurrence which took place on the third day of my presence in the Balkans. At that time I was not in a position to look through all these things during those first days there. In any case the contents of this order contradicts my views on these matters.

Q. Witness, you know that we are talking specifically about the manner in which retaliation measures were carried out and you told us yesterday that you did not know that, since this was a matter for the higher SS and police leader. I am talking here not specifically of the ratio which has been used here. Do you understand me, witness?

A. Yes.

Your Honors, turn now please to page 102, Exhibit 418, [NOKW-044](#); it is on pages 73 and 74 of the German Document Book.

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MR. RAPP: Your Honor, this is a rather voluminous German document, and I am trying to find for the witness the part I have reference to, and I beg Your Honors' indulgence for one minute, possibly.

THE PRESIDENT: Take your time.

MR. RAPP: I am having reference to the daily report under the 22nd November 1943. Do the interpreters have the reference on pages 73 and 74 of the German? Thank you.

This is a copy of a teletype, Military Commander Southeast, dated 22.11.43, Daily report 22.11.43, Serbia.

"According to Serbian sources no signs of DM and circles close to him breaking with the allies are recognizable. The continuous attacks on German Wehrmacht automobiles on the main road northwest of Kragujevac are carried out by Cetnik band which wishes to force the release of band members captured by the Serbian Volunteer Corps. These will be hanged on the spot in the course of reprisal measures."

Q Witness, during this time which appears here in this document, the date, were you at this time Military Commander Southeast?

A Yes, in November I was Military Commander Southeast.

Q Just a minute, Witness, and how long had you been Military Commander Southeast at that date?

A Three months.

Q Now, what can you tell us in connection with this document?

A I recall, this incident, I believe, this section here was part of a road, a main road from Belgrade-Nish to Greece, where again and again at the same spot in certain periods surprise attacks on motor cars, and bandits of the Wehrmacht took place, and I believe it is possible that here in order to make an example, DM bandits were in fact hanged at this spot, but this can only have been an exception. Personally, details regarding this case are not known to me.

Q Witness, on the basis of the exhibits which you have now seen, the Military Commander Southeast was informed about the methods regarding the carrying out of the executions, is that correct?

Page 1,748

A Yes. Yesterday I understood the question differently. I took it to mean whether we were informed especially in regard to the execution in detail of the liquidation by the SS and Police Leader, whether we had a detailed picture of this.

Q Thank you, witness. The next complex of questions refers to the burning down of houses or communities. I asked you yesterday, did you at any time order the burning down of houses as a retaliation measure, and you told us that as soon as you arrived in Belgrade a request for retaliation measures had been submitted to you by the Higher SS and police leader, 800 hostages were to be executed and a village was to be burned down, and you were successful, according to your statement in preventing this. You thought it possible, however, that within the area of the Bulgarian units occasionally houses could have been burned down; but you did not know whether in connection with other units houses were burned down or whether houses were burned down after the threatened burning down, but prevented by you. Witness, is that correct, what I am repeating here?

A Yes, only I don't quite understand the last sentence.

Q You said yesterday, didn't you, that you were in a position to prevent a mass execution and the burning down of villages, is that correct, Witness? You then said -- would you like to speak a bit louder, witness. What did you say? I asked you in my question, which the interpreter probably missed, whether it is correct you prevented these mass executions which comprised the burning down of a village?

A Yes.

Q And you then said whether later on, that is after this date, burning down of houses took place here and there I cannot say; is that correct, witness?

A Yes.

Q But especially within the sector of the Bulgarian units I believe it is possible, is that correct, witness?

Page 1,749

A Yes.

MR. RAPP: If Your Honors will turn please to Document Book 17, NOKW 170, Exhibit 414, Your Honors will find on page 63, and German Defense Counsel on page 48, -

JUDGE BURKE: Are you referring to NOKW Document 17 or 174?

MR. RAPP: 170, Your Honor, one seven zero.

I shall read the part I have reference to. Do the interpreters have the German pagination?

"Propaganda Section Southeast." I beg your pardon, that is on the other page, Your Honor.

This one is the 3rd Kommandantur 610, 24481.

"The murder of two customs border police near Selac has been compensated for by the operation of the 6th Auxiliary Police Battalion on the 19th and 20th, October 1943, in which 7 Serbian villages were burned down and a considerable number of persons shot to death. The result of the operation is to be published in a direct reprisal measure for the murder of two German customs border police.

Military Commander Southeast."

signed "Felber."

Q Witness, were you at that time Military Commander Southeast?

A Yes.

Page 1,750

Q What do you have to say in connection with this document?

A I read from this document that this is a case of spontaneous action by the auxiliary battalion of the police, that is, units of Meissner's. It is not quite clear, perhaps in battle persons were shot during this action and even sever Serbian villages were burned down or were supposed to be burned down. I believe from this term "abgegolten", that I looked upon this case as concluded, and did not continence any other reprisal demands within the framework of the collective order, since the last paragraph especially points to a retaliation measure which had already taken place. May I add in explanation that at that time -- that is, the 27th of October, 1943 -- a considerable battle took place between the Police Leader and Himmler on the one hand and my person on the other hand.

Q Thank you, witness.

MR. RAPP: If your Honors please, I would like to refer you now again to Exhibit 410 in Document Book XVII which we had used previously for a different purpose. It is to be found on Page 54 of Book XVII, Exhibit 410, and Page 440 in the German Document Book XVII.

At this time, your Honors, I am reading again this document into the record for the purpose of establishing the burning down of the village mentioned in this particular connection. Previously, we concerned ourselves in connection with this order with the shooting of 450 Communist suspects. I shall only read that part which has direct bearing on the particular question:

"To 909th Administrative Sub-Area Headquarters, For information of the 1st Royal Bulgarian Occupational Corps, 2nd Panzer Army," also "For Information of 2nd Panzer Army:"

"A total of 450 Communist suspects are to be shot and one bandit village is to be burned down after safeguarding of the economic goods for the surprise attack on the German Harvesting Detachment, etc."
Signed: "Military Commander Felber."

Page 1,751

BY MR. RAPP:

Q Witness, I believe we submitted this document to you previously in connection with the shooting of 450 Communists. Now, I shall refer to the burning down of this village. Do you understand me, witness?

A Yes.

Q Have you anything to say to this document as far as it concerns itself with the burning down of a village?

A Yes, I cannot recall this burning down of the village. It is apparently a measure which took place on the 2nd of September. That is three days after I took over the command.

Q Witness, the next complex question concerns itself with the so-called "executive authority", I asked you yesterday "In which territories did you have executive authority," and you answered: "Regarding the concept of executive authority, I had no clear view; from Army Group H at the end of September I got the executive authority for Serbia."

You stated that the concept of executive authority was not very suitable for the Southeastern area. My sphere of work coincided with that of Army Group F, speaking purely geographically. There was no organization as is usual in other cases into the battle area and the rear area -- everything was an operational area.

I then asked you whether I understood you correctly in this respect, that neither you nor the Supreme Commander of the Army Group F, the defendant Weichs, had executive authority until September 1944. You said this did apply insofar as you knew, that this was not expressly ordered by the OKW.

Thereupon I asked you, summarizing, whether the situation did at any time change concerning the executive authority before September 1944 and your answer was "No."

Was what I have said just now correct, witness, as far as it refers to our examination yesterday?

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A Yes.

MR. RAPP: If Your Honors permit, I would like now to refer to a series of documents and the first one, your Honors, Document Book 17, is [NOKW-1471](#), Exhibit 423, page 124. I would like to pause for one second, your Honors, and try to help defense counsel find this particular document. This is the

document I gave Dr. Laternser one day and asked him to be so kind and distribute it to you gentlemen so I don't have any pagination of that particular document in German, but it should follow the very last page of the German document book No. XVII; that is, it should commence with page 89 in the German.

Is that correct, Dr. Laternser?

Thank you.

The next documents, your Honors, I have reference to is Exhibit 423 of Document Book XVII. You will find this, your Honors, on page 123 --in defense counsel's on page 89; and then, finally Exhibit 297, [NOKW-1523](#) in Document Book XII. I do not believe your Honors probably have Book XII present but we will use the exhibit from the assistant secretary general. That was Exhibit 297, [NOKW-1523](#), Page 75 in the English and Page 66 in the German.

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The first document I have reference to, your Honors, is Document 1471, Exhibit 423, page 124. I do not know the German pagination. I am quoting from page 84 of the original. I believe you will find that in the German Document Book it says, "Page 84" of the original. Now I shall only quote one paragraph from this particular Fuehrer order. It is from the OKW, that is, the High Command of the Armed Forces, dated 21 December 1943, Top Secret, Standard Order of Procedure for Military Commander Greece, and it says, under paragraph 2, your Honors:

"Military Commander Greece exercises, by order of Military Commander Southeast, executive power in Greece, including the part occupied by Bulgarian troops so far as he has been authorized to do so."

Q.- Witness, were you at that date, when this executive order was issued Military Commander Southeast?

A.- Yes, I was.

Q.- Can you give us some explanation to this letter?

A.- I remember that these official directives which on our suggestion at the beginning of September, -- our suggestion was at the beginning of September, -- were issued by the High Command of the Armed Forces at the end of December. The contents regarding the figure 2 mentioned here, are not within my recollection. It is so rarely that executive power is ordered so clearly, that I cannot really understand, in my recollection, why only in September, 1944, were we expressly given the executive power by the Army Group for Serbia.

Q.- Witness, did you at any time during your tenure of office as Military Commander Southeast, --did you see this or a similar order at that time?

A.- I can only remember that these official directives were issued to all subordinate commanders, but I cannot recall the contents in detail today.

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Q.- Thank you very much, witness.

The next document, your Honors, I have reference to is Exhibit 297. It is in Document Book 12, it is [NOKW-1523](#), and it is called, "Fuehrer Order No. 48". It is dated 26 July 1943. It starts out on page 75 of the English and on page 66 in the German, in Document Book 12. I shall cite however, only that part appearing on page 80 in the English and page 71 in the German.

I would like to give the witness one moment to read this, if Your Honors permit.

I shall now read the part I am having particular reference to. It is a so-called, "Fuehrer Order," marked "Top Secret", OKW Wehrmachtsfuehrungsstab, Operation No. 66, 1637/43, Top Secret, by officer only:

"Fuehrer Headquarters 26 July '43. Directive No. 48". I cite from paragraph B-1, on page 80:

"In the zone of operation in Serbia and Croatia, Commander in Chief Southeast delegates the authority rested in him to exercise executive power to military commander southeast, the latter employing for this purpose in Croatia the Commander of German Troops in Croatia."

A.- For this particular question, only this part will be necessary to quote at this time.

BY MR. RAPP:

Q.- Witness, has this letter been known to you?

A.- I found it when I took over my duties.

Q.- It was only a few days prior to your assuming your duties?

A.- No, according to the date it must have been about a month prior to that.

Q.- What can you tell us in connection with this Fuehrer order, so far as it concerns executive power which, in your view, or according to your statement, after September, 1944, did not at all exist?

A.- In this Fuehrer order, executive power has clearly been ordered but to the Commander in Chief Southeast. If in July already mention is made of the Military Commander Southeast, who was to us in Croatia, the Commander of the German troops, that is an order which in practice, at least, was not carried out.

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I recall also that the last sentence of this Fuehrer directive, that the regulations were cancelled which were in contrast to this Fuehrer directive. As we found out later, it did not apply to the area of the Higher Police and SS leader, who as heretofore - the directives concerning his area of command, in agreement with Himmler, which we expressly ascertained - he carried out these orders. How clearly this executive power was ordered, I cannot recall today.

Q.- Thank you, witness.

If I may suggest to your Honors to call the recess now, then we won't get the question and answers split between now and adjournment.

PRESIDENT WENNERSTRUM: Very well, we will have our morning recess at this time.

(A recess was taken until 1115 hours.)

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Q. Just a minute, witness. This is the "Commander-in-Chief Southeast.

(High Command Group F) War Diary Headquarters 30.10.43." (Signed by the defendant Foertsch).

"To distribution:

"Enclosed find draft of the basic order regarding the command authority in the South east area."

And, then a distribution, and I believe the witness may possibly be in a position to make some comments to the entire document having direct bearing on the question I have put to him. Witness, will you now please give us your comment.

A. I did not know of the existence of this. I may have known of the existence of this document from looking at extracts but the distribution does not show my office. The order itself contains clear definitions about the relationship, the subordination which I cannot recollect having so clear an order in existence.

Q. Is that all, witness?

A. Will, the individual items be discussed?

Q. No, witness, now. If you have to make any comments to this make them now.

A. In that case I would like to point out that in this order under Figure 2, under paragraph "e", the Military Commander Southeast regarding all questions of security of the country is subordinate to the Military Supreme Commander Southeast.

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THE MARSHAL: The Tribunal is again in session.

MR. RAPP: The next document we concern ourselves with Exhibit 351, [NOKW 1010](#), Document Book XIV, page 89; that is page 65 in the German Document Book.

Q. Witness, I asked you yesterday, what, in your opinion as a military commander Southeast, was the difference of your official instructions and the official instructions of the then Field Marshal Weichs, Supreme Commander of Army Group F, as much as you know of it, in your capacity as Military Commander Southeast, in your official capacity. You said the Supreme Commander Southeast was responsible for the the whole military area of the Southeastern theatre, and "my responsibility was limited primarily to especially the security and the maintenance of law and order; secondly to the administrative work in the Southeastern area." Is that correct, witness?

A. Yes.

Q. Please, read that for about a minute or so.

Q. Did you have enough time now to look through this document?

A. Please, your Honor, May I have another moment.

Q. Yes, go ahead.

THE PRESIDENT: I believe the witness is ready.

Q. Witness, in connection with your statement yesterday and what you now read, is there anything you have to say and I'd like to point out to you specifically the following paragraph which I am about to read to you so that if it is possible, and if you can do it, you can give us explanations on this.

Q. May I---

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MR. RAPP: If your Honors will refer now please to Document Book 18 there was a document offered for identification only on page 91. It was marked as Exhibit 440-A. It is [NOKW-611](#). This is an affidavit from the witness Felber, and in connection with the previous question I have asked the witness, I am now handing him this affidavit to ask him some further questions in regard to the statement he made at that time in this affidavit.

DR. LATERNSEER: Your Honor, I object to the intention of the Prosecution to give this affidavit to that witness. I remember that the Tribunal ruled yesterday, subsequent to my objection that it should not be shown to the witness.

THE PRESIDENT: I think, Dr. Laternser, you must be in error as to the Court holding it should not be handed to the witness. The Tribunal has not objected to it being handed to the witness or the witness examining it, and under the ruling of yesterday did restrict it to such questions as would come within the rulings as made yesterday, otherwise the witness would not know what was in the document.

DR. LATERNSEER: Your Honor, that is just what matters, what the witness knows and what he doesn't know, and I repeatedly pointed out yesterday that what matters about a witness is the knowledge which he possesses the moment he enters the Court, and that in the direct examination it is a legal basis not to invalidate the probative value of the testimony of the witness, and it should not be possible for him to refresh his memory. Up to now I have taken the rulings of the Anglo-Saxon law as to this, and I don't think I am in error.

THE PRESIDENT: I think the witness perhaps should be asked as to whether or not he did make such a statement and then he may be questioned. The Tribunal is following the thought that this is being presented to the witness for the purpose of refreshing his memory, and is being permitted to be interrogated solely upon that theory.

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DR. LATERNSEER: Your Honor, may I point out something else. I have no objections as defense counsel that evidence which has already been introduced into these proceedings as exhibits, that those exhibits may be shown to the witness. However, these statements are not yet evidence, and they will never be evidence, because they are statements on a witness who is personally present here. An affidavit of a witness is merely in the shadow of the witness himself, and the value of such an affidavit is dependent on the value of the witness. If the witness does not possess the knowledge any longer at the moment when he is present in Court, and this is evident from questioning, then I cannot strengthen this knowledge in the direct examination, -- I mean if I submit to him explanations and statements which he made a lengthy period ago that does not apply to exhibits which are already received in evidence, but it does apply to evidence which has not yet been received as evidence, and in an observation of the rules of law can never be evidence.

THE PRESIDENT: The Tribunal has indicated its attitude in this matter, and we will proceed along the lines as heretofore stated by myself and as in keeping with the rulings made by Judge Carter yesterday.

You may proceed Mr. Rapp.

MR. RAPP: Very well, Your Honor.

Q.- Witness, this document, is that an affidavit which you made?

A.- Yes, indeed.

Q.- Does it bear your own signature?

A.- Yes, indeed.

Q.- What is the date of the affidavit, witness?

A.- The 8th of January 1947.

Q.- Witness, I would like to ask you merely one question in connection with this affidavit, a question which again concerns your statement of yesterday, that the Commander in Chief Southeast is responsible for the total area of the Southeastern Theatre, and that your task within this as Southeastern area was limited to the security and maintenance of law and order, and furthermore on the administrative work in the Southeastern area.

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In your affidavit in January you said "In order to end this unhappy situation a new order was issued in August 1941. The entire control in this area was transferred to the Commander in Chief Southeast, who at the same time is commander in Chief of Army Group F. His main task was of a tactical and strategical nature, that is he had to pacify the Southeast and guarantee for the security of the whole Southeastern area. At the same time a military Commander Southeast was appointed, whose task it was to look after all administration affairs in this area." Witness, your statement now and your testimony of yesterday does not coincide to my opinion; can you make any comments as to this fact?

A.- I am just reading from this affidavit, that it was expressed there whose task it was to deal with all administration affairs. One might assume from this that could be expressed that the Military Commander Southeast had only administrative tasks. However, that would not correspond with the facts. I have repeatedly emphasized that my main task was on the tactical and military sphere, and the security and maintenance of law, and in the Balkan area. My department was mainly concerned with the area of Serbia.

Q.- Witness, who was responsible for the territorial security of the Southeastern area?

A.- I cannot give a clear answer to this because down there in Belgrade we were unfortunately not aware of a clear definition of those authorities. Purely on the basis of orders the territorial measures are a part of the task of the military commander. However, as I previously emphasized the territorial area and operational area geographically coincided. It could be taken from that fact a mixture of the tasks and the responsibility was shared by the Commander in Chief Southeast and the Military Commander Southeast.

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Q What is territorial security, witness?

A I understand territorial security is the task to secure the area which is under my jurisdiction and not only against the enemy from outside but also to be responsible for law and order within this particular area.

Q Witness, the last but one page of this affidavit which you have in front of you is an additional explanation to your affidavit. Is that correct, witness?

A If I understood you correctly, you mean the annex to the affidavit?

Q That is correct, the first page of that.

A Yes, indeed. That is an additional explanation.

Q Would you please take a minute and read this?

A I am through.

MR. RAPP: Your Honors, I am referring to page 99 of your document book, page 98 in the German. The witness Felber, under the date of 9 January 1947, has given the following addition to his affidavit of the same date. In my opinion -

THE PRESIDENT: Do you propose to read this supplement?

MR. RAPP: Your Honor, I am not proposing to read this. I am merely trying to cite the paragraph, for the Court's information, that I am having reference to in order to avoid to get into long questions which in itself would have no meaning unless we get the background first. I am reading, in other words, for the record only, not for the purpose of getting it as such admitted into evidence.

THE PRESIDENT: It seems to me if you have a desire or if it is your purpose to refresh this witness' memory on something that he failed to comment upon that you might do that; but to read it into the record would violate the previous instructions of this Court and, in our opinion, the rules in connection with matters of this character. Now, with that I feel you should limit your questions and your examination of this witness in this particular document.

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MR. RAPP: Very well, Your Honor.

Q Witness, at that time you said in your affidavit that the official instruction of the Commander in Chief of Army Group F, as far as it concerned tactical questions, they coincided with your own instructions. What is your comment to this today?

DR. LATERNSEER: I object to the question. This question is a leading question which is not admissible.

THE PRESIDENT: The objection is sustained.

Q Witness, did you on the 8th of January, 1947, make an additional explanation to your affidavit of the same date?

DR. LATERNSEER: I object. That again is a leading question - not admissible.

THE PRESIDENT: I think the prosecutor should be permitted to complete his question and then the Court will be able to rule more fittingly.

Q Did you make this statement and sign it in your own signature?

A Yes.

Q Is that this same affidavit which you now have in front of you, witness?

A Yes.

Q On the 8th of January, 1947, in connection with this statement, you stated under oath that, in your opinion, the official instructions of the Commander in Chief of Army Group F coincided with your official instructions, as far as they concerned tactical matters.

DR. LATERNSEER: I object to this question, Your Honors. That again quite obviously is a leading question. The prosecutor might possibly ask, "What did you testify to on the 8th of January?" but he cannot ask, "Did you state certain matters?" I, therefore, ask not to admit the question which has just been put.

THE PRESIDENT: The question undoubtedly is of a preliminary nature and the witness may answer it.

MR. RAPP: Very well, Your Honor.

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Q Witness, will you answer?

A I have already answered the question as "Yes." I may clarify this by saying that the expression, "tactical matters", does not perhaps fully apply but I thought more of tactical military questions. That is not purely combat matters but tactical military matters.

Q Are matters, say for instance, levying of hostages or the ordering of retaliation measures, the security of supply columns on roads or railroads - are those tactical questions? Witness, did you understand my question?

A Yes. Maybe the levying of hostages cannot be counted into this sphere but merely the retaliation measure in the carrying out, if it concerns a large execution.

Q Witness, I don't quite understand that. Would you make it a little clearer?

A You asked -- it was asked whether most of the measures of levying of hostages were discussed. However, these were such details that they were merely outlined and were only in outline brought to the knowledge of the leadership of the Army.

Q Witness, I don't think you understood my question properly. I asked you merely whether matters which I have just named were matters of a tactical nature. There was no question of discussions with the Army Group. Other matters you were not asked about.

A I am sorry, I misunderstood that.

DR. LATERNER: I object to the question. This does not concern a question of the witness which concerns facts. That is an expert question.

THE PRESIDENT: You may answer it.

A I should like to answer the question with "Yes."

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[NOKW 1304](#) is being marked for identification only as 440-A2.

DR. LATERNER: Your Honor, apart from the fact that as I previously submitted, - I do not think it admissible to submit an affidavit of a witness who is personally present, I repeat that I do not think it is legal to submit affidavits of a witness who is present in person. In this particular case I have to point out the period of 24 hours which is supposed to expire before a document is introduced I would like to draw the attention of the court to the fact that the prosecution said before that they would make an exception with documents to be used for cross-examination.

This witness, however, is not under cross-examination. The 24-hour notice will have to be kept. I do not like to call your attention to this space of time, but in this case I have to do it because in any case I do not think the introduction of this affidavit is legal. I therefore ask that the document is at least not admissible concerning the notice period which has not lapsed.

MR. RAPP: Your Honors, as a matter of fact, this document to be marked as an exhibit is to be used for purposes of cross-examination inasmuch as we are trying to impeach the witness. There are statements of inconsistency which the witness has made before the court, and which he has made previously.

DR. LATERNSE: Your Honors, I did not understand that correctly. Maybe I did not hear it correctly. I have never in my life experienced that one wanted to discredit one's own evidence. If the prosecution intends to do that, I do not understand it. Above all, I do not understand in that case why they called this witness as a prosecution witness.

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PRESIDENT WENNERSTRUM: In the first place, this witness is called as a prosecution witness, and this Tribunal does not feel that you can impeach your own witness. We have endeavored repeatedly to advise the prosecution as to the manner in which these statements may be used for the purpose of recollecting, advising the witness, and causing him to recollect as to certain statements. The procedure has not been followed and unless it is, why we will have to proceed along some other line, - to something along some other line.

MR. RAPP: Very well, your Honor.

PRESIDENT WENNERSTRUM: The discrepancies, if any, will have to be pointed out first before we can even recognize the matters to which you have referred.

MR. RAPP: Very well, your Honor.

I would just like to ask the Court whether or not Document [NOKW 1304](#) can be submitted for identification only, with the designated number as suggested.

PRESIDENT WENNERSTRUM: There is no objection to that for the record, but there is a ruling that it is not to be considered as admitted in evidence in any degree.

MR. RAPP: That is correct, your Honor. We fully understand that.

PRESIDENT WENNERSTRUM: The German counsels are not hearing this proceeding.

Are you hearing it now.

(German counsel signified that they were.)

BY MR. RAPP: Witness, did you on the 15th of May;

DR. LATERNSE: Your Honor-

MR. RAPP: Your Honor, I believe Dr. Laternser can't read my mind about the question I would like to ask the witness.

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PRESIDENT WENNERSTRUM: I think, Dr. Laternser, if you will kindly wait until he finishes his question. Remain right there and then we will save a little time perhaps.

BY MR. RAPP:

Q. Witness, did you on the 15th of May, 1947, in connection with an affidavit, - did you state that you took full responsibility of--recognition of the fullest responsibility for what you ordered?

A. Yes.

DR. LATERNSEER: I object to the question. It is a leading question which is not admissible.

PRESIDENT WENNERSTRUM: The witness may answer.

A. My answer to the question was, "yes".

Q. Witness, did you on the same day further state, under oath, that the then Commander-in-Chief of Army Group F, the defendant von Weichs, with whom you worked closely together, was completely informed about all orders which you issued?

A. I cannot recollect that clearly, whether I made that statement in this exact formulation.

DR. LATERNSEER: Your Honor, if ever there has been put a leading question that was it. I object.

JUSTICE CARTER: Mr. Rapp, evidently you are trying to show some statements in these affidavits that are in conflict with what he testified to orally

MR. RAPP: That is correct, your Honor.

JUSTICE CARTER: So far as I can see, none of those conflicts are important to the guilt or innocence of these defendants.

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They do not bear upon anything the defendants have done, and those conflicts on immaterial matters are not important to us here. It seems to me that we are wasting a lot of time on something that is of no particular value. I may be mistaken about that, but that is my view of it up to the present.

MR. RAPP: Your Honor, may I point out that we are trying to establish the responsibility, or co-responsibility of the defendant von Weichs for such things as ordered and carried out by the witness, Felber. I believe that has, possibly, a very important bearing on the case of the defendant Weichs.

JUSTICE CARTER: It might have some bearing, but his opinions on the matter are not binding.

MR. RAPP: Your Honor, we are merely trying to ascertain whether or not, these orders, and the contents of these orders were called to the attention at that time of the defendant, Weichs, and only so far as this is concerned, do we want to have the witness testify.

JUSTICE CARTER: Why don't you just ask him that?

BY MR. RAPP:

Q. Witness, did you, in the most important cases, so far as they concerned retaliation and reprisal orders, did you discuss these matter personally with von Weichs?

A. I have informed him of the more important retaliation measures in my reports and apart from that the Army Group was informed through our daily reports concerning these matters.

Q. How did the commander-in-chief von Weichs react on the basis of your report?

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A. Since I do not recollect any specific case, where I have been reprimanded, I have to state here that one was in agreement with my measures.

MR. RAPP: We have no more questions, your Honors.

PRESIDENT WENNERSTRUM: Court adjourned until one-thirty.

.....Adjournment until 1330 hours.....

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AFTERNOON SESSION

THE MARSHAL: All persons in the Courtroom will please find their seats. The Tribunal is again in session. May it please Your Honors, this afternoon the Defendant Weichs is absent from the Court because of illness.

THE PRESIDENT (JUDGE WENNERSTRUM): The Tribunal will proceed in his absence, without prejudice to his case.

MR. DENNEY: If Your Honors please, first I would like to distribute to defense counsel some additional photographs. If Your Honors please, I would like now to distribute some additional photos which come from the National Commission for the Investigation of War Crimes of Yugoslavia. These photos were not submitted at the time the first portions of this report were offered because of the fact that they deal with events occurring in the latter period which has just been concluded. We will give the copies to the defense counsel, and the Secretary General, and the Court, and we will not offer them at this time, in order that you may have at least twenty-four hours' notice. In view of the fact that Exhibit 100-d and its annexes is now approaching the size of the New York telephone directory, I suggest that we mark this 441-a for identification. And in view of the twentyfour-hour notice, I will say no more about it at this time. The Prosecution would appreciate it if the Tribunal would find it convenient to have a session on Saturday of this week. We have the witnesses from Greece here now, and we hope to start with their testimony sometime tomorrow. And there is some question of time with reference to their getting back to Greece and, in that they must be flown, there are difficulties involving plane clearances and weather conditions. And it would help us considerably if the Tribunal could find it convenient to sit.

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THE PRESIDENT (JUDGE WENNERSTRUM): May I make inquiry of the counsel for the defendants as to whether or not they would have any objections to the Tribunal's being in session on Saturday?

DR. LATERNER: Your Honor, much as I understand the reasons of the Prosecution, I still have to object to the session on Saturday for the following reasons: The defense has to prepare its case. The defense counsel spends a whole day in the courtroom, and in the evening he is very tired, so that he can

only work in a very strained state and only thus prepare his defense case. Now, we have a one day break which we need necessarily to check the proceedings of the previous week and to be well rested when we talk with our clients. As the time is very short and very limited for the preparation of the defense case, the defense can, therefore, not do without a sessionless day.

THE PRESIDENT (JUDGE WENNERSTRUM): May I suggest to Dr. Laternser that, as you go on with your defense, there may be occasions when you will need some time or need to have it speeded up, perhaps. The Prosecution is asking this as a favor. As far as the Tribunal is concerned, we're willing to sit. But with the transportation problem and the limited facilities for airplane travel, it seems to me that, under these circumstances, for this one day, it would be advisable.

DR. SAUTER: Dr. Sauter for Defendants Geitner and Lanz. Your Honor, may I make another suggestion. We quite see that there is an ulterior interest, and so that these witnesses who are away from their homes can return as soon as possible, I think it would be – may be suitable if instead, after the Greek witnesses are through, maybe you can then give us a day off – may be a Monday or a Friday. And in that way it would be worked out, and all defense counsel I think would agree to this, since the Prosecution is interested in sending the Greek witnesses back as soon as possible.

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THE PRESIDENT (JUDGE WENNERSTRUM): If it should develop, Dr. Sauter, that after they are excused you are cramped for time, I am quite certain that the Tribunal will give you an extra day. But let us meet that situation when it arises. Now, what we would like to do is to have your consent to this sitting of the Tribunal on Saturday, but we don't want to be arbitrary about the matter. Under the circumstances.

DR. SAUTER: We quite certainly agree now, but maybe we can, later on, return to this request which I made just now.

THE PRESIDENT (JUDGE WENNERSTRUM): Very well. Under the circumstances then the Tribunal will mention Saturday, and we will then take up your request if it appears necessary or at a later time.

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MR. DENNEY: Now, if your Honors please, that is all we have now. We have no further questions to the witness and I imaging there is some cross examination.

THE PRESIDENT: You may proceed with such cross examination as counsel for defense wishes to present.

CROSS EXAMINATION BY DR. LATERNSEER:

Q. Witness, you have come from a camp near Marburg?

A. Yes.

Q. You said yesterday when you first started that since about three days you were under more severe supervision in jail. What did you mean by that? What does it consist of?

A. I mean that I was brought to a cell, in solitary confinement; I was alone there; it was specially locked and it was ordered that I would not fetch my food as usual. I cannot collect it as usual, together with the other inmates but it has to be brought to me; that I may only live alone under special supervision and that I am not allowed to write and receive letters.

Q. Did this sudden change in the manner of confinement, did that have any effect on your state of health?

A. I cannot say that it made my tasks any easier.

Q. Witness, did you yesterday, that is, after your examination in this court room started, and during the course of last evening or this morning before the session started, did you talk to any representatives of the prosecution?

A. No. May I correct myself in as much as outside in the corridor I talked very briefly to Mr. Rapp but that is immaterial.

Q. But nothing concerning your testimony?

A. No.

Q. Yesterday, you were read to, from a memorandum, I think the date is the 15 of July 1946, the Prosecutor submitted several items out of this document to you.

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How did this memorandum, come into existence?

A. In my prison camp Tschuffenhausen, where I had nothing else to do, I wrote this down for myself and for my personal memoirs. I wrote down those matters as I could judge them subsequently, retroactively, and I compiled them there. That is, as a basis, I had merely a short note book where the events of the particular day were put down in brief style. Any orders or other documentary material of a more detailed nature I did not have.

Q. Witness, where were you when you completed the memorandum?

A. At that time I was in the internment camp 78, Tschuffenhausen near Stuttgart.

Q. How did the memorandum get into the hands of the Prosecution?

A. A Captain in Tschuffenhausen, Captain of C.I.C., his name was Captain Silver, one day talked to us, addressed us, that is, the Generals who were together in Tschuffenhausen, and he suggested there to put down any former experiences if we wished to do so and we could add these to our files. For this reason alone I decided at that time to put down these matters as long as I could remember them well, put them down in writing, and to incorporate them into my personal files.

Q. Is this memorandum which we discussed just now the document which I am now going to show you which bears No. NOK W 1735?

A. Yes, indeed, that is the document.

Q. Then you, on the 8th of January 1947, made an affidavit for the Prosecution which bears No. [NOKW 611](#). Is that correct?

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A. That is the affidavit which was under discussion this morning.

Q. I do not want to concern myself with the contents. All I want to establish now is: In what manner this partly used affidavit came into existence? How did that come about?

A. This affidavit is a compilation of interrogations which took place around about the end of last year and beginning of this year.

Q. Interrogations by whom?

A. Interrogations by Mr. Rapp.

Q. That is by the Prosecution?

A. Yes, by the Prosecution.

Q. Did you write this affidavit yourself?

A. No.

Q. Who drafted this affidavit in the way in which it is submitted now?

A. I assume the Prosecution.

Q. Not you then?

A. No.

Q. Does the affidavit from the 8 of January contain all that you said at that time?

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A. It does not contain everything since the interrogation which preceded the affidavit contained more questions, More matter which however might have been immaterial.

Q. At that time you were in Nurmberg?

A. Yes.

Q. And in jail?

A. Yes.

Q. Before or after you had signed the affidavit, were you told that after you had signed it you could return to the camp near Marburg?

A. No, that was told to me later, one day before I actually departed.

Q. That is after you had already signed?

A. Yes.

Q. This affidavit, is thus an addition to an affidavit likewise of the 8th of January? Is that correct?

A. Yes.

Q. On whose initiative is this additional affidavit made –may I finish my question – did you make this additional affidavit on your own account or were you requested to make it?

A. After I had made my statement on the very same day this additional affidavit was submitted to me.

Q. And who drafted this additional affidavit?

A. I must assume that that likewise was the Prosecution.

Q. Not you yourself then?

A. No.

Q. Was this additional affidavit -- did it seem especially important to the Prosecution?

A. Yes, I should think so; apparently the statements which I had made on the morning of that day did not seem sufficient to the Prosecution.

Q. What were you told in order that you would sign this additional affidavit as well?

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A. Whether I was given a more detailed explanation for this I cannot say today any more.

Q. Do you today remember quite well if the Prosecution was particularly interested in this additional explanation?

A. I cannot say that with certainty but I assume that since they came to me that very same day and asked me to sign.

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Q I now submit to you this affidavit and I ask you to tell us whether that is the affidavit [NOKW 611](#), with the annex. The Prosecution gave it the identification number 440-a?

A Yes.

Q Now, a further affidavit for the Prosecution, the contents of which I do not want to discuss here, that is the affidavit [NOKW 1731](#), which is in document book 18, and it bears the date of 19 February 1947; how did this affidavit come about?

A The affidavit, may I just look at it for a moment?

DR. LATERNSE: For the information of the Court that is the affidavit 440-A-1.

THE PRESIDENT: Dr. Laternser, may I suggest or request in referring to these various papers you refer to them by exhibit numbers. It will be helpful to the Tribunal in making its record.

DR. LATERNSE: Yes, Your Honor, I can do that immediately. The first affidavit had identification number 409-A, that is the one which bears the number [NOKW 1735](#). The second affidavit which I mentioned just now was [NOKW 611](#). This document has the identification number 440-A. And the document which I am talking about now is NOKW 1731. It bears the number 440-A-1. Those are not exhibits.

A Yes, indeed. This affidavit came about through a representative of the Prosecution who came to my camp in Allendorf at that time, and he interrogated me there concerning the individual items of this affidavit, and then he compared the various items and then asked me to sign them. The affidavit was made in Allendorf.

Q In other words then this affidavit was not drafted by you?

A No.

Q You didn't write it yourself?

A No.

Q But you did sign it?

A Yes.

Q Looking at these affidavits now on the basis of the affidavit the Prosecution today asked you certain questions to point out discrepancies and to try to show up discrepancies between these affidavits and the testimony which you gave yesterday in this Courtroom.

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Generally speaking, I wanted to ask you this, the contents of these affidavits is that correct, or is your testimony here correct in case there are discrepancies between those two?

A If there are discrepancies that which I have said here in this courtroom is valid.

Q Now, we will talk about something else. Before you took over the position as commander in chief Southeast you were as you said yesterday, received in Hitler's headquarters, is that correct?

A Yes.

Q At the occasion of this introduction were you told that up until now the dealings with the bands in the Balkans had not been strong enough, is that correct?

A Yes, that is correct.

Q And then towards the end of 1943 you were in the Balkans, is that correct?

A Yes.

Q How then was the general situation in the Balkans at that time when you took over your office; I ask you now to describe the situation to the Court?

A In doing this I have to rely on my memory alone, and as I remember the picture today, I had the impression then that out of all the territories in the Balkans the relatively most quiet was the Serbian area. To me as a man who up to then had never been in the Balkans, the situation there at least, as it was described to me, was rather shocking. The uncertainty and the excesses of bands of all kinds was so much a matter of course so that as I have mentioned here once before, I saw in the daily reports about 50 cases which had happened somewhere in this gigantic area. It was absolutely clear to me that with purely military gains, the usual method of combat and the usual administrative methods one could not succeed in the course of time.

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I was certain therefore that my attitude which I mentioned yesterday, which was in opposition to all these reprisals and retaliation measures could not possibly be fully established. Especially difficult it was for us soldiers, the interference of all kinds of authorities which were not subordinated to the Wehrmacht, but who were very ambitious to play their own part; all other officers, and that from this side on the part of these, I might say, hostile observers, I, as well as all other officers who had anything to do with administrative matters, would have to overcome great difficulties. And in this attitude of mind, I found myself not mistaken, at least during the first few months.

Q Witness, what other individual political opinions or divisions were there in the Balkans?

A That is very hard to answer briefly. Each country had its own individual political trends, which in detail I think are quite known.

Q I ask you to mention these individual tendencies since I cannot assume that they are well-known to all.

A If I am to start with Serbia, there were the well-known tendencies Mihajlovic, Tito, and -- independent of the two of them -- independently operating, Communist and the so-called National Cetnik Bands. In Greece there was the EAM and how the other band leaders were called. I am not able to recollect today. There too were tendencies within the population, and against the German Wehrmacht.

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Who fought against whom, then, of the indigenous units?

A. In the Serbian area the Mihailovic or the Chetnik bands as Enemy No. 1 fought the units of Tito; as Enemy No. 2 they fought us, the occupation force. This was told us quite openly by the Chetnik band leaders.

Q. The reports about the activities of the Chetnik bands -- did they come to you as Military Commander-in-Chief Southeast?

A. Yes, as far as they concerned the Serbian area.

Q. Did you not also receive reports from the other military commanders?

A. From the other military commanders I received the monthly reports which I already mentioned and probably - I cannot say that with certainty but that would only be natural - reports from especially extensive retaliation measures in case they became necessary.

Q. We are not talking about reprisal measures just yet. I am interested how high you estimate or can you tell us the number of attacks or attempts which happened daily by any one band in the Balkans.

A. If I could judge on the basis of the reports which I got from the Serbian area, it would have to be at least two to three times as much -- that is more than 100 per day.

Q. And what method did those bands observe or carry out when they made their raids or attacks?

A. Of course, this was different. There were more or less harmless band attacks, for instance, when a man was shot at during the night and nothing else happened, but very frequently these attacks were combined with considerable brutalities.

I myself, as late as September 1944, at the occasion of an attack in which I found myself involved, established that within 20 minutes three German trucks near Topola - that is on the main highway of Serbia were attacked in the bright daylight, robbed and the men on them were killed in a most inhuman manner. In the subsequent struggle with this band I established clearly with my own eyes--

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JUDGE BURKE: There is a little conflict. If you would speak a little less rapidly, it would be easier for the interpreters to follow and there would be no overlapping.

A. I established with my own eyes that women who were not classed as soldiers took part in these surprise attacks.

Q. To what extent did they participate?

A. They had weapons in their hands and participated in the fight in which I and the man accompanying me also had to take to arms. Only by chance an armored car passed us and this band, about 350 men strong who were equipped with machine guns, could be made to flee and we could escape with our lives.

Also, in other instances the troop reported to me repeatedly that in their own fights similar occurrences happened.

Q. For any special atrocities which might have been committed by the bands, do you remember anything there?

A. I have heard a lot about them but I have no clear proof. I did not experience anything like that myself.

Q. What, for instance, were reported to you about the atrocities?

A. Well, there again the murdering of prisoners, wounded among them, and on the part of the Chetnik band leaders this concept that they would butcher every prisoner they took after a short interrogation was quite frankly admitted to me.

After all, these were older people who, when mentioning these cruelties, did not seem to have the slightest feeling about them.

Q. Was it, for instance, reported to you that German soldiers had been robbed of their eyesight?

A. These things had been reported to me among others, but personally, as I mentioned before, I did not experience anything like that and, therefore, feel a little skeptical towards such statements.

Q. Was it frequently reported to you -- that is, spectacular cruelties?

A. No, I do not think that spectacular cruelties were a matter of daily routine; at least, I did not know so.

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I do not believe either, since I have to talk about the Balkan-Serbian area, that these things happened there because Serbia was right up to the end a relatively quiet, peaceful area. As proof of this, it may serve that I myself, right up to the last days, used to tour across the country completely alone without anybody accompanying me.

Q. From where did the bands get their weapons?

A. The Chetnik bands - that is, the National Chetniks - received their arms up to the winter and spring of 1944 doubtlessly through English support.

Q. And in what manner did they get these arms?

A. Through a nightly airplane transport which could be carried out quite undisturbed.

Q. How often did these English planes fly over - every night?

A. One might say almost every night. At any rate, we could hear the noise of the motors nearly every night. Since it could not concern any German planes, one had to assume that they were English planes, which was also confirmed by reports from the troops.

Q. The prosecution said again and again that these bands were a regular army. Did you know whether the bands wore uniforms?

A. This again I explained in the memorandum just mentioned, that up to July 1944, when the Americans started their extensive support, the Tito bands or units were clothed in a very unsoldierly manner and one therefore could not talk of a uniform.

Q. What, for instance, did they wear?

A. I might almost answer this by saying, "What did they not wear?" They wore costumes of all kinds. In these matters it was a rather strange sight for our rather spoiled eyes.

Q. The prosecution will mention a few other points in this connection later. The prosecution further puts special emphasis on the fact that in the course of these bandit fights German losses were always considerably smaller than the losses of the bands. How can you explain that?

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How do you derive this fact and how can you explain the contents of the reports to this effect?

A. From my own area of command and from my personal impressions from the bandit fights, I cannot consider this conception correct. We supposed that we inflicted some losses to the bands in military actions but a certainty of the number was made very difficult from the fact that the bands generally took their dead along as well as their wounded.

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Q Therefore the report of German units or departments which participated in this fight, could be derived generally from estimates?

A Yes.

Q Witness, is not the army inclined to estimate the enemy losses higher?

A That is a matter of course, especially as reports are coming in from various sides and it may so happen that enemy killed or wounded were even counted twice.

Q As far as losses are concerned, is it not possible that an important part is played by the fact that bands were less well-trained militarily than the German troops?

A That may well be the case. But to that, - I can't give any clear answer.

Q In what relation - according to your records - what was the relation of the German losses in the band war and the losses of the bands?

A If one can talk of any comparison by figures at all, I would like to say that it was more or less equal on both sides. I emphasize again that my knowledge is only derived from conditions in Serbia.

Q If now an attempt, or a surprise attack had been carried out, what difficulties occurred then in seizing the guilty persons?

A It could again and again be established that after a surprise attack, the entire neighborhood of the locality of the attack, including the villages around, were completely devoid of all inhabitants, a fact which was very understandable, because nobody wanted to appear as a helper, a guilty person; nobody wanted to be taken.

Q Now how was the terrain in the Balkans; were they suitable for disappearing and submerging?

A I believe that there was hardly a better terrain anywhere else for band war, as in the Balkans, so rich in cliffs. Added to this is the lack of all roads and what roads there are they, are terribly bad, so that the pursuing forces find it very difficult to keep up with the enemy.

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Q Are the other conditions of the geographical nature that which the bands might appreciate?

A Yes. If I may add to the geographical conditions, perhaps the population, the population, which, of course, in this territory, was a great help to the bandits. We can only make a small difference here, whether these were a Chetnik or Tito bands.

Q Now witness, we want to talk about the question of subordination. What kind of subordination do we know, or rather did we know, in the German Wehrmacht?

A There is really only one subordination, that is the subordination to the next Superior command.

Q Didn't you at any time hear something about a tactical and troop subordination?

A That would be a definition which is really included into the concept of subordination, as such.

Q Yes. I may put it perhaps like that: a complete subordination exists when a unit is subordinated to a higher command tactically and militarily.

A That's undoubtedly clear.

Q There were no other kinds of subordination?

A That would then been a special exception, in an individual case.

Q Yes, but that would then be either tactically or militarily?

A Yes, if I am talking theoretically -

Q Will you please let the Prosecution talk first.

MR. RAPP: If your Honors will permit, it is far from me to even pass any criticism on the interpreters, but I think there may be some serious mistakes in the translation, when the word, "truppenmassig" is translated as "military subordination", or "tactical subordination".

If Dr. Laternser would possibly talk a little bit slower, the interpreters may have better time to choose from a larger vocabulary of words, more adequate with the word presented either by the witness or the defense counsel.

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DR. LATERNSE: I thank Mr. Rapp for this remark.

PRESIDENT WENNERSTRUM: May I also suggest that the counsel ask the question of the witness, and let the witness then answer, and if the counsel will then wait for the interpreter there will not be overlapping.

DR. LATERNSEER: I shall observe this, your Honor. Thank you, very much.

Your Honor, may I ask how the interpreters translated the word "truppenmaessig"?

PRESIDENT WENNERSTRUM: Do the interpreters have any translation for this word?

INTERPRETER: We had a little difficulty with the word in German. It is rather an expert concept to say, "truppenmaessig unterstellt". A troop is a military unit. "Truppenmaessig unterstellt" would be subordinate in all military matters. I can only use my own logic in this case.

DR. LATERNSEER: Your Honor, don't the interpreters have glossary, I know of one having been compiled where all expert military terms are translated correctly. In case there would appear a difference in term then my examination of the witness would have little sense, because the differences which I want to establish could then not be established.

MR. RAPP: If I possibly could be of help, I suggest to Dr. Laternser that - so far as I know German the same result I believe Dr. Laternser is driving at, could be achieved by dropping this particular term in describing exactly what he is driving at. That way we may get around controversial terms in the translation.

PRESIDENT WENNERSTRUM: Naturally the Tribunal must depend upon the interpreters, and in case there is some objection to the question of their interpretation, we will proceed the suggestion that Dr. Laternser could use some other term in covering the situation, why possibly that might help the situation.

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You may proceed.

BY DR. LATERNSEER:

Q We had talked about the various kinds of subordination. You said, or rather you were in agreement with me, that there was a subordination of a tactical nature, and also a subordination, generally, in every respect, or, do you not agree with me?

A. No, I do not agree with you. The concept of the military subordination only applies to a limited circle, to a limited task of a troop unit. May I explain this with an example. For instance, the staff of the military commander of Greece, could have been subordinated to me in everything, since I was the Military Commander-in-Chief Southeast. However, doubtlessly, it was subordinate to me in tactical matters, at least for special tasks of the Army Group E. However, so far as I recollect, in the spring of 1944, or rather since the spring of 1944, it was subordinate to the Army Group E, generally speaking, in military matters.

Q You mean now, Mr. Witness, the military commander of Greece? Witness, I am asking you so that we can get on, and can clarify these rather involved situations, and I am trying to make this clear to the Tribunal too. We will start all over again.

You know of a tactical subordination. What does that mean?

A That means that I with my unit in tactical matters, that is, in tactical military matters are subordinate to one certain command of staff.

Q We then further know of a subordination of a general military nature. Do you agree with me in that, that subordination of a general military nature means that the unit in question is subordinate in personnel and disciplinary matters, to that unit to which it is subordinate in military matters "truppendienstlich"

A Yes.

Q One unit which is subordinate in matters of a general military nature to some other unit, then this other unit will issue punishments which may be necessary promotions and awards.

A That is correct.

Q We know, therefore, those two different kinds of subordination -the tactical one and the one that is of a general military nature. Is that correct?

A Yes.

Q Do we know any other kinds of subordination?

A I might find it necessary to mention a third kind, and that is the subordination in administrative matters. That has nothing to do with tactics, and likewise nothing to do with personnel or other directions.

Q Yes. But this administrative subordination will then have nothing to do with any military matters at all.

A That is correct.

Q There are, therefore, no other kinds of subordination from a military point of view than the two which we have mentioned just now?

A Yes.

Q Witness, I ask you now to take a look at the chart which is suspended behind you, and I am asking you, to begin with, to just look at the upper row. That is, up to and including OKO, OKM, and OKH. Does this sketch show the organization within the top leadership correctly?

THE PRESIDENT (JUDGE WENNERSTRUM): Would the guard please move the microphone over there? (Motioning to the Witness Stand)

MR. RAPP: Your Honor, may we object to this question for the simple reason that this witness has not been called by the Prosecution for the purpose of certifying to anything surrounding the OKW, the OKH or the OKL because he himself has never been a member of that office. Secondly we believe that

we get somewhat off the beaten track of that which we have covered in the direct examination if the witness be permitted to talk about matters that he has no direct knowledge of.

THE PRESIDENT (JUDGE WENNERSTRUM): Over-ruled.

BY DR. LATERNSEER:

Q Witness, I had put the question merely for the top row.

A This sketch, in my opinion, does not show clearly enough there on the spot where it says OKW that the Quartermaster General should be mentioned as well, as he belonged to the OKH as well as to the OKW.

Q May I ask you, was for instance the OKH subordinate to the OKW?

A No.

Q Then, to begin with, the line would be wrong which is drawn in black between OKH and OKW?

A That would only concern the Quartermaster General in the OKH, not the operational staff in the OKH.

Q That would then be the first mistake, that OK* could not issue any orders to the OKH?

A I am not informed whether there were not certain spheres where the operational staff of the OKW could issue directives to the OKH as well. At least, where the Quartermaster General was concerned.

Q Keitel, for instance, could he issue orders to the Commander in Chief of the Army, that is, to OKH on his own accord?

A Only as deputy of Hitler.

Q I did not ask like that. I said on his own account, could he give an order to the OKH?

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A I cannot testify to that; I do not know that exactly.

Q What was the OKH as a staff? Whose staff was it?

A The OKH was an operational staff under the Supreme Commander of the Armed Forces, Hitler.

Q It was then not a command agency?

A Not in the customarily accepted sense, no.

Q How would this sketch have to look if it were correct? How would it have to show the OKW?

A The OKW could remain as it is, only the black connection between OKH and OKW would have to be drawn differently, in my opinion.

Q The same would apply then for the two black connecting lines that run between OKW and OKM, and OKW and OKL?

A I assume that, but I cannot say for sure how that turned out in practice. I do not believe that the OKL would have agreed to be subordinate in any way to the OKW and Keitel.

Q Who was the OKH directly subordinate to?

A The OKH was directly subordinate to Hitler.

Q Who was the OKM directly subordinate to?

A I cannot say that with certainty.

Q Who was the OKL directly subordinate to?

A In my opinion, likewise to Hitler.

THE PRESIDENT (JUDGE WENNERSTRUM): Pardon me just a moment. May I inquire of the Prosecution if they have an extra one of these photographs of the Chart "D" to which reference has been made in the present examination?

MR. RAPP: Your Honor, the only Exhibit Chart "D" we have is in the basic information handbook which was submitted to the Court, and we have no extras here. At present we are not prepared on this particular subject; however, I have given Dr. Laternser my own copy and suggested to him that he should give this to the witness.

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THE PRESIDENT (JUDGE WENNERSTRUM): That can be followed, or I will give my copy to the witness, Dr. Laternser, so that the witness may be seated. It may be a bit easier. May I inquire of the witness whether he knows the photograph which he has represents the chart shown on the wall, to which he previously testified?

THE WITNESS: Yes, Your Honor, that is right.

BY DR. LATERNSEER:

Q Now, witness, if the OKW, and I think we agreed to that, did not have any power of command toward subordinate military units, what, then -- how then could OKW orders be regarded? Where did those orders originate?

A Maybe I can express it thus. We had so-called OKH combat areas. That is, for the main part, the Eastern Front, for instance, in the campaign against Russia. And we had other OKW theaters of war. Those were all other theaters of war -- France, Italy, the Balkans, etc. Those Supreme Commanders, the OK*, and operational staff could give them orders of a tactical operational nature.

Q But who alone in the OK* could give these orders?

A These orders were given for Hitler by the operational staff of the Wehrmacht, by Keitel, or by his Chief Jodl, or Warlimont.

Q Do you agree with me that OKW orders are Hitler orders?

A In the bulk, yes. Certainly. But I could imagine that there were orders signed by Keitel which perhaps had not been read by Hitler. Maybe they had not even been submitted to him, but since I've never worked on that staff myself, I cannot give definite testimony as to these matters.

THE PRESIDENT (JUDGE WENNERSTRUM): We'll take our afternoon recess at this time.

(THE COURT RECESSED AT 1500)

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THE MARSHAL: The Tribunal is again in session.

Q I now want to talk about the conditions that always existed in the Balkans, before your activity in the Balkans, who had the highest amount of authority in the Balkans?

A It was the Army Group E.

Q Who was the Commander in Chief of Army Group E?

A That was General Loehr.

Q What other rank did General Loehr hold at first when he was Commander in Chief of Army Group E, and Commander of the Southeast?

A Commander in Chief South East.

THE PRESIDENT: The interpreter either is not speaking loud enough or it is not coming through.

DR. LATERNSE: Your Honor, shall I repeat the last questions?

Q Witness, we had determined before you took up your position in the Balkans the highest authority was Army Group E, at that time Commander in Chief of Army Group E, as you said was General Loehr? I now asked you what other title General Loehr also held?

A It was my opinion that other than that he held the title of Commander in Chief Southeast, and as far as I can remember it is clear to me he was the Armed Forces Commander.

Q Now, I want to deal with the time when you were working in the Balkans; you said yesterday and also today that the jurisdiction of the Commander Southeast and the Military Commander of the Armed Forces Southeast were the same geographically; now when two agencies were supposed to deal with the same subject then the tasks would have to be separated very clearly; what was the main task of the Commander in Chief Southeast?

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A The main task of the Commander in Chief Southeast was the defense of the entire Balkan Region, particularly the defense of the Coast line

Q Would you consider it right if I say that his main task was a strategic task?

A Yes, that would be right.

Q And you, Witness, as Commander in Chief Southeast was in charge as you already said, you were in charge of the orders concerning the territory, is that right?

A Yes.

Q Who was in charge of Army Group F, or as the other title is, the Commander in Chief Southeast?

A Commander in Chief Southeast was subordinate immediately to the Army Staff, and therefore to the Supreme Commander, Hitler.

Q In other words, Army Group F was immediately under Hitler?

A No, in other words one should say the operational staff was an intermediate between the Commander in Chief and Hitler himself.

Q This operational staff of the Wehrmacht was not allowed to give any orders?

A I personally cannot decide that, but I assume that was the case.

Q Would you please look at Document NOKW 1010, it concerns Exhibit 351, and is in Document Book 14; on page 3 of this document book please note number One. Do you agree with me, after looking at this document, that Army Group F was immediately subordinate to Hitler?

A No, I want to keep up my former limitation. Otherwise, for example, the Commander in Chief of the South cast, Field Marshal von Weichs would have had immediate contact with Hitler, by phone for example, if he wanted to discuss anything concerning the conduct of the War.

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In practice, however, these discussions if conducted by the Commander in Chief himself were carried out by the Chief himself, probably Jodl or probably with Keitel.

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Q. Witness, in what capacity did Jodl or Keitel speak then?

A. I cannot say that because I was not in a position to do so.

Q. Then I would like to ask you again who was in charge of Army Group F.

A. In my opinion the Army Group F, in spite of this order, was subordinate to the operational staff of the Wehrmacht.

Q. And to whom were you subordinate as Military Commander Southeast?

A. As Military Commander I was subordinate to the Quartermaster General in his capacity OKH/OKW. However, mixups in this position occurred as proven by Jodl's and Keitel's interference, these two personalities of the operational staff of the Wehrmacht.

Q. In other words, you wish to say that was the result, witness, that you in your capacity as Military Commander Southeast and Field Marshal von Weichs as Military Commander of Army Group [F had](#) the same supreme commander?

A. I must agree to that.

Q. May I have the document book back, please? Witness, as Military Commander Southeast to whom were you responsible to report?

A. To the Quartermaster General of the OKH and OKW.

Q. You said yesterday that in Field Marshal von Weichs you saw a most responsible person concerning tactical matters in the Balkans and security.

A. Yes.

Q. Who in the Balkans was responsible for peace, quiet, and order?

A. I would like to say that we two were responsible, concerning the manner of combat, according to the document as submitted, it has been explained very clearly we took part in order and peace. Otherwise, combat would have been impossible.

Q. Were you not responsible for this as Military Commander Southeast?

A. According to the directives, I was told in the headquarters that it was not final at all.

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I was responsible for peace and order and it was my task as commander. In practice, however, these directives could not be carried out because we had no strict limits of territories where Weichs' responsibility and my responsibility were separated.

Q. We will try to determine that, witness, whether that existed or not. In the Balkans who had the executive power?

A. Having seen the documents today, it is clear to me that the Military Commander Southeast was responsible.

Q. And you were the Military Commander Southeast. What does this executive power consist of?

A. Executive power generally is the same as the task to look after peace and order in the occupied territory. May I point out, however, that in the directive which I received there was a passage that orders could be given to me at the time through the commander of the Second Panzer Army, as well something which never was carried out in practice.

Q. Apparently this is contradictory in part of the explanations of Document [NOKW-1010](#), Exhibit 351. Please look at page 5, No. I, where I marked it. Please look at it.

A. I was not informed of this order myself in my position as Military Commander Southeast. It must be a mistake. It is obvious anyway because there a very clear task is given to me. Subordination is

emphasized here, under the OKW, that would be the operational staff of the Wehrmacht under another name.

May I add that this order was issued and is said to have been issued at the end of October and apparently it was sent to other offices for examination and later probably became a definite order. It was, therefore, the end of October and it became necessary to clear the matter up and these various matters which overlapped.

Q. You said before that you were responsible for order, peace, and quiet in the Balkans.

A. Yes, with the limitation that I was given directives on that subject by the Commander in Chief Southeast, Field Marshal von Weichs.

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Orders were given to me.

Q. Witness, on what do you base this right of the Commander in Chief Southeast to give orders?

A. I base this on the intention to intervene by the Commander in Chief of the Wehrmacht to see that, if I should have taken wrong measures, the Commander in Chief would have been in a position to intervene.

Q. Who could give orders to another agency?

A. Actually, only the superior agency.

Q. Was the Commander in Chief Southeast your superior agency?

A. I have tried to answer this with yes and no before. According to the directives, as I was told at headquarters, I was an independent commander in chief in my capacity as Military Commander. The directives themselves later made objections possible not only for the army group but also for the commander of the Second Panzer Army in Serbia.

Q. Witness, what directives do you mean by that when you say that such a power of veto was given to the Commander in Chief Southeast?

A. The official description of these directives I believe is service regulations. The Commander in Chief Southeast and I as Military Commander received them separately.

Q. What was superior to these directives, or what was contained in these directives?

A. It is very difficult, after many years, to state this correctly. It would be very good if these directives were at hand.

Q. May I -- do you mean by that a passage already quoted once by the prosecution, which appears possibly in No. 2, page 3 of Document NOKW-1010? It is up to you to decide this.

A. No, these directives or orders are service regulations.

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A No. These directives of service regulations already existed when I came there in August '43; while this directive is dated 30 October.

Q Now, witness, the next subordinate command was very clearly not subordinate to the military command.

A No official subordination of my command had not been ordered.

Q You said yesterday that about 70 to 80 thousand men were under your command, in your capacity as military commander southeast?

A That's right approximately.

Q Would you give orders to these troops independently without asking Army Group [F first](#)?

A I was entitled to this. It was part of my responsibility.

Q And when you did this, this was a tactical measure, was it not?

A Yes, after reporting this to the Army group.

Q Witness, you said before, you were responsible for order and peace, and that you were able to employ the troops under your command technically for your own purposes.

Would it not have been better then to say that von Weichs was Supreme Commander concerning strategical matters in the Balkans?

A That is correct.

Q You said yesterday that in the summer of '44 an order for retaliation measures was given. Do you mean by that, this directive which I would like you look at? It concerns your Honor OKW document # 172, Exhibit 379.

A No, this is not the order I quoted. The order I mean was issued on the 1st of July 1944, when the chief of the general staff was no longer Feertsch but General Winter.

But looking at this order is based on this order as well. This order of December, I cannot remember at all. It is possible that it might have been sent to my office when I was on leave in January. The only retaliation measure I know is that of July.

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Q Would you look at this order again, particularly at the opening words, where it is explained that this order was issued with the approval of the Military Commander Southeast?

A Yes, I believe that is the explanation. It indicates that Neubacher was responsible for conducting the political fight in the Balkans against the communist danger, and that during discussions which we had together in Weissen Schloss with the Commander-in-chief we discussed the execution of such an order and agreed to it. But the formulation the Commander-in-chief Southeast used for these directives, I personally cannot remember and I cannot say that he is orientated about that purpose.

A At that time, on the 22nd of December, Loehr acted as deputy because I was on leave. That I discussed retaliation measures with Loehr when deputizing Weichs, that is not true.

Q When did the first discussion take place between Fieldmarshal von Weichs, Neubacher and you, about retaliation measures?

A It started immediately after I had arrived as stated in my diary. We had five discussions, the first days of September about these matters.

Q During this discussion, was it considered that a basic order should be issued concerning retaliation measures?

A No, in September, these matters were not considered it necessary by us, as we were both new there.

Q In other words, you wish to *y about issuing order, which I just submitted to you, you did not know anything?

A I do not remember.

Q Witness, you said that you remember an order of similar content, which you received in July?

A I know this so clearly because the officer who dealt with it, Lt. Col. Ratjen came to me and reported to me, because he wanted, to harmonize this order with that of the general staff, and we worked on it in detail because the difficulty insisted of the fact that they had to find an order which served all, and could be applied to everything that happened in the Balkans or anywhere else because of repeated retaliation measures by the Army Group.

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I cannot state the cause however.

Q Could you tell us whether the No. of this order was 296/43, of the 22nd of December?

Witness, would you please look at Document [NOKW 469](#), which bears the date 20 June '44, and where at the bottom there is a remark in which General Winters in his own handwriting, that this order 296/43, should be looked up?

MR. RAPP: Your Honors, we really submit that the Court please instruct defense counsel to give us the exhibit numbers of documents that defense counsel is referring to, if you please.

PRESIDENT WENNERSTRUM: Dr. Laternser, if you will kindly follow that, it will be appreciated.

DR. LATERNSE: Your Honor, unfortunately I am not in a position to give the number of the exhibit yet because this document [NOKW 469](#) has not been submitted to this Tribunal as yet. I am conscious of the fact, but I also know that I am entitled during cross-examination to submit to a witness any document which I have in my possession.

PRESIDENT WENNERSTRUM: Very well.

Q May I ask you to look at this document, [NOKW 496](#)?

A I now see why in July, another order was issued, because the Army Group writes here to Neubacher, that the incidence in Greece, was the cause for the retaliation order of December, of which they wished to remind us. And the Army group, owing to this, ought that this old order of date and following that on the first of July, or the second or third of July a new directive was issued for the entire southeast by the army group.

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I believe that is how it was connected actually on the first of July an improved order was issued.

Q What you said now, that a new order was issued, is something you presumed, is it not?

A No, I don't presume that. I knew that for sure, just because this general staff officer reported to me personally and discussed these matters with me in detail

Page 1,802

Q. But this document, [NOKW-496](#), shows according to General Winter's remark that this original order of the 22nd of December was to be pointed out again and used again.

A. That's right.

Q. I now have another last point. In what capacity were you in the East?

A. As Commander in Chief of XIII Corps.

Q. To whom were you subordinate at the time?

A. The Commander in Chief of the Second Army.

Q. And who was the Commander in Chief?

A That was General Field Marshal von Weichs.

Q How was the order from the Commissar treated?

A The Commissar's order -- you probably asked concerning me or concerning Weichs?

THE PRESIDENT (JUDGE WENNERSTRUM): Pardon me just a minute. We're interested in the examination and the questioning. You're overlapping a little bit. If you will both the witness and the examiner, will give the Interpreter time to make the interpretation, it will be helpful, and to the Tribunal.

A The Commissar's order arrived, as I recall, about two weeks before, and I was still subordinate to the 4th Army at the time.

Q Another question please. You received the Commissar's order from the 4th Army?

A Yes, from the 4th Army.

Q And who was the Commander in Chief of the 4th Army at the time?

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A Field marshal von Kluge

Q How did you deal with the Commissar's order?

A I did not hand the Commissar order in writing, but my two division chiefs commanders were called to me. I informed them of the contents of this ordering that they should not carry out this order, That took place, and both division commanders agreed with me.

Q Concerning this Commisar's, did you discuss it with Field Marshal von Weichs?

A But I do not remember the discussion, but owing to my relations with Weichs, no doubt we discussed this subjects which touched us personally, and I can't think it could have been any different than that we fully agreed.

Q Do you know about anything further about this concerning Field Marshal von Weichs?

A I only remember that one of my division commanders at that time, General Loch, once told me, while in captivity, that he discussed this matter with Weichs once, and that Weichs informed him, he also believed it to have been an order which I didn't receive; however he based it again on the fact that Weichs took over the 4th Army. This took place about the 1st of June 1941.

Q And on what was this order to be based?

A That the Commissar's order should not be complied with.

Q I have no further questions.

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BY DR. RAUSCHENBACH:

DR. RAUSCHENBACH: Dr. Rauschenbach for the Defendant Foertsch. Witness, on the 8th of January of this year you gave an affidavit to the Prosecution, the document which Dr. Laternser has submitted to you as [NOKW-611](#), which the Prosecution identified as Exhibit No. 440-a. On page 6 of the German version of the affidavit you said that the Higher SS and Police Chiefs often were ordered to the Army. I now ask you to what time does this refer. Does it refer to the time when General Winter, as successor of General Foertsch, was Chief of the Army Group, or does it refer also to that time when General Foertsch himself was Chief?

A In my opinion, as far as I remember the matter at the time, Foertsch was Chief.

Q In such discussions was Meissner present?

A Yes, sometimes Meissner was present during such discussions which Neubacher and I had with the Field Marshal. However, I heard from Meissner himself that he repeatedly was called to the Commander in Chief of the Army Group, without my being informed previously. What was the subject of these discussions I can not say. I can't remember either whether and what Meissner told me anything about it.

Q What was your impression about these discussions? Was there actual cooperation between Meissner and the Chief of the Army Group, or were there differences?

A No. Concerning cooperation between Foertsch and Meissner, I wish to say the opposite.

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Q. And how did they show it itself?

A. By very cool methods concerning these discussions whenever I took part.

Q. Did you have the impression, therefore, that with General Foertsch and the Police Chief Meissner there were differences - tensions?

A. Whether there were tensions I can't say now. In any case I had the impression that they were not very good friends, as the rest of us.

Q. In this affidavit you also said that General Winter, the successor of defendant General Foertsch, fully cooperated with the Reichsfuehrer SS and approved of it.

A. I came to this conclusion because I know that Winter had a very long discussion with Himmler, which must have been in the summer or early autumn of 1944, about which he was very deeply impressed after returning, and the result of which we found out very soon, because suddenly the thought arose that the military administration in the occupied territories was to be taken from my command and to be transferred to the Police Chiefs and SS chiefs.

Q. And to make it quite clear, that was at the time when General Foertsch was no longer in charge?

A. Yes.

Q. From your own observations can you add anything about General Foertsch's attitude toward the Reichsfuehrer SS?

A. No, I can't say anything about that. I can't remember now.

Q. Do you remember whether there were any direct connections?

A. I don't know.

Q. Another matter. You said yesterday during your cross examination by the prosecution that the Chief of the General Staff, General Winter, was responsible for keeping the War Diary, particularly about the correctness of the contents.

A. This statement is based on my experience of many years and practice as Commander in the High Command.

Q. You did this of your own initiative?

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A. Yes.

Q. Do you know how it was actually done in Army Group F?

A. I don't know anything about that.

DR. RAUSCHENBACH: I have no further questions, Your Honor.

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BY DR. SAUTER:

Q.- I would like to ask you, before answering to wait a moment to give the interpreter a chance to translate. Witness, in the beginning of the cross-examination you were asked about conditions in the Balkans and the war there, about its peculiarities and other similar things, and you said approximately that cruelties were every day occurrences but were not reported to you. In any case such was the case in Serbia. You added that until the end Serbia was a comparatively peaceful area. I don't know, witness, whether I understood your statement correctly. For days now we have heard that many thousands of retaliations were made for possible violations, that thousands and thousands of Serbs and natives, partisans and similar people were shot and hanged. Do you really want to say that this territory down there was so peaceful? It seems to me that there have been contradictions. Please state your opinion about these contradictions.

A.- I repeatedly pointed out that conditions, after we took over the command in August 1943; were considerably improved. Many attempts for retaliation measures had to be made because there were very high numbers of violations I think mostly during the years 1941 and 1942. Among us too at the beginning at least there were a number of very bad violations, even in the Serbian territory, which I want to point out as I know a lot about that. But later, already in the fall, late fall, and in winter it was considerably improved and I believe that it is mostly owing to the fact that the Mihajlovic bands from their position which they first took towards us slowly came around and tried to come to an agreement with us. That is what they decided. In that way, about the turn of the year, a great number of occasions were given for such violations. There were also, of course, in 1943 and 1944 many violations which occurred. Only I believe that the extent in the years '42-'43, at least, as it appears to me when I went down there, was very much higher.

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Q.- Witness, was the conduct of warfare in the Balkans, was it similar, did it follow the laws of humanity and the laws of international law? You know that violations happened in every Army but it is important to me whether the conduct of warfare in the Balkans was about what it used to be in front of the enemies at other times or whether the violations of international law and of human laws was particularly great. Perhaps you would say something on that subject.

A.- About the warfare of the enemy, the prosecution was informed by me in the memorandum which I have explained in detail.

Q.- We cannot use that because it has not been submitted as evidence or if it is important you can tell us the contents later.

A.- My general impression about the enemy's warfare in the Balkans is that the warfare and the methods, the gangs used, was not the warfare which I came across with any other enemy I have met in any theatre of war, not even in fighting against the partisans in the winter 1941-42 in Russia. In my opinion one cannot call it warfare at all but these insidious acts which took place in the night and these violations, with their unpleasant endings, in my opinion, prove that this method of fighting, according to human rights, does not conform with it at all. The drastic acts already quoted are again proof that as a soldier, one could not possibly agree to these methods and really when visiting my troops I always had to tell them again and again to encourage these brave men who only did their duty, to stop them from taking retaliation measures which were continuous and to stop them from doing so. We generally succeeded but that occurrences occurred occasionally when one knew one's comrades were being killed I believe one cannot consider proof that the German warfare in the Balkans was not in accordance with the laws of humanity. I also talked with the Commander in Chief Southeast and we were always worried about this. It was Commander Weichs, who had exactly the same opinion at the time. I would like to think that if it had been said before that many atrocities which took place that can be accepted as true.

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Q.- Witness, for several weeks now, we have heard of numerous retaliation measures and reprisal measures in this Tribunal, which the German Army and the German Commanders ordered, or rather carried out. Is it your opinion that these retaliation measures generally would have been avoided if the warfare of your enemy at the time would have kept to international law and to the laws of humanity at the time?

A.- That is natural for me.

Q.- If I may go into detail about your reply. Please tell me, if I understood you correctly, you considered the situation thus as you say, if the enemy had not done these things, then the Germans would not have had any cause to take retaliation measures and reprisal measures and similar matters. Is that right?

A.- I agree.

Q.- Witness, General Ritter von Geitner was Chief of Staff. He had a number of associates on his staff. Which position on his staff did you hold?

A.- I had the tactical staff, the tactical operations staff. You can say Operations Staff; it sounds better. It was, therefore, a general staff with the chief, Ia, Quartermaster General, and departments which a tactical staff usually requires. Apart from that I had separate administration staff which consisted of officials, Military Officials, but also of civilians of all grades and of all professions.

Q.- Chief of the Tactical Staff was the defendant Ritter von Geitner?

A.- Yes.

Q.- Did you hear von Geitner had anything to do with the administrative staff as well as you said?

A.- Of course he was connected with it because he knew about the important matters in the administrative staff. Of course the chief of time administrative staff in no manner wanted to be subordinate to the Chief of Staff and it was difficult for him to achieve it.

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The first deputy, occasionally came to us and this shows that Geitner had actually could not interfere in the administrative staff.

Q.- Was the Chief of the Administrative staff in Ordnance, that is the staff who had to do with administration matters, was he subordinate to the Chief of the Tactical Staff, Herr von Geitner?

A.- No, I tried but could not achieve it.

Q.- Is it right when I come to the conclusion that officially, according to orders, the defendant von Geitner had nothing to do with the matters of the administrative staff, as you said, he might have been interested in order to be informed, but on the other hand to see what went on but I want to know whether he officially or unofficially acted as superior, Had he anything to do with the matters of general administration staff?

A.- No, it was definitely denied by the Chief of the Administrative Staff.

THE PRESIDENT: Dr. Sauter, I take it you will not be able to complete your cross examination this afternoon?

DR. SAUTER: No, I don't think so.

THE PRESIDENT: The Tribunal will adjourn until 0930 tomorrow morning.

(The Tribunal will recess until 0930 o'clock tomorrow morning.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List, et al, defendants, sitting at Nuernberg, Germany, on 13 August 1947, 0930-1630, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal 5. Military Tribunal 5 is now in session. God save the United States of America and this honorable Tribunal. There will be order in the court.

THE PRESIDENT: The Marshal will ascertain as to whether all the defendants are present in the courtroom.

THE MARSHAL: May it please Your Honor, all defendants are present in the courtroom.

THE PRESIDENT: Judge George J. Burke will preside at this day's session.

PRESIDING JUDGE BURKE: You may proceed, Dr. Sauter.

HANS GUSTAV FELBER - Resumed CROSS EXAMINATION - Continued BY DR. SAUTER:

Q. Witness, at the end of yesterday's session we stopped around the description that you gave us about your co-workers you had in your staff, and you told us that you had two staffs, one administrative staff and one so-called tactical staff or command staff, and you further reported that the chief of the tactical staff was General Ritter von Geitner. Further, you explained to us that Ritter von Geitner did not really have anything to do with matters of the administrative staff but, as a matter of course, he was informed about the activities of the administrative staff. He had to keep himself posted on these matters in order to make sure that his department worked in a uniform manner. Now, we shall continue at this point. The defendant von Geitner, according to you, then was chief of your tactical staff. When you were not present, let us say, for instance, you were on leave or you were home, who was then your deputy?

A. That was decided from case to case and especially ordered.

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Generally speaking, it would be the senior general of my command area. It might have been General Geip or at another time it was General von Geibel.

Q. This deputy then, who was appointed in cases where you were prevented, according to my knowledge, had jurisdiction too, is that correct?

A. That is correct.

Q. I beg your pardon?

A. Yes, that is correct.

Q. What function according to the conception of the General Staff did your chief of staff, General von Geitner, have as chief of the tactical staff? What I mean, witness - I'm asking you to answer to the effect of the executive powers, if any, the chief of your tactical staff had and which orders he had.

A. The position of the chief of the general staff of a higher command post, he was the first advisor of his military commander. He had no executive functions with respect to tactical orders. That is, he could not issue them on his own account. Furthermore, he had no authority over admonishments or other objections to anything in connection with the work of the troops. With legal matters he had nothing to do at all. His duty was clearly established in a special instruction which generally was called among army people as the "Red Scapegoat".

Q. That, of course, is a joking expression, isn't it? But the official title was Manual for the Service of the General Staff in Wartime, and that was the Army Service Manual G-92. In this Manual for the Service of the General Staff in Wartime the duties and authority of the chief of the general staff are clearly defined. Your Honors, in my case in chief for the defendant Geitner I shall submit as evidence this official instruction. Witness, now yesterday we were informed about a document No. [NOKW-1731](#). That is Exhibit No. 440-a-1. I repeat, 440-a-1. That is your affidavit of the 9th of February 1947. And in this document you designated von Geitner as your deputy. Now, just previously you told us that your deputy was nominated for the time of your absence from case to case.

That is, always the senior officer of your sphere of command. Can you explain to us why, in spite of this fact which you mentioned just now, you designated Geitner as your deputy in your affidavit, or whether your former statement that he was your deputy -- are you going to correct this statement about it? Just a minute, I believe the prosecutor would like to say something.

MR. RAPP: If I may make this interruption, the document referred to by this defense counsel has not been offered as an exhibit, as stated by the defense counsel, but it was merely marked for identification only.

PRESIDING JUDGE BURKE: I believe the Tribunal understands that.

DR. SAUTER: That is correct. I only named the number which the prosecution gave this document in order that the Tribunal knows what document I'm referring to. Witness, did you get the question clearly and do you remember it?

A. Yes, indeed.

Q. Then I ask you to make your comments, whether there is a discrepancy, whether you would like to change your statement, or what attitude you have to these questions.

A. One must make a difference between a deputy in command for a lengthy period, let us say at least a few days, and a deputizing in current affairs when, for instance, the commander in chief and his chief are physically separated, which can happen, for instance, and did happen when I went for two or three days to visit the troops in a band area. In that case no special general was nominated as deputy, but in that case the chief of the general staff looked after my affairs as deputy for me -- that is, after the current affairs. But even then, in such a case he was not authorized, according to Manual, to issue orders of a tactical nature without my knowledge. I believe, therefore, that the expression deputy, as it is put down in the document mentioned, would apply to this case.

Q. As far as I know, witness, even in this very temporary prevention of the military commander the chief of staff was only allowed to deal with such matters which were very urgent and could not possibly be delayed, which had to be dealt with immediately. And then only under the condition that the military commander could not be got in touch with. Is that correct?

A. That is correct.

Q. That is shown from the Service Regulation for the General Staff, which I shall later submit as evidence. If now, you, as military commander, were absent for a short period so that a real deputy in the person of the next higher troop commander was not appointed -- in that case could your chief of staff deal with all matters, or even in this temporary case were there some exceptions as to certain functions of yours which the chief of staff could not deal with?

A In such a case he was, for instance, not allowed to deal with judicial and court matters nor with tactical orders. For instance, referring to the deployment of the troops, he was not allowed to deal with it. Only in a desperately urgent case was he, and then he had to carry the responsibility for his orders. But may I add that in practice of war it happened that other ways and means had to be employed. In those cases it was a question of military agreement between the two persons concerned so that the chief could judge whether his commander would be willing to subscribe to an order which he might have issued, maybe merely as a formal order. According to the regulations he might not have been allowed to issue it, but if he had to issue it he would have to make sure that his commander would agree with it.

Q Witness, you said before that even in such a very temporary prevention of the commander judicial matters were excluded, that is, everything concerning legal matters. I suppose that was because the chief of staff was not allowed to be in charge of the courts. Is that correct?

A That is correct.

Q Then, you talked about the tactical decisions and other matters which were excluded, which basically the chief of staff was not allowed to decide on, even if in temporary cases he had to deputize in a certain sense to the military commander.

A I could think of decisions about persons -- personnel decisions.

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Q I am not thinking about personnel decisions. I am thinking about something else which is concerned more with the matters at hand here.

A May I please have a hint as to what you are referring to?

Q Yesterday you talked about executive authority, and I'm asking you now whether your chief of staff as such, on the basis of your general position as chief of the tactical staff, authorized to deputize for you in any matters concerning executive powers.

A I would like to qualify this with the following. Generally speaking, he was not allowed to do it.

Q Generally speaking he was not allowed to do it?

A But I could think of one case or another where things had to be hurried. In those cases the chief, just as I described matters in the tactical sphere before, had to deal independently on matters of a territorial character and could have occasionally made a decision.

Q Now, Witness, how did that -- I am talking about the relationship between General Felber and Chief of Staff von Geitner -- how did that appear in practice? What I mean is, if you were absent from Serbia for a longer period, there would be a deputy appointed for you in any case. That is, in the person of another commander. If you were absent for a very short period, for instance, if you had to go across country for a couple of days, wasn't, in those cases von Geitner completely independent, or did you yourself have a telephone connection with him daily -- say once or twice with your chief of staff, in

order to get reports from him, in order to give him orders and things like that? How did that actually work in practice?

A It was handled in the way which you last mentioned. That is, a procedure which was usual with all troops in status of war. It happened thus that sometime during the day we had telephonic connections and discussed the very important matters at hand.

Q So that, if I may draw a conclusion from your statement, if ever was the case that Geitner was in any very important matters in a position to issue an order without having had a chance to talk to you and to ask for your consent.

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Is that correct?

A That is correct.

Q That is correct then about the competency of the chief of staff -- what I'm interested in, Witness, is the following: Was the Higher SS and Police Leader subordinate to this Higher SS and Police Leader which has been discussed here several times? Was he subordinate to the chief of the tactical staff or who else was he subordinate to?

A The most rather difficult personality of this particular kind would never had been willing to be subordinate to a chief of staff. They found it very difficult already to find themselves subordinate to a commander in chief, that is, a subordination of Meisner under the chief of the General Staff was quite out of the question.

Q Who was Meisner subordinate to then?

A He was only subordinate to me and apart from me nobody. Nobody except to Himmler, that is, Reich Fuehrer SS Himmler.

Q Witness, I would now like to come to the chapter of retaliation measures. If today you look back on those things and make a picture for yourself of things that happened then, if you think of the numerous discussions which you had about these matters with your chief of staff Von Geitner, can you then, quite generally speaking, say that Herr von Geitner was a trouble maker? That he was a ruthless person? That he was insistent that things be handled ruthlessly? Or can you say just the opposite, that Geitner would reject such collective reprisal measures on his own, and that he tried to smooth them down? What could you say?

A General von Geitner did not have anything to do really with reprisal measures, for this order were given by me and were regarded by me as a more judicial measure and, of course, I discussed these matters with him currently and in more extensive and important cases I discussed them with him in a very detailed manner. On these occasions I could only find out that he had a completely sensible and very legal and judicial basis in these rather difficult questions. To talk about trouble-making, I could at no time notice anything of that kind, but according to my personal experiences of his personality and character this would be not too nice.

Q At these discussions which you had with Herr von Geitner, I believe daily, and where these chapters were discussed too, although really they did not belong under the authority and jurisdiction of Herr von Geitner, allegedly Geitner had repeatedly shown the following attitude to you. He had the principle that one should establish a winning administration -- an administration that wins the love of the population -- that is, an administration which helps to win the indigenous population and gives them a good impression of the occupation power. Is that correct?

A That is quite within the line of the relations which were established yesterday of the very happy military combination of the two of us.

Q Allegedly that is supposed to have been that he had jokingly told repeatedly, "You von Geitner, you are almost half a Serb." Can you remember these joking remarks?

A That is possible, but I cannot say that for sure today.

Q According to what you told us yesterday we assume that the SS and Higher Police Leader Meisner had a considerably more ruthless tendency. Is that correct?

A Yes, that can be definitely said.

Q Is it now correct that von Geitner, even in his very first report which he submitted to you after you arrived in Serbia, in order to inform you -- were you told already about Meisner and his ruthless attitude? Can you remember that?

A That's completely correct.

Q He allegedly said that Meissner should not be allowed to influence anybody and he behaved like a hooligan.

A This is quite possible. I cannot remember it for sure now.

Q Is it correct, according to your own experiences, that the defendant von Geitner expressed his attitude which rejected these matters, expressed his attitude personally too SS and Police Leader Meissner, and that you yourself found out that Meissner asked, subsequently, when he had to make any request or demand or wanted to give any order -- he would so over Geitner's head and dealt directly with you or with another staff commander? That is, according to your own experiences?

A It is correct that Meissner never visited the Chief of the General Staff prior to a discussion with me, and I remember quite well that the personal relations between the two, especially from Geitner to Meissner, were rather tense.

Q At this initial report which you received after your arrival in Belgrade and which was submitted to you by von Geitner and at the occasion of which he informed you of the way in which Bader had handled matters in the Balkans, on this occasion he is supposed -- von Geitner is supposed to have explained to you that he was happy that he, Geitner, was glad that he had basically nothing to do with

retaliation measures. And the conception that your predecessor, General Bader, had also dealt with these measures personally and had always ordered them himself, and he had never had anything to do with them and he was glad that he was rid of this pressure because he for his part had always rejected these measures. Is that correct?

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A Yes, that is correct. And the conception that also my predecessor made all the decisions independently and alone I have to take it that that is completely correct.

Q You said, witness, these retaliation measures were mainly according to your feeling. You regarded them and dealt with them in your capacity as a -- within your legal jurisdiction. Is that correct?

A That is completely correct.

Q Now you said also and you talked about the executive powers and it has crystallized from your statements yesterday that you had executive powers even earlier than you recollect now. Today, witness, are you aware of the fact that also your predecessor, General Bader, too had already executive powers and that he exercised those executive powers?

A No, I have to assume that.

Q So now you have to assume it, so it follows, your Honors, this is also seen from a service regulation which has already been submitted by the prosecution and which I shall submit again in my case in chief for Geitner, also in connection with the Serbian area.

Witness, we have during the last days talked repeatedly about executive powers and you have told us, I believe it was yesterday, you had executive powers in order to be able to maintain law, order and security in the occupied countries?

A Yes, that is the idea of executive powers.

Q Can you now tell us because maybe that is a conception which is not quite clear to the Honorable Judges here, what executive power really is? Or to put it a little more clearly what function does a man have who has executive powers?

AAAs far as I can remember the service regulations today, executive power includes first of all the maintenance of law, order and security and for this purpose executive powers are given to the Commander concerned and he should be allowed to exercise all means necessary in order to maintain law and order in the occupied countries.

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For this purpose, he has at his disposal all troops subordinate to him.

Q Witness, this definition is a little too general. I would like to read to you a definition which is contained in a service regulation, and at the end of this I want you to tell me whether you can agree to this definition, either generally speaking, or whether you can say that it applies to conditions in Serbia as you knew them. It reads, then:

"Executive power is the right to issue orders and laws in an occupied territory by the commander of the occupying forces under exclusion of the up-to-then valid indigenous authorities. Executive power includes simultaneously the right of the commander to nominate officials and judges of the civil population or to dismiss them."

Witness, so far the definition which I found in a service regulation, I read it to you because it is quite difficult to formulate anything like that right off the bat. Would you in your personal opinion say that this definition applied to Serbian conditions and to your particular case inasmuch as you, as not a legal person, can understand these difficult questions? That is, the right to give orders, issue orders and laws in the occupied territory by the person who has the occupation power and exclusion of the indigenous authorities with the right to nominate and dismiss judges and officials of the indigenous government. Is that correct?

A Yes, in the main, that is correct. That is the same as what I said rather generally -- to issue law and order.

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Q This definition which I read is consented to you, generally speaking?

A Yes indeed.

Q And new subsequent to this question with particular reference to von Geitner, did the Chief of Staff in his capacity as chief of staff -- did he have anything to do with executive powers or is it right that executive powers were purely a matter of the Commander-in-Chief? That is, the Commander-in-Chief who simultaneously was supreme judicial authority?

MR. RAPP: Your Honor, we object to this type of questioning. I believe the defense counsel has gone way beyond what could generally be called as leading the witness.

PRESIDING JUDGE BURKE: This is cross-examination, however, and while counsel has taken the liberty of covering rather broad territory, I think he may proceed.

DR. SAUTER: Your Honors, I thought it was suitable and serves a purpose to clarify this question, because the concept of executive power will turn up again and again in the course of the further proceedings, and therefore it is difficult for everybody who has not in the course of his occupation to do with these things. It is very difficult to get a clear picture of first of all what is executive power, and -

PRESIDING JUDGE BURKE: I think we have a fairly accurate idea of it at this time.

BY DR. SAUTER:

Q Witness, you said that von Geitner had nothing to do with executive powers. Who then dealt with reprisal measures within your staff?

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Witness, I don't want to know the name, but I want to know his official designation, whether he was Ia, Ic.

A This was an ordnance officer, member of the Department Ia who apart from other things had the task to collect all these cases, to compile them, and to submit them to me, and he did that in the following manner. He did not previously go to his superior general staff officer -- that was the first general staff officer, neither to the chief, but as an exception, he came directly to me.

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Court No. V, Case No. VII.

Q. That was not Geitner?

A. No.

Q. Witness, you told us that the daily reports--I am talking about daily reports--which were sent off daily, had to be prior to being sent off or submitted to you--these daily reports were initialed by von Geitner?

A. He either initialed them or he was present when these compiled reports were submitted to me.

Q. Who signed them?

A. Generally speaking, they went under the signature Chief of the General Staff. However, I found it sufficient to put my seal on the daily reports which had been approved by me.

Q. Is it correct that, I believe it was during your time, a special order arrived which for some unknown reason expressly ordered that such daily reports from a certain date had to be signed by the Chief of Staff or to at least be initialed by the Chief of Staff? That was supposedly a special instruction.

A. It was a general custom in the whole German Army that a Chief of Staff compiled, initialed or signed the daily reports, and according to how the Supreme Commander wished it, showed them to him previously, either previously or as it usually happened in practice afterwards. Therefore, there was really no need for this special instruction which I do not recollect either.

Q. Witness, what meaning in your opinion has the signing of initialing of daily reports by the Chief of Staff? I will put the question even more concretely. What responsibility of the Chief of Staff was expressed by the fact that he had to sign or initial these reports?

A. He took over all this, the complete responsibility for the contents of the reports.

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Q. What do you mean by he took over complete responsibility for the contents?

A. I cannot think of any other purpose of his having to sign and initial reports.

Q. If in the daily reports, reprisal measures were mentioned which had been carried out on the previous day and the Chief of Staff signed this daily report, what responsibility could he then take over?

A. He carried the responsibility of the honest and clear report to a superior command.

Q. In other words, then, the responsibility he had was that the report which he initialed or signed was in compliance and agreement with the reports which he himself received, that he was responsible for the correctness of the report, is that correct?

A. Yes.

Q. He was not liable therefore for the reprisal measures but he was merely responsible for the correctness of the reports?

A. That is right, only for the correctness of the reports.

Q. There is no doubt about that, is there?

A. No.

Q. Witness, you did at one time talk about mock executions. Can you remember that? What did you understand by mock executions? What did you understand today under mock executions?

A. The day before yesterday I believe I mentioned and described these mock executions and tried to explain their purpose. These mock executions, if I may repeat that, had the purpose to give outsiders--that is to the Serbian population--the impression that for one case of a retaliation, reprisal which had been threatened to the population by a local headquarters - for instance, for a case that perpetrators of an attack did not report up to a certain fixed date--that in that case the measures which were well known to the population and I think were also feared by them, these reprisal measures would be carried out.

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If nothing had happened, than probably quite soon it would have happened and it could have been expected that there would be excesses of surprise attacks, murders, etc. and they would have grown to an extent which in order to secure law and order would have caused us to more ruthless, considerably more ruthless measures.

Therefore, at least externally, the headquarters had to announce to the population that four or five or what other figure might have been a case, four or five hostages would be shot, on announcement which actually was not executed. I thought that these mock reprisal measures would further save human lives to an extent which otherwise would have been impossible for me, if I had approved and carried out the reprisal measures as it had been requested.

Q. If I understand you correctly, witness, mock executions were not carried out, not even just as a fake, out if I understand you correctly you are trying to say mock executions consisted in practice in the following: Posters or announcements in newspapers one day or the other, proclaiming to the population that certain reprisal measure had been carried out, in spite of the fact that actually these reprisal measures had not been carried out. Did I understand you correctly then?

A. Yes, indeed.

Q. Yes, And the purpose again, if I understood you correctly was that to frighten the population so as to prevent them from participating in sabotage, is that correct?

A. Yes.

Q. Witness, if it known to you that due to the emergency situation in which you and your co-workers found yourselves, that such false reports were sent to higher headquarters with respect to reprisal measures--that is, false reports inasmuch as it was reported to higher headquarters that certain reprisal measures had been carried out, whereas actually they had not been carried out.

A. I myself cannot recollect such a case but I do think it is quite possible that such--well shall we say such a pacifying report to higher headquarters was made.

Q. And what would you say was the reason for that?

A. I already took the liberty yesterday to point out that we were very sharply controlled on the part of the SS political people and that the other side, I am sure, thought that we were exaggeratedly soft and that they would have immediately reported anything like that to Himmler.

Q. Further, is it correct, witness, that for similar reasons you or your staff repeatedly did not report surprise attacks and sabotage action although they had occurred and for that reason that not in a manner which was thought exaggerated by you, reprisal measures were ordered, talked about.

A. Today I cannot recall a specific case after such a long time, but I think it would be quite within the lines of our general conception and I think it is quite possible that it happened.

Q. Witness, in one of your affidavits at one time you talked about the executions of hostages at mopping up operations?

A. I could not understand the last word.

Mopping up operations?

Q. Yes, I am talking about mopping up operations of the troop. Therefore, I would like to ask, did the troop on the occasion of mopping up operation--did the troop carry out executions of hostages?

A. I cannot recollect a case of this nature but it may be possible and there again I have to point to the Bulgarian units that occasionally a spontaneous excess might have happened.

Q. A spontaneous excess? That would be on the part of the troop without any underlying order by you or by another responsible department, is that correct?

A. That is correct.

Q. Witness, another question. In December 1943 you went on furlough to Germany. I think you went to Dresden?

A. Yes, I went to Dresden.

Q. All I am interested in is this: Is it correct that at that time also your Chief of Staff, von Geitner, went on furlough at the same time, that is, a furlough which had not been booked and that then you extended it, Geitner's leave, when you were in Dresden, for a few days. Is that right?

A. Yes, that is right. I had to force Geitner to go on furlough because he would not, on his own accord, have gone and I thought it was necessary that he get a good rest.

Q. Witness, did it occur that reprisal orders as far as you were informed were made and signed by Geitner?

A. Such a signature on a reprisal order I cannot think of.

Q. I have here in front of me a document which is in Document Book X, German page 11, Exhibit 246. This document has been submitted by the prosecution; it has the date of the 5th of November 1943 but obviously should mean the 5th of January 1943. I think that must have been a typographical error when the document was copied. "The Commanding General and Supreme Commander in Serbia" -- it says here -- "Subject: Reprisal Measures." Then it reads: "To Administrative Headquarters 809. The Deputy Commanding General, Major General Tuppe, approved the application of the district headquarters Leskovac of 29 September 1942 to shoot to death 35 hostages." Then the details of the order are mentioned and then comes the signature: "For the Commanding General and Commander in Serbia, Chief of General Staff," signature "von Geitner". Witness, I am submitting to you a copy of this document. Please look at this order and then tell the Court what conclusions you draw from this order -- as you have it before you -- in respect to the responsibility of the defendant von Geitner.

A. This concerns an order which is doubtless of January 1943. That is before my time. The form of the order seems to me a little unusual because on top it reads, "The Deputy Commanding General has approved."

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That means he has ordered the reprisal measures and then details are mentioned which would have been really a matter of this reprisal order of the Commanding General. What the cause of this was, to put up an order in this particular form, I cannot explain.

Q. Witness, do you assume in agreement with me that this order which at a quick glance looks a little unusual to you, that the reason for this unusual form may well be that your deputy -- let's say the deputy of your predecessors -- was not present at the time when the order was given and could, therefore, not sign the order himself at the time when the order went out.

MR. RAPP: Your Honor, we submit that this Court is not interested in the opinion of counsel to ask whether or not the defendant agrees with him. We respectfully submit, Your Honor, that the witness should be questioned about these things.

PRESIDING JUDGE BURKE: The objection is sustained.

BY DR. SAUTER:

Q Witness, you should therefore not answer the question since it concerns my own opinion, but you are supposed to answer the question completely according to your own opinion. What explanation can you give for the fact that the Commanding General did not sign the reprisal order himself, but the Chief of Staff himself?

A. It might well have been that such a decision was given to the Chief over the telephone in the absence of the Commanding General and also that these individual instructions for the individual hostages were given because the Commanding General, who was absent, could not possibly know how these individual cases were to be treated in detail; that was a matter of the competent officer who worked on these reprisal measures, as I already mentioned. In any case, the form, the official form, as it is expressed in this particular order, is unusual.

Q. How would you, as Chief of Staff, have formulated this order if you consider this unusual?

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A. I would have asked my commanding general to give clear instructions as to the individual cases and then I would have informed the troop of his order. This order does not show clearly whether it was meant this way.

Q. According to the customs which are usual in the German Army, can one arrive at the opinion that was expressed in this communication was an order of the Chief of Staff or the receiving department - would that department see clearly that it concerned an order of the Deputy Commanding General while the Chief of Staff, with his signature, merely approved it in the usual official channel, the order of his Deputy Commanding General.

A. I assume that it was meant this way, in this case; that it was merely literally an unhappy formulation which says: it is therefore ordered and signed von Geitner. It would have been clearer if it had said, "The Commanding General has ordered," if "it has been ordered," and according to this formulation it might have been Geitner as well as the Commanding General.

Q. By chance I have here a second order from the same time period again signed by the Commanding General and Commander in Serbia and Chief of the General Staff von Geitner. This is an order of the 6th of January 1943. This again is subject: "Reprisal Measures". Again: "To Administrative Sub Headquarters 809", and this reads:

"The Deputy Commanding General, Major General Tuppe, has ordered--" and then come the individual instructions. This is Document [NOKW-973](#) which document has been submitted as an exhibit.

A. In my opinion this second order has the right official form because it shows quite clearly that the Deputy Commanding General had ordered. Now, it says, or it gives, his decision, which is merely passed on by the Chief of Staff to the local headquarters through official channels because I suppose the Commanding General was not present at the time.

Q. Now, witness, you look at the second order and now compare the first order with it.

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Do you, in this, find a confirmation of the fact that the first order which I gave to you was meant in the same way as the second order which was dated one day later? That is merely passing on an order of the Commanding General through official channels.

A. That is quite my opinion. Anyway, the Chief of the General Staff would never volunteer to decide or to order a reprisal measure on his own account.

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Q I have one last question to put to you, witness. In the course of these proceedings the question arose, what is the meaning of the formulation which occurs in several documents "signed in draft"? On the 34 of July we received an explanation for this which in my opinion was not quite clear. What can you, on the basis of your own knowledge of the condition, tell us; what should be expressed if under an official document of this nature we find the words, "signed in draft"?

A The explanation for this can be formulated thus. It happened frequently that a decision was submitted by the chief to his commanding general and was obtained and that the commanding general had full knowledge of the document, that is, not on the basis of an oral report but the Commanding General had full knowledge of this report but that for some reason he did, for some reasons of time, or other reasons, could not wait for the official completed version because he had other tasks outside of the headquarters. Therefore, if he signed it in draft, the contents are completely approved by the responsible superior officer.

Q Was it established then that the form of the document as submitted was in agreement with the wishes of the Commander that he approved it and that the person who added the words, "signed in draft" merely wished to express that the formulation and presentation would be exactly the same as it complied with the wishes of the Commander and the orders as issued, not the officer who then certified the document was liable for the contents of the order, but he did certify for the wishes of the Commanding General?

A Yes.

DR. SAUTER: I have no more questions.

PRESIDING JUDGE BURKE: Do you have any objection, Mr. Rapp.

MR. RAPP: We will withdraw any objection we were preparing to make.

DR. SAUTER: No further questions.

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BY DR. WEISGERBER (Attorney for the defendant General Speidel):

Q General, in your memorandum which has been quoted here several times dated on the 15 of June 1948, that is, the document [NOKW 1735](#) which was not submitted as an exhibit by the Prosecution, in

this document we find the following sentence: "The Military Commander Greece was a torso" I would like to ask you for a short explanation of the reasons for this conception.

AAccording to my impressions which I gained quite soon after my arrival in Belgrade, and after a very impressive report of the Commander of Greece, who was General Speidel at that time, I had gained the impression that with a great name and nicely formulated written tasks one wanted to exaggerate something which in reality was hardly suitable to live. I completely understood at that time that General Speidel requested of me to affix my attitude to the facts that he quite soon or he would approach me with an application for resignation because he was not willing to take over the responsibility for matters for the achievement of which he did not have the means at his disposal. He even, as far as I remember, compiled these files in Belgrade maybe - I don't remember- I do remember in any case that he submitted to me a lengthy document which expressed these things very clearly. I, on my part, then tried to calm him down and told him that after such a short period I could not survey matters sufficiently in order to put myself out for him and according to his ideas and I achieved that he took back his resignation and let a certain period lapse in the hope that matters would change. He let a certain period lapse in the hope that matters would change. His most important point of objection as far as I remember today dealt with the feeling of complete dependence, in this field work, which he had, that is, the territory administration of the country, or, as we have quoted here now, executive powers. The most important prerequisite for this work, that is a sufficiently large troop, was not at his disposal. He further complained, even at that time, about a strong endeavor of the tactical departments; especially of army Group E, to interfere with his functions, and this complaint did not cease during the whole time of his presence in Greece.

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I believe in Spring 1944 matters came to a head and at first, as far as I remember, he was subordinate to Army Group E, merely for administrative matters, for operational matters he was in any case thus subordinated, and finally his full subordination in everything that was ordered to Army Group E.

Q When did that happen?

A I cannot name here the exact date but I believe that that happened after Speidel left because the battle which the Army Group [F waged](#) for the complete subordination of all military commanders, that is my own department too, that battle was already waged since the end of 1943 and the OKW for some reasons which I cannot survey and did not know delayed matters until finally, for me, on the first of September 1944 the complete subordination was ordered but it is possible that the subordination of the Military Commander Greece under Army Group E is prior to that date.

Q It was thus that military tactical tasks for the Military Commander Greece could not be carried out because of the lack of troops which were necessary for these tasks and therefore such tasks were not even put to him. Is that correct?

A In general outlines this conception is correct.

Q The crucial point of the task is, therefore, purely in the administrative sphere?

A And possibly in the political sphere, that is to keep on good terms with the Greek government but the responsibility for administrative matters in that respect is again to be limited because it is important here that the German Ambassador, Neubacher, in the Southeast area, be an intermediary.

PRESIDING JUDGE BURKE: At this point we will take a recess.

(a recess was taken)

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THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

PRESIDING JUDGE BURKE: You may proceed, Dr. Weisgerber.

BY DR. WEISGERBER:

Q Witness, yesterday you said that the High SS and Police Leader Greece, to the Military Commander in Greece was subordinate in the same way as the Serbian Command in Serbia in the SS was with the SS Gruppenfuehrer Meissner.

A Yes, that is what I said.

Q You were on quite good terms with SS Gruppenfuehrer Meissner, you said?

A No, I must make a certain limitation to that. From a purely military sphere he was always ready to help me if I needed it from his troops and he always placed them at my disposal but on the other spheres we had considerable tensions.

Q Now, do you know something about the relation between General Speidel and his High SS and Police Leader, General Schimana?

A The relations between Speidel and Schimana I cannot remember exactly. I only know that his successor, General Scheuerlen expressed very clearly the great difficulties which Schimana made for him, but I can remember one incident which also happened in Speidel's time where one day the Chief of General Speidel came to us in Belgrade and protested that Schimana, in the absence of his Commander, when the Chief asked him to come to a conference in the Headquarters, Schimana refused. With a Chief of Staff he had nothing to do. From this I would like to see the proof that the relations were so between Speidel and Schimana, and his staff was full of considerable tension because -- nevertheless this attitude -- this conduct, after all, this was war -- was very remarkable.

Q The Tendency for.....

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the greatest possible independence; wasn't this characteristically for the Higher SS and Police leader?

A. As I stated in my memorandum that was the same everywhere.

Q. The prosecution, in the course of their submissions submitted a number of daily reports from the Military Commander to your office, the Military Commander Southeast, from these daily reports one learns about shootings at Communists and DM followers or reports about reprisal measures, etc.

I now assume that the prosecution shows the responsibility of the Chief, or the Commander, of the office surely sends out these reports, the responsibility for the measures contained in these reports--and now I would like to clarify this complex. I think I could do this more simply by presenting you with a report which I just pick out at random.

This is Document [NOKW-670](#), Prosecution Exhibit No. [437](#), document book 18, page 43 of the English, page 50 of the German. I would like you to take a look at the bottom of this page and the next page of this report. This is the daily report, the morning report, of the military Commander in Greece from the 15th of March 1944. I would like you also to look at the next page to this.

I would like to ask you three questions which I will ask you one after the other and then I would like you to give your answer to these three questions.

First of all, what was the purpose of these reports? Secondly, how did they originate; and, thirdly, what conclusions can be drawn from those reports what the responsibility of the Commander was with regard to that responsibility of the leader of the Office which sent them?

A The purpose of this report was to inform about the current events in the sphere of work in the offices concerned. It can be seen here that they are only directed to the superior office that is the military Commander Southeast and, at the same time, I would like to make this limitation to Department Ic and, at the same time, to Army Group E Salonika, again to Department Ic. The responsibility for the retaliation measure which had been carried out was borne by the Military Commander in Greece who carried out the executive powers there.

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Q Might I ask for the third question.....

A That is my second question about?

Q How this report originated.

A The Military Commander in Greece also received his reports from his Feldkommandantur (District Headquarters). He compiled it together in his staff because he needed it at the end of the month for his monthly report and then he gave the most interesting reports, especially as they concerned the tactical sphere, to my office and also to the tactical offices associated with him, Army Group E.

Q There is another question -- it is not correct to say that the lowest offices from which the first reports came, events which were in that sphere or the neighborhood in which they were stationed, they recorded these reports without having had anything at all to do with these events themselves. Didn't they report these events to the next highest office?

A Yes, that's correct.

Q. Isn't it right that perhaps the second or the third office then could not ascertain at all who had ordered any kind of measures so that if such event was reported to higher quarters, nobody without having seen it could have known whose responsibility it was?

A. Yes, that could be right; that depends on the contents and the subject of the report concerned.

Q. Then could I ask you to look again at this morning report from the 15th of March, page 2, where retaliation measures are mentioned? I would ask you to explain whether this report allows the conclusion to be drawn that these retaliation measures in no case, come expressly from the military commander in Greece, but that these could also have been measures which any kind of office in the whole of the Greek area could have been ordered.

A. Yes, that is quite possible, especially because under one number here, a "corps" is mentioned, "Regiment EAKR". I don't know what it means. I do not know now whether it was subordinate to the Military Commander then.

Q. But at any rate one thing is correct, that the report, regarded in itself, it did not happen that the report which some office passed on above, and did only contain that which happened in its own sphere of command, and fell under the responsibility of its commander?

A. That is correct. Especially it is correct for the report I have already mentioned, the one which was sent on in the Ic channel.

Q. One more question , - the so-called hostage orders, the orders in which quotas were laid down, there came from the OKW, and then through the official channels, they went through you, to the subordinate commanders, etc?

A. I can only make one limitation here. In my time the orders were already then there when I arrived, but otherwise they went through the channels, through me to the subordinate units. The connective reprisal order which is mentioned here had already been present in the Balhaus when I was not there.

Q. According to my information this retaliation order came from the first 1 to 50 order, when the first time came with General Speidel when you were still there, could it have been possible that the order could have been passed on to General Speidel when you were then military commander in southeast?

A. Yes, I think one should understand the link there, that in an installation of an officer, as with the case with the military commander Greece, that there all the fundamental orders had already been issued previously but had not yet arrived in the staff, were not yet placed at the disposal of the staffs. This was not the issuance of a new order, but merely orders of all kinds being placed at the disposal, among them this collective order.

Q. About your personal attitude towards this collective reprisal order, did you also inform General Speidel about this?

A. Yes.

DR. WEISGERBER: I have no further questions.

PRESIDING JUDGE BURKE: Is there further cross-examination of this witness? --(Defense counsel indicated they did not)-

Have you further direct examination Mr. Rapp?

MR. RAPP: Yes, your Honor.

PRESIDING JUDGE BURKE: You may proceed.

RE-DIRECT EXAMINATION BY MR. RAPP:

Q. Witness, yesterday, in connection with the cross-examination by the defense you were asked about various authorities of the defendant, von Weichs, and one of the questions, at the end of the this certain period about which I am speaking concerned, this was the question which you were asked: "Would you think it correct if I said that his main task was a strategic task?", and thereupon witness, you answered , "Yes, that would be correct". Witness, in the introduction or or further statement to the question, and answer which you gave to this couple of questions, I would like to ask you first of all, did you have so-called territorial authorities in Serbia?

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A. After it has been made clear to me, yes.

Q. Did you have territorial authority as Military Commander Southeast in the southeastern area?

A. On paper, and according to official directives, yes.

Q. Witness, did the defendant Weichs have so-called security authorities in the southeastern area, that is to say on matters regarding security?

A. Yes. Might I make a limitation to the question which was previously asked, about territorial authority in the southeastern area? In Croatia, I didn't have any such territorial authorities. There, the Croatian government had this.

Q. Witness, did you have security authorities in Serbia?

A. Yes.

Q. Did you have these security authorities yourself, or did you have these security authorities by reason of the security authority which Weichs had for the whole southeastern area?

A. We both had the authority simultaneously.

Q. You are now speaking about Serbia?

A. Yes, only about Serbia.

Q. Witness, would you please explain to the Tribunal what you understand by "security authority"?

A. By "security authority", I personally understood that the task assigned to me, to maintain peace and order, and for the tactical foundations; I had to safeguard these, and if necessary, by making use of the troops at my disposal.

Q. Witness, would you please tell the Tribunal what you understand by, "territorial authority"?

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A. The territorial authorities was covered by that of the Executive power, in that power in which the competent office expressly was ordered.

Q. Witness, the whole territory of reprisal and retaliation, can this be described as the expert field of "security authorities"?

A. I should like to answer this question with -- yes!

Q. Witness, the so-called tactical or police -- or necessary for police reasons -- reprisal or retaliation measures about which we spoke yesterday, as well as the day before yesterday, were these matters of security authority or matters of territorial authority?

A. I would like to answer this question by saying that they were the tasks of security authority.

Q. Witness, the next question which I would like to discuss with you quite briefly, - you said yesterday in reply to a question from the prosecution, that the warfare in the Balkans could be formulated by saying that the warfare carried on by the bands was in no way equal to the warfare which you had met with any other enemy in any other theater of war, and not even in the very bloody fighting with the partisans in Russia in 1941-1942?

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A. That's right.

Q. Would you please explain to me further whether by this you mean that in other words, the bloody battle in Serbia or in the southeastern area were so to speak forced upon you? Do you mean that by that statement?

A. Yes.

Q. Witness, do you know who invaded the Balkans, which Army?

A. Which Wehrmacht you mean?

Q. Yes, which Wehrmacht, which Wehrmacht was that?

A. That was my own. The German.

Q. And then when were the Balkans invaded?

A. In 1941.

Q. Do you know the date witness?

A. In think in May 1941.

Q. May?

A. No, before then, in April, 1941.

Q. Before April 1941. Up to then witness was Yugoslavia and Greece in a state of war with Germany?

A. No.

Q. Now further, witness, did you say that the German Army, so to speak, came into this territory and hoped to meet an honest and brave enemy who fought in accordance with international conventions. Is that correct?

A. Yes.

Q. And you were asked yesterday about the Commissioner order. Is that correct?

A. Yes.

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Q. And you told us that as Corps Commander inside of the 4th Army you received this Commissar order?

A. Yes.

Q. I think Field Marschal Fuechler or Kluge commanded the 4th Army?

A. Kluge.

Q. Now witness, did you think that the Commissar order was an order which originated from Hitler?

A. Without doubt.

Q. Do you know who at that time was the Commander-in-Chief of the Army, and how they received the Commissar order?

A. Of course; Field Marshal von Brauchitsch.

Q. And who was the Supreme Commander of the German Wehrmacht at that time?

A. That was Hitler.

Q. Was the German Army a part of the German Wehrmacht?

A. Yes.

Q. Was the then Supreme commander Hitler at that time the superior of Field Marshal von Brauchitsch?

A. Yes.

Q. Now witness, were you as a professional officer under oath to the Supreme Commander of the German Wehrmacht at that time, and what did this oath mean?

A. This oath meant for the German soldier, that he should give themselves completely to their duty as he had sworn to do.

Q. Witness, does this also include unconditional fulfillment of the orders of the Supreme Commanders?

A. Yes.

Q. You told us yesterday, witness, that you did not pass on the Commissar order. Is that right, witness?

A. Yes.

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Q. Why didn't you pass on the Commissar order?

A. Because for the first time in my life as a soldier, I was of the impression that there was an order which was given to me which I could not be responsible for to my inner conscience and the carrying out of this order would be such a burden for the officers and men under my command, and for this reason I refused it, and tried in another way to carry it out in a weaker form, to use other words for the word "sabotage".

Q. Is it correct , - do you mean by this, that it was possible that Fuehrer orders could not be carried out?

A. In reality, absolutely, but the consequences of such an action had to be clear to one.

Q. Then you did not carry out the fuehrer Commissar order?

A. No, I did not carry it out.

Q. Now witness, in order to come back to our original subject, that is the fighting methods in the Southeastern area, and you compared this to the fighting methods in the east by which the otherwise honorably fighting Wehrmacht was forced to fight in this way; I would, therefore, like to ask you to answer the following question: When did Germany invade Russia?

A. On the 22nd of June, 1941.

Q. Your Honor, I am now giving the witness [NOKW 1076](#), Exhibit 14, Document Book 1, that is the famous so-called Commissar order. Witness you told us that the German Wehrmacht attacked Russian in June; do you know the exact date, witness?

A. 22nd of June.

Q. 22nd of June. The document which I have given you is the socalled Commissar order. In this case comments to the Commissar order. What is the date of this document, witness?

A. From the commander-in-chief oi the Army, the 8th of June.

Q. 8th of June?

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A. June.

Q. According to your statement, Russia was attacked on the 22nd of June, so that two weeks before that, oh 14 days before the attack, and before it was even known how the Russians fought or what their fighting methods were, this order was issued; is that correct?

A. Yes.

Q. Witness, in connection with this question, I would like to limit myself specifically to the southeastern area in which you maintained yesterday, that there the brutal methods of fighting and the inhuman methods of fighting, were forced upon the brave German soldiers. Somethings you have told the Tribunal, witness, that Yugoslavia or Greece, was attacked in April by Germany; is that correct, witness?

A. Yes.

Q. And yesterday in your statements witness, you were asked how you explained that in 1943 the so-called, I think you described it as massacres, were less numerous, as in 1942 or 1943. Were you asked this question, witness?

A. Yes. This question was put to me.

Q. You told the Tribunal that the reason for this was that perhaps under your predecessor, or even under those commanders who before your time had been active in the Balkans, the fighting methods of the enemy must have been of especial brutality; is that right?

A. Yes.

Q. First of all, I would like to give you a document, NOKW1111, Exhibit 4, Book 1.--

PRESIDING JUDGE BURKE: What is the number of the exhibit please?

MR. RAPP: Your Honor, the number of the exhibit is 4; exhibit 4, book 1.

Q. Witness, what is the date of this document?

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A. The date is the 27th of April, 1941.

Q. During this time you were in the southeastern area?

A. No.

Q. Witness, who signed this document?

A. A Commanding General --- von Kortzfleisch.

Q. Would you now please read the second paragraph, firstly for yourself (witness reading document)..

Would you now please read this paragraph to us again, witness?

A. The whole paragraph?

Q. Yes, the whole paragraph.

A. "I expect every instance of resistance to be broken with ruthless force. Every person encountered resisting or fleeing with weapon in hand, is to be shot dead immediately. Persons surrendering are to be handed over to courts martial or summary courts martial to be judged immediately. We draw attention to the decree, OKW -here follows the numbers of 2nd of April 41, sent with commander-in-chief of the 12th Army" and then -

there are diary figures A "...In areas of unrest, furthermore, hostages are to be taken whose shooting to death is to be applied for in case further enemy resistance should occur.

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Any consideration will be interpreted as weakness of the German troops and is a mistake."

Q Thank you very much, Witness.

DR. LATERNER: The Prosecution should not be allowed to ask this question because in re-direct examination he can only touch upon points which arose in the cross-examination; therefore, I object to this.

JUDGE BURKE: The objection is made rather belatedly. You may proceed.

MR. RAPP: Your Honor, since the Court did not, at this time, rule on defense counsel's objection--however, defense counsel maintains that this particular phase has not been covered during the cross-examination, I would like to call the Court's respectful attention to the fact that I intend to go on this particular phase, provided the Court sees fit to sustain the defense counsel's objection. Inasmuch as we believe yesterday this point was brought up by defense counsel when the witness stated that measures taken by the German Army were taken under duress and as a direct outgrowth of measures taken first by the German Army.

PRESIDING JUDGE BURKE: The objection of the defense counsel is over-ruled and you may proceed.

MR. RAPP: Very well, your Honor.

BY MR. RAPP:

Q Witness, this document which I have just shown to you was dated the 27th of April. That is in the same month in which the German Wehrmacht invaded the Balkans. Is that correct?

A Yes, but I would like to point out that under figure I of this order, the comment to the measures by the German Wehrmacht are set down.

Q Thank you. Witness, in connection with the same compiles I would like to show you a final document, [NOKW-1198](#) Exhibit 5, Document Book 1. Witness, what is the date of this document?

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A The document is dated 28th April 1941, from the Army.

Q And how do you recognize this document? Can you please describe it?

A It's an Army order of the Commander in Chief of the 2nd Army, signed: Freiherr von Weichs, and the order is passed on to the General Command, already mentioned -- 11 -- signed Kortzfleisch down to the companies.

Q Would you read through the order briefly, Witness, before I put a few questions to you about it. Have you looked at the order enough, Witness?

A Yes.

Q This order, is it the fundamental order by reason of which the regulation by Kortzfleisch was issued?

A Yes.

PRESIDING JUDGE BURKE: Just a answer please!

DR. LATERNSEER: Your Honor, the Witness is now asked about something which happened in 1941. At that time he wasn't in the Balkans. Also, in addition the question which was just put not a question which refers to facts but one about something which asks for an opinion of the Witness. This can not be done in the direct-examination. I would like the question to be rejected.

PRESIDING JUDGE BURKE: If the Witness has personal knowledge of the matter he may answer it; otherwise he would be stating a conclusion. It would be incompetent.

MR. RAPP: Very well, your Honor; we accept the Court's ruling in this respect. If the Court permits I would like to make, however, one comment which has no bearing on this particular decision. The defense counsel calls to the Court's attention the fact that this Witness was not in this area at that time. I would like to call to the Court's attention the fact that this Witness has never been a member of the OKW. Yet defense counsel proceeded to talk to him at great length. He has not been in the area in 1943 in January, he came to the Southeast sometime in August; yet he was talked to during the defense cross-examination.

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We submit, your Honors, that if the defense chooses to cross-examine the Witness during that period for which the witness is not, in our opinion at least, qualified to testify, then the witness becomes the witness of the defense, or if your Honors wish, an expert witness. But in this particular instance we submit we should have the right to inquire from the Witness on the same basis that the defense has now.

PRESIDING JUDGE BURKE: Your relationship to the witness is somewhat different from that of the defense. You called him as your Witness. You may, within reasonable rules interrogate him upon such matters as you consider material. The bounds of the defense are somewhat broader. They may cross-examine him upon any matter of which he is presumed to have knowledge. If the Witness has personal knowledge of the question which you have asked he may answer; otherwise his answer would be a mere conclusion.

MR. RAPP: Very well, your Honor. Witness, can you, from your personal experiences tell us something about this order? If the Court pleases, I haven't completed my question at all. I'm quite sure that Dr. Laternser can walk back, and he will be very happy when I have finished with my question.

PRESIDING JUDGE BURKE: I think he anticipates that the Witness may answer the question before he has a chance to make an objection. That's how the matter appears to me.

MR. RAPP: That's what I think, your Honor, but I haven't finished it.

PRESIDING JUDGE BURKE: Mr. Rapp, ask him the question and before he answers Dr. Laternser will have a chance to make another objection.

MR. RAPP: Witness, don't answer my question, under the circumstances until Dr. Laternser makes his objection. Witness, at that time were you in the area, that is, geographically, of the Commander in Chief of the 2nd Army?

A No.

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Q Where were you then?

AAAt this time I was in the Warthegau near Litzmannstadt (Lodz).

Q Witness, how long have you been a professional officer?

A For 40 years.

Q This document, which you have before you, is it an Army order?

A Yes.

Q Witness, what's on the second page of this order?

A It's a Corp order, if you mean that.

Q Correct. Witness, do you know whether this XI Corps was in the Second Army?

A I don't know it, but it is to be assumed.

Q Thank you. Witness, the last question which I want to put to you -- you said this morning that several subordinate officers to you, during your absence, deputized for you. Is that correct?

A Yes.

Q For instance, General Geip. During your absence, Witness, was your chief of staff, Geitner, also absent always?

A Only once, for a few days in December, 1943.

Q Geitner remained in his position as chief when the other men took over? Is that right?

A Yes.

Q Witness, who, in addition to you, was the best informed personality in your headquarters?

A My chief of staff.

PRESIDING JUDGE BURKE: We'll discontinue at this time for our recess.

(The court recessed at 1215)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours.)

THE MARSHAL: The Tribunal is again in session REDIRECT EXAMINATION HANS GUSTAV FELBER - Continued

DR. LATERNSE: Your Honor, I would like to ask to check as to a translation which in my opinion is important. I request that at this stage of the proceedings, because I think it is right, that this be done while this witness is being examined. The translation in question occurs in Document 1010, which is Exhibit 351. This document is in Document Book 14. I request that the following part of the document be checked. It is on page 3 of the German version, and under Roman Numeral I, Figure 2. This Figure 2 reads as follows: "To Commander in Chief Southeast (Supreme Command Army Group F,) are subordinate: two letters "E", - the Military Commander Southeast in all questions regarding the securing of the country." The sentences which I have just read I am asking for a re-translation.

MR. RAPP: Your Honor, the only thing I would like to submit to you is to have this particular paragraph not translated by the interpreters here in the Court, but have it translated if agreeable to Dr. Laternser, in the Translation Division downstairs for their rechecking, rather than bother about it here in Court at this time.

JUDGE BURKE: Is there any particular objection?

DR. LATERNSE: Your Honor, I would like to take advantage of all instances or possibilities of translation. I would like to have the interpreters here do it as usual, then if the Prosecution doesn't agree it can be given to the Chief of the Translation Section for a decision. I believe that would be the right way to go about it.

MR. RAPP: I regret that my suggestion was not accepted without veto by Mr. Laternser. The reason to have it not translated at this time is rather obvious. If the translation comes out at this time not agreeable to the defense who are raising the objection at this time, it would be in the nature of his suggestion and may then influence a later translation downstairs.

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Therefore, I suggest outside of this courtroom it should be translated and then submitted to us, being the final authority of the Translation Division, what the translation really should be.

JUDGE BURKE: Just a moment please. We will follow the same procedure the Tribunal has followed in the past. If you will pass the document to the interpreters it may be translated.

DR. LATERNSEER: I have the sentence and the passages framed in pencil, that is in parenthesis, these particular passages I should like to ask for renewed translation.

THE INTERPRETER: I am sorry, your Honor, I cannot give an alternative to the translation in the document. If I had to translate it off the bat I would have said exactly the same. "In all questions regarding the security of the country," - no alternate suggestion.

DR. LATERNSEER: Your Honor, I do not want to influence the interpreters in any way, but as I am of a different opinion I would like to make suggestions to them because I believe that the interpreters will translate independently in view because of their oath and I am sure they will be glad to submit themselves to a better suggestion, if they realize that there is a better translation.

MR. RAPP: Your Honor, I withdraw my objection.

JUDGE BURKE: In the event of any misunderstanding about it it may be translated to the Main Translation Department.

DR. LATERNSEER: Your Honor, may I add something to this. I do not want to take up the time of the Court unnecessarily but I know the translations are rushed through, but as this is a very important one to me, and there are reasons why the translation is not considered adequate. May I point out that the word "Sicherung" is translated as "security".

MR. RAPP: Your Honor, if defense counsel at this time is being permitted to give his explanation as to why in his opinion the translation is wrong.

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Which the interpreter has already said in his opinion is correct. That would amount at this time to influencing the translation of any independent translation in the Translation Division, and I have not heard that the Court has inquired from defense counsel why in his opinion the translation is wrong. Dr. Laternseer has offered this statement gratuitously to the Court.

DR. LATERNSEER: Your Honor, I am not offering anything. I am just trying to bring something under consideration. I am quite sure that if I make this suggestion here the interpreters here will agree with me.

Your Honor, in German there are two words, the word "Sicherheit" and the word "Sicherung" - I can agree that the word "Sicherung" would have to be translated as "safeguarding". According to my opinion for this reason only does it seem important to me, because it is decisive, and this point will be decisive in the opinion of the defense.

JUDGE BURKE: There appears to be a very definite confusion in the system. I am not hearing clearly. It will be submitted to the main Translation Department for clarification.

DR. LATERNSEER: Your Honor, may I ask to add to this request an excerpt from the record about the proceedings of the last few minutes?

MR. RAPP: Your Honors, we respectfully object to this request from defense counsel, because if that would be done, first of all Dr. Latetnser would put himself into the position of an expert translator and secondly, it would, we believe, influence the supposedly impartial translation of the official translation Branch of this Court, and the entire institution, and if that were to be permitted, and any and all of us may send notes and suggestions to the translation department for any use that they may see fit.

JUDGE BURKE: It is the opinion of the Tribunal that the matter with which we are concerned is the truth of the interpretation, which certainly should be made available, assuming the interpreters are competent to do the work which they are performing.

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It may be sent to the Translation Division, but merely with the request that it be translated.

You may proceed.

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MR. RAPP: Witness, before the luncheon recess, I asked you whether during your absence, your chief Geitner was always absent too, or when you were represented by some other gentlemen whether he then mostly remained in your headquarters. And you answered my question in the affirmative. That is, you said that he remained there with the execution of one stay of yours in 1943 when he was not there.

A.- Yes, it is correct.

Q.- You further said that next to you the chief was the next well informed person in the staff, is that correct, witness?

A.- Yes.

Q.- How closely were you connected with the gentleman, professionally as well as personally -- with these gentlemen who deputized for you occasionally? How friendly were your relations, for instance, with Geip?

A.- I only knew Geip shortly before, during my career I had encountered him only occasionally. General von Glaise-Horstenau who came from the Austrian army, was likewise unknown to me before I came to the Balkans.

Q.- Geitner was much closer to you than those two gentlemen?

A.- Yes, indeed.

Q.- Those two gentlemen -- did they individually -- I mean at different times - did they comment to you about the manner in which Geitner looked after affairs during your absence?

A.- No, this question never came up. This question was never under discussion. I assume that there were no disharmonies anywhere. Otherwise, I would have been informed about it.

Q.- Well, all right. Witness, you were asked by the defense about so-called, I believe, mopping-up operations. Is that correct, witness?

A.- Yes.

Q.- And these spontaneous mopping-up operations took place in connection with reprisal measures. Is that so?

A.- No, I think that is an error. Yesterday I used the expression "spontaneous" in connection with the troops in order to make it clear that through some cruelty which had been committed against the troops in those cases, the troops on their own account, without interference from any higher command or without any order from any higher command, took it upon themselves to get revenge.

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Q.- Yes, that is the answer which I have reference to, witness. Now, witness, who did have the right to order reprisal measures in Serbia? what I mean is either in connection with spontaneous mopping-up operations or on the basis of a direct order. Who had that right?

A.- Only the Commander-in-Chief had that right but it is quite possible that in the case of troops where the Military Commander was not present, during the course of band fights, excesses of the troops of this spontaneous nature might well have occurred.

Q.- Witness, before I put the next question to you, two points have to be clarified here, please. You are now talking about excesses. To you, are excesses and spontaneous mopping up operations the same?

A.- Yes.

Q.- Witness, your authority to order reprisal measures -- did you occasionally transfer or delegate it to other gentlemen in the Serbian area?

A.- No.

Q.- Witness, did you have front or combat units under your command?

A.- If I may take the units mentioned yesterday -- if I may include those units -

Q.- You any include those units you mentioned yesterday.

A.- If I am talking about that, then yes.

Q.- Then in other words, these units were subordinate to you for the purpose of combatting bands?

A.- Yes and for other purposes too.

Q.- Were there people under your command -- military commanders of these units which we are discussing now as well as field commanders who had the rank of a division commander?

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A.- Such a field headquarters in the framework of a divisional commander did not exist in Serbia.

Q.- How about your units then?

A.- I had only parts of the Bulgarian occupation corps as division like units; only in the summer of 1944 when the Russian danger showed up on the horizon I received active divisions under my command.

Q.- All right, witness. We are now talking about the time or period before this time.

A.- At that time, with exception of the Bulgarian divisions, I had no divisions under my command.

Q.- Did you ever bear in your capacity as military commander southeast or in your capacity as military commander Serbia that a division commander or a commander with the rank of a division commander had the right to order reprisal measures?

A.- Not in the Serbian area, no.

Q.- In other words, my question is something completely new for you, witness? You have never heard anything about that?

A.- No.

Q.- Your Honors, I am now referring the witness to [NOKW-172](#), Exhibit 379, Document Book 16.

(Handed to the witness)

Witness, I believe this order was already shown to you yesterday by the representative of the defense, is that correct?

A.- Yes.

Q.- And I believe you then testified that you had never seen that order previously.

A.- At least, I cannot remember that it passed through my hands.

Q.- All right, witness. Would you like to look at page 2 under (c) and read through these paragraphs?

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It says in there: "The revengeful attacks which are directed against the units and its installations may be ordered only by a German commander, at least with the disciplinary authority of a division commander in agreement with the competent administrator subarea headquarters."

Does it read like this in the document, witness?

A.- Yes.

Q.- And then in the next paragraph, witness, it goes on. "If an agreement is not reached, the competent territorial commander is to decide when reprisal measures for losses in the air corps, navy, police, and the OT are to be ordered principally by the territorial commander. All other reprisal measures, for example, for German civilians, persons in the service of the occupying powers and in defense are to be ordered by the competent field commander. The units is to support the administration of area headquarters in carrying them out."

These two paragraphs -- were they contained in the document?

A.- Yes, they are in here.

Q.- What are your comments on this?

A.- I believe that the army group, through events some place in the gigantic southeastern area, had seen fit to issue this first summary of a reprisal order, but that the right to order reprisals was limited to someone of at least the rank of a division commander, that is, not to somebody of a lower rank or a lower echelon, that was an order which was valid for the whole German Wehrmacht.

Q.- But, witness, just now you have told us that this is the first time that you heard about this at all, that only a man of the rank of a division commander was authorized to carry out reprisal measures.

A.- No, I am sorry. That must be a misconception of my answer.

Q.- Would you like to answer it again for us then?

A.- In my area there was no department which had the rank of a division commander with the exception of the Bulgarians whom I have to except here because as a foreign unit they did not have the authority to order reprisals.

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In my area, Serbia, therefore, a division commander could not order any reprisal measures because during the whole time of my presence in Belgrade there were no troops in the Serbian area up until summer 1944, which were not subordinate to me.

Q. All right, witness. Will you now explain that the reason is for this, because if it had been the way you describe it, what is the reason then for such an order?

A. I have already said previously that probably events had taken place somewhere in the Balkan area, that is not in Serbia, and these events had given the army group reason to want to see the reprisal measures increased, and the explanation for this can also be seen from the second paragraph of this instruction according to which the untilthen-customary procedure has given cause for a new order to the intermediary of envoy Neubacher.

Q. Witness, apart from the fact that you cannot remember having seen this order previously, were you during the preparation of this order-- were you called?

A. I cannot say that at that time the arm group called us in the preparation of any order by the army group.

Q. The contents of this communication -- is that a matter which concerned your sphere of work?

A. Yes, quite. Very much so.

Q. Witness, is this order which we are concerned with here a true order?

A. Without doubt. I assume that.

MR. RAPP: That is all, your Honor.

GENERAL FELBER: Now, now I see here – no, that is only a certification and that is an officer of my staff, Dr. Bode.

MR. RAPP: An officer of your staff, witness?

GENERAL FELBER: If I read the signature correctly then it was Bode.

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MR. RAPP: Then in this case the staff did give the order.

GENERAL FELBER: Yes, in that case I cannot doubt it, that the staff did get the order, only I cannot recollect that I have received the order at that particular time, which did not exclude that it really did arrive and was submitted to me. I only remember a different reprisal order-- that one from June.

DR. RAPP: I then repeat, witness, because you personally cannot recollect that you had seen this order previously, not on the basis of the fact that it was signed by one of your officers who certified for the correctness of the copy, we can therefore conclude that your order was received in your headquarters.

GENERAL FELBER: That is doubtlessly so.

PRESIDENT JUDGE BURKE: Is there further cross examination?

DR. LATERNER: Your Honor, I don't know at the moment and I don't think I am authorized to put any further questions, but I would like to ask you to allow me to do it because now in the re-direct examination, new facts were disclosed. The prosecution did not limit himself to the contents of the cross-examination so that I should have the right to refer and examine the witness as to these newly discovered facts.

PRESIDENT JUDGE BURKE: You may proceed.

RE-CROSS EXAMINATION BY DR. LATERNER:

Q. Witness, you said just not that it is possible that you might have received this order [NOKW-172](#), that is Exhibit 379. We will assume now that you or your staff did receive it. Would that for you as Military Commander Southeast -- would that have been an order for you?

A. Yes.

Q. Do you mean to say that through this, the Commander-in Chief Southeast gives you an order in this sphere of reprisal measures?

A. Yes. The last sentence of the order at which I looked just now reads to the effect, if I recollect it properly now, that all contrary orders are to be altered or rescinded, and furthermore there is a reference to another order by the army group in August.

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That is an order.

Q. Witness, now I would like to draw your attention to the following in the preamble to this order. It reads: "In agreement with the Military Commander Southeast, the following instructions are issued."

A. As to this formulation I would like to specify that it is quite possible that these discussions which finally led to the agreement were not carried out with me personally but maybe with my chief or in the frame of a discussion with the envoy Neubacher and other military commanders. Anyhow, it strikes me that this rather important order was signed for Field Marshal von Weichs by his deputy. However, the reason for that may be purely formal. It maybe purely a delay in military channels.

Q. Witness, you said just now that this was a binding order for you. Was it ever possible that an authority could give orders to another commander and put the following in this order? "In agreement with the military commander Southeast."

A. In matters of chain of command, that was not usual, but in this rather difficult object, especially where the envoy Neubacher had to be included according to a new order, I think that is a kind of explanation and communication that this committee of the three people mentioned did agree to issue such an order, and that explains the words "in agreement." But they should not be understood to the effect that this order, in the details of its various paragraphs, was established within the framework of a discussion.

Q. You mean to say then, witness, that the army group could give you an order in these specific matters and although the army group could do so, in your opinion they put into the order and emphasized in the order that the order was arrived at and issued with your consent and agreement?

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A. Yes.

Q. Witness, what do you understand by the military concept of "securing?"

A. Securing of a country to me means militarily the maintenance of law and order so that there won't be any resistance to any measures of the troops, so that there is no opposition in the country, so that, to put it in more details the Supreme Commander who was responsible for the whole of the area has a quiet and peaceful near area so that he is in a position to carry out his measures.

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Q You mean by military securing of a country that includes the preparing of a platform for strategic actions?

A I'd like to say that in a difficult area as the Balkan area I would not like to limit myself to this definition because here the securing was also connected with political aspects.

Q Witness, wouldn't you like to agree with that according to military concepts, under military securing, one understands the establishment needed on order to counter larger enemy units?

MR. FENSTERMACHER: Your Honor, that question is objected to. We are not interested in the opinion of Dr. Laternser in this matter nor are we interested in any opinion of the witness in agreement with Dr. Laternser's opinion.

PRESIDING JUDGE BURKE: We have allowed considerable latitude on both sides and I'm sure Dr. Laternser will content to confine himself to questions without advancing his own opinions or conclusions. You may proceed.

BY DR. LATERNSEER:

Q Witness, do you not understand by military securing of an area the establishment of the state of preparedness of the troops against an enemy undertaking?

A On the whole in the main aspect that would define the concept of securing.

Q Yesterday, you said that the sphere of the Commander in Chief Southeast and of the Military Commander Southeast coincided geographically.

A Yes.

Q If, in this same area, one establishes two different authorities that makes only sense if there are different tasks and different spheres of work. Therefore, wasn't it thus not the Commander in Chief Southeast who was responsible for the military securing and the military Commander Southeast, and only that would make sense, was responsible for peace, law, security and order; for those two spheres of work which I named just now, are thus clearly separated, aren't they?

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A Quite, purely formally I have to acknowledge that, but the conditions and the tasks were of a different nature. The Commander in Chief had the right of issuing directives which allowed him to interfere with matters in my sphere. That is what I called the right of issuing instructions.

Q Witness, you have just mentioned the right to issue instructions. In what respect did the Commander in Chief Southeast have the right to give instructions to you? Please formulate this very clearly so we can at last clarify this matter.

A He had the right to issue directives in all questions of securing law and order in the country, whether these directives or instructions, - they have another name yet, - the service regulations, not directives, - whether these service regulations contained expressions for those departments which probably deviated from the formulation which we talked about just now, without having to mean the opposite. In my opinion, the service regulations should be formulated, whether there under the word security and securing they mean the same or the contrast. I don't think so.

Q In this respect the documents will speak for themselves but what struck me just now was the following: You said just now that the Commander in Chief Southeast did have the right of directing you concerning the security and law and order in the country. Did you intend to put it that way, that you mentioned the word securing together with law and order, or didn't you rather mean to separate it,

just like the instructions talk of securing of a military nature on the one hand and securing law and order on the other hand.

MR. RAPP: We object; we believe defense counsel is arguing with the witness.

PRESIDING JUDGE BURKE: Objection is sustained.

BY DR. LATERNER:

Q Witness, I will formulate this differently now. You said just now that the Commander in Chief Southeast had the right to direct you as Court V Case VII Military Commander Southeast which concerned the securing and the law and order in the country.

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Is that correct?

A Yes, that is my opinion.

Q Witness, in the service regulations for the Military Commander, it was written explicitly that those are responsible for the security, law and order?

A I believe this is merely hair splitting which is possibly necessary but security and law and order to me, as a soldier, are the same thing.

Q For you, witness, is the security and securing the same?

A In this connection, as it is used here, yes. As a soldier at least I would not read a difference into these concepts and I have never done it.

Q Maybe that was an error. To me this difference is very important. I have no further questions.

PRESIDING JUDGE BURKE: Is there further cross examination? If not the Prosecution may proceed.

BY MR. RAPP:

Q Witness, as a last question, I would merely like to ask you whether the so-called reprisal or retaliation measures were a securing or if you like, a security measure?

A This question I answer in the affirmative.

Q We have no further questions.

PRESIDING JUDGE BURKE: Judge Carter, do you care to interrogate the witness?

BY JUDGE CARTER:

Q I'd like to ask the witness a few questions. As I understand it you became Military Commander in Serbia in August 1943?

A Yes.

Q At that time you were in command of the whole of Serbia?

A Yes.

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Q Did you all that time consider the whole of Serbia as occupied territory?

A Yes, your Honor.

Q And it is your thought that as Commander you were Military Commander in the occupied territory of Serbia. Is that correct?

A Yes.

Q Was the whole of Serbia under your direct command at the time you went there in 1943?

A Yes, the whole of Serbia; that's right.

Q You mean by that the whole of Serbia had been conquered by the German Army at that time?

A Yes.

Q And you at that time required the inhabitants to act as inhabitants of occupied territory under the rules of international law. Is that correct?

A Yes.

Q Now, did you at that time have control of all of the Governmental offices of Serbia?

A Yes.

Q Now how many troops did you have under your control at that time?

A In the Serbian area approximately 70,000 but this figure is just a rough estimate.

Q Now, generally speaking, how were they deployed?

A They were employed generally speaking for the protection of important railroad lines, and highways, and their artificial constructions; the troops of the police were as a rule employed for the protection of the harvest, for the protection of the mines, and for special installations like for instance electric plants. The German troops which only existed in small units were kept by me generally for my own disposal. That is rough outline is the division of the various units.

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Q. Now, were you familiar at that time with the concentrations of bandits, whether you referred to them as partisans, communists or Chetniks, or whatever they may be, - are you familiar with the location of those large groups, generally speaking?

A. We knew pretty well the general localities of the bands when formed. Generally speaking it was like this: Numerous hordes, without any connection, were split up in the main areas in Serbia, especially in the inaccessible mountain terrain. Besides, there was the question of going to and from the Croatian area

and also from the Sautchak area, from the West into the Serbian area, and as I've said before, there was a constant coming and going.

Q. Did you deploy any considerable number of your troops to counter the activities of these band groups?

A. I have really always had my troops on the march and I have also put this down in the memorandum which was already mentioned. According to this memorandum there were about 20 enterprises, or operations, on a large or small scale, which became necessary in the course of one year.

Q. When you went to Serbia in 1943, did you consider the captured members of these bands as prisoners of war?

A. I have repeatedly, again and again, ordered, and in the presence of my troops on occasions when the troops were in bandit area, I again and again had to express my wish that with captured bandits we had to deal exactly in the same manner as with prisoners of war whom we took in other theaters of war and in other fronts.

Q. Were they in fact at that time treated as prisoners of war?

A. In any case during the whole time I received no report and no complaints, not even from the Serbian Government which observed these matters very carefully, saying that the troops did not comply with this order.

Q. Do I understand then that you treated captured bandits as prisoners of war because you considered the bands themselves as regular organized armed forces?

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A. No, I did not have this conception; but in spite of the fact that I was of a different opinion, an opinion that these are not organized military soldierly troops, but in spite of this I insisted that the prisoners were to be treated as prisoners of war because I wanted to avoid that a mutual butchering would take place.

Q. Was there any time after you went to Serbia in August of 1943 that you arrived at the conclusion that the bands as you refer to them, were, in fact, an organized Army and entitled to be treated as such?

A. I have not gained that impression. Only as of July 1944 were the bands really more and more found to appear as organized units. We then also received reports saying that Tito's units now had grouped themselves, into divisions, and were dispersing over the whole country according to plan; this was only established in the summer of 1944. As of this date also the method of combat of the enemy changed. The resistance became much tougher, and the coming and going stopped. From that time on we found that quite a considerable opponent opposed us.

Q. It is your thought then that in July 1944 the bandits or partisans or Chetniks, or whatever you may call them, were entitled to be classified as an Army in the field against the German Army. Is that correct?

A. I would like to specify the period as beginning with August 1944.

Q. Was there any decision made to that effect?

A. As I understand the question, whether we changed our behavior as of that date? Is that correct?

Q. Substantially.

A. No, an alteration of our combat methods was not necessary because even prior to that we endeavored to wage the battle, according to purely military, soldierly points of view.

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Q. Would you mind briefly stating the changes in conditions that came about at the beginning of August 1944, that caused to change your views about the nature of the opposition?

A. After the opponent was now spreading over the whole of the Serbian area according to plans, also turning up in territories and recruited people in territories, where up to then almost never bands had appeared, I myself was forced to keep my troops tightly together and not as it had been before that, split up all over the country in smaller units. I had consciously to take into account the fact that large parts of Serbia for a period were without any military security.

Q. It is your thought then that after August 1, 1944 that the territory of Serbia was not at that time fully occupied, militarily speaking, by the German Wehrmacht. Is that correct?

A. Yes, that is correct.

Q. No further questions.

PRESIDING JUDGE BURKE: Judge Wennerstrum, do you care to ask any questions of the witness?

JUDGE WENNERSTRUM: No.

PRESIDING JUDGE BURKE: Dr. Laternser?

DR. LATERNSE: Yes, I would like to.

BY DR. LATERNSE:

Q. General, I believe that there were a few misunderstandings which crept up here. Were you ever during your activities in Serbia of the opinion that at any given period the Partisans, the Partisan activity, was a legal activity, that is, a legal force?

A. No.

Q. Never?

A. Not up to the 1st of August.

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PRESIDING JUDGE BURKE: Dr. Laternser, do I take it from your question that you are seeking to cross-examine the witness on the examination given by Judge Carter?

DR. LATERNER: Yes, your Honor, only by this one point.

PRESIDING JUDGE BURKE: Very well.

BY DR. LATERNER:

Q. You said that until the 1st of August 1944 you regarded the Partisan movement as an illegal movement. Is that correct?

A. Yes.

Q. Why did you change this opinion?

A. I had to change my opinion because in July, according to what we could establish in July 1944 from the equipment of the Partisans, because they were being equipped suddenly with uniforms, guns, ammunition, machine guns, foreign equipment, foreign instructors to a large extent.

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Q. General, you then mean to say that an illegal movement becomes legal when it is well organized?

A I did not say that, that I now regarded Tito's legions as legal. All I said, at least as far as I recollect, all I said was, all I wanted to say was, that as of the 1st of July the pure band character, the band characters of the combat methods of this unit stopped.

Q. But your opinion as Military Commander Southeast that this was an illegal force against the occupation power, this opinion you never did change at any time?

A No.

Q. But this impression did at first appear here?

A I regret that.

Q. You further answered a question of the Honorable Judge to the effect that through the fact that the bands occasionally kept vast parts of Serbia occupied the occupation by the German Armed Forces could not be regarded as a complete one.

A Yes.

Q. When is an occupation complete?

A When the territories of the occupied territory--when I can rule this territory with my force, with my unit, so that I am master of the situation.

Q. In a certain spot where you wanted to be stronger than the bands, couldn't you manage to make yourself so strong there that you were stronger than the bands?

A. We adhered to this procedure which was customary to us. We attempted to adhere to it in the Balkans, too, but because of the insufficient number of the units at my disposal and again because of the

formation of the country it was not possible. I had to use my few units inasmuch as they were not employed with protection of railroad lines, protection of bridge, etc.

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, and were not tied up I had to employ them very carefully and economically.

Q. The territories which you are talking about now, they changed currently, didn't they?

A. Generally speaking, that does apply. There were, of course the same territories again and again where the bandits' battle was mostly waged.

Q. It was so, wasn't it, that during a long period, almost the whole time you were down there, one part of Serbia was almost completely occupied by the partisans?

A. No.

Q. And if you had attached importance to one particular locality which was occupied by bandits for a lengthy period you were in a position to take it, weren't you?

A. I wouldn't answer that with an unqualified "yes" because that depended how far I was otherwise engaged with my units.

Q. General, I would like to put the question--I would like to see the question answered less in a tactical manner--I would like to know, if you wanted to could you take a certain locality.

PRESIDING JUDGE BURKE: I didn't hear the conclusion of the question.

THE INTERPRETER: "What I wanted to know was, if you endeavored to, could you take one specific locality, if you wanted to"--end of question.

MR. RAPP: We might say that defense counsel is arguing with the witness. The witness has already given previously an answer to his question.

PRESIDING JUDGE BURKE: I think that is probably true but we will proceed.

Q. I therefore ask you now to answer the question put to you.

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A. May I ask to have the question put to me again?

Q. If you had the intention--if you wanted to carry out the intention to take one specific locality because it seemed important to you--maybe it was on a main highway--could you achieve that?

A. Not always.

DR. LATERNSE: No further questions.

PRESIDING JUDGE BURKE: Any further questions of this witness?

MR. RAPP: We have no questions, Your Honor.

PRESIDING JUDGE BURKE: At this time I have no questions. I will reserve the right, however, to interrogate this witness at the conclusion of the defendants' testimony.

MR. RAPP: Your Honor, I would only like to recall the Tribunal's attention the remarks I believe Mr. Denney and also myself, have made to the Tribunal regarding the further disposition of this witness. He is a prosecution witness and we were prior committed to the extradition of this witness, Your Honor. I am merely stating this in reference to your statement, Your Honor, just made.

PRESIDING JUDGE BURKE: I should view with grave concern any inability to produce him at the time I have indicated.

The witness may at this time be excused.

MR. RAPP: Your Honors, Mr. Fenstermacher is now putting in Document Book No. XIX.

MR. FENSTERMACHER: Your Honors, please--

PRESIDING JUDGE BURKE: Pardon me, Mr. Fenstermacher, just a moment.

You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: If your Honors please, with the presentation of Document Books XVII and XVIII and the testimony of General Felber, we complete, with the exception of the document which I should like to introduce at this time, the prosecution evidence with respect to the situation in Croatia and Serbia during this final phase of the prosecution's case.

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That is the period from August 1943 until the evacuation of the Balkans in October 1944.

As an additional document with Document Book XVIII, I should like to offer into evidence the document which Mr. Denney passed out to the Tribunal and to defense counsel yesterday. That is a series of photographs which were marked "Exhibit 441a" for identification, a series of photographs which form a part of the report.

PRESIDING JUDGE BURKE: Pardon me, Mr. Fenstermacher. Will you defer your remarks for just a moment?

MR. FENSTERMACHER: The next document was marked yesterday "Exhibit 441a" for identification, it being a series of photographs which form a part of the report of the National Commission for the Investigation of War Crimes of Yugoslavia.

Now, Your Honors, I wonder if Your Honors and defense counsel have this exhibit present in Court. This was offered yesterday in order that we come within the 24-hour limit. Do Your Honors have it?

PRESIDING JUDGE BURKE: Offered at approximately three o'clock?

MR. FENSTERMACHER: I think it was, Your Honor.

PRESIDING JUDGE BURKE: We will take a recess at this time until three-fifteen.

(A recess was taken.)

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PRESIDING JUSTICE BURKE: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: May it please the Tribunal, we should now like to have Exhibit 441a for Identification introduced as Prosecution's Exhibit 441. This is a series of 28 photographs which form a part of a report of the National Yugoslav Commission for the investigation of War crimes. In assembling this set of photographs, several of the originals of these photographs were inserted by error. The original photograph looks like this, it is somewhat yellow in color, and has writing on the back of the photograph in the Yugoslavia language -

PRESIDING JUSTICE BURKE: How many are there in the portfolio? How many separate photographs?

MR. FENSTERMACHER: There are 28, your Honor.

I wonder if your Honors and defense counsel would look through your sets of these photographs and see whether you have the originals from which we made the photostatic copies. The original is somewhat yellow in color and has Yugoslavian language written on the back, and one page of English translation.

We should like to call in all of the originals so that they might be returned to the Yugoslavian Government. If no originals are outstanding we may proceed with the submission of the photostatic copies.

PRESIDING JUSTICE BURKE: We find none in our sets.

MR. FENSTERMACHER: Thank you, your Honor.

If your Honors please, the English pagination for each of these photographs should be numbered, page 107, and the following numbers to the end, which I believe is page 134 in the English, and in the German, the pagination begins with page 102 and continues with the 27 other numbers.

The first photograph is numbered 2004, and represents a scene from the village of Prisoje, Stupnido and Potkozara, district of Cajniki.

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PRESIDING JUSTICE BURKE: Where are these numbers, Mr. Fenstermacher?

MR. FENSTERMACHER: They appear, if your Honor please, on the top right-hand corner of the English translation.

PRESIDING JUSTICE BURKE: I am referring now to the page numbers of the exhibit. Are those pages 107 to 134, volume 18?

MR. FENSTERMACHER: They are in Volume 18, your Honor.

The first photograph which will become page 107 in the English document book is page 103 in the German, and is numbered 2004, and represents a scene from the Village of Prisoje, Stupnido and Potkozara, district of Cajniki in which 31 persons, including 4 children, 14 women and 13 men were killed in reprisal by troops of the 3rd Battalion of the 750th Regiment, 118th Jaeger Division, under the leadership of Captain Karl Stenzel, Battalion C.O. and by order of Guenther Tribukeit, Regimental Commander. This crime was committed on the 8th of July, 1943.

The photograph is certified to by the President of the National Commission for the investigation of War crimes of Jugoslavia.

DR. LATERNER: Your Honor, I object to the introduction of this picture which has just been offered. What has just been said has not been proven by the picture.

PRESIDING JUSTICE BURKE: I think that is true, but the ruling we made on the matter of the admissibility of prior photographs was made upon the theory that they would be taken for what they are worth, if anything, and if a proper proof indicates some degree of formality to the truth and veracity of the alleged pictures.

MR. FENSTERMACHER: The next photograph, number 2006, represents the same scene as the previous photograph, and your Honors will note in the left hand portion of the photograph, a picture of a small child, which investigation established was killed during the incident.

PRESIDENT WENNERSTRUM: How do you designate it? Page what, page 100?

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MR. FENSTERMACHER: This second photograph, your Honor, will become page 108 in the English, and 104, I believe, in the German.

The third photograph is No. 5213, and represents a scene from the mass annihilation of the civilian population of the village of Sokolac, in Bosnia, by the German Wehrmacht. The exact date of the incident could not be established, probably in the year 1944."

Your Honors will note the presence of German soldiers around a tree from which a man in civilian clothes is hanging.

PRESIDENT WENNERSTRUM: This is 109?

MR. FENSTERMACHER: Yes, your Honor, 109.

The next photograph will become page 110 in the English, is photograph No 5206, and it relates to the same scene as the preceding photograph. Your Honors will note that this is a man in civilian clothes, hanging head downward with a sign above his feet.

The next photograph, page 111 in the English, relates to the very same incident, a scene from the mass annihilation of the civilian population.

JUSTICE CARTER: Let's have the number of the picture first.

MR. FENSTERMACHER: The number of the picture is 5212, your Honors, and becomes page 111 in the English. The photograph represents a scene from the mass annihilation of the civilian population in the Village of Sokolac, Rosnia, by the German Wehrmacht. The exact date of the incident could not be established, probably in the year 1944.

Again, your Honors will note two German soldiers standing around the body of the man in civilian clothes, hanging from a tree.

The next photograph is numbered 5208, and becomes page 112 in the English document book 18. Investigation established that the photograph represents a scene from the mass annihilation of the civilian population of the village of Sokolac in Rosnia by the German Wehrmacht, and again the exact date of the incident could not be established. It was probably in the year 1944.

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The next photograph is number 2384, and becomes page 113 in the English. This photograph represents a scene during the mass shootings to death of civilians in Bosnia, in the course of the so-called penal expedition.

Your Honors will note the German soldier who is photographing the mass of bodies lying there.

The next photograph, No. 3074, which should be marked page 114 in the English, is a photograph representing the setting afire of a Serbian village near Kosovska Mitrovica by the German Wehrmacht at the time of the penal expedition.

Your Honors will note the type of village in Serbia, as revealed by the photograph, - small houses with thatched roofs, and the German soldiers in the foreground of the photograph.

The next photograph, No. 58, page 115 of the English, investigation established picture represents one of the numerous groups of the civilian population in Bosnia which were driven by the Germans through the Bosnian forests to death camps, concentration camps or to compulsory labor in Germany."

PRESIDING JUSTICE BURKE: Mr. Fenstermacher, please proceed somewhat more slowly.

MR. FENSTERMACHER: I would be glad to, your Honor.

The next photograph is No. 59, page 116 in the English. The photograph represents one of the numerous groups of the civilian population in Bosnia, driven by the Germans through the Bosnian forests to death camps, concentration camps or to compulsory labor in Germany.

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Your Honors will note the large number of women in this photograph.

The next photograph is No. 61, page 117 in the English document book, again this photograph represents one of the numerous groups of the civilian population in Bosnia taken by the Germans to death camps, concentration camps or for slave labor in Germany.

Photograph No. 69, page 118 of the English, again the photograph represents the deportation of women and children in the village of Knezevo-Polje near Bosanske Dubice to German internment for slave labor.

Your Honors will note the presence of small children in the photograph.

DR. LATERNSEER: Your Honors, it is correct that on this photograph there are women and children; but there are only women and children in the picture. I do not see one single soldier or policeman in the picture, and everything else which has been said here is not proved, he is arguing.

PRESIDING JUSTICE BURKE: For the reasons previously stated, Dr. Laternser, they will be received.

MR. FENSTERMACHER: The next photograph is 4943, which will be page 119 in the English document book. Investigation established that the photograph represents one of the numerous groups of the civilian population in Bosnia which were taken by the Germans to death camps, concentration camps, or for slave labor in Germany.

Your Honors will note three German soldiers, armed, at the head of a column of native inhabitants.

The next six photographs -- withdrawn.

The next photograph, No. 1212, becomes page 120 in the English.

Investigation could not establish time or place of the incident of the picture. All that could be established was that the incident occurred in Bosnia, and that the corpse which is being stepped on by a German officer was of a Bosnian peasant.

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PRESIDING JUSTICE BURKE: We may wait just a minute to catch up on our marking. You may proceed.

MR. FENSTERMACHER: The next five photographs seem to relate to the same incident. Investigation established the picture represents a scene during the --

PRESIDENT WENNERSTRUM: This is 1164?

MR. FENSTERMACHER: I beg your pardon. I am glad to mention it. 1164 becomes page 121 in the English.

Investigation established that the picture represents a scene during the executions of captured fighters of the Yugoslav Peoples' Liberation Army. The photograph relates to an incident which occurred in the village of Razore in Slovenia on 9 June, 1944.

DR. LATERNSEER: Your Honor, even after the statement of the prosecution, the pictures mentioned cannot be admitted, because the territory does not belong to the so-called Southeastern, but to the territory of the commander for the Adriatic Coast area, and this command for the Adriatic Coast area

was not subordinate to any of the defendants. Therefore there are pictures which have no connection at all with the defendants and the charges here.

MR. FENSTERMACHER: If your Honors please, it is the prosecution's contention that Slovenia was within the jurisdiction of the defendants involved in this proceeding, and also that the pictures are representative of events which happened not only in Slovenia, but which happened in Croatia and Serbia as well.

DR. LATERNSEER: Your Honor, I am expressly concerned with the decision on this question. It is a pure assertion on the part of the prosecution that - Slovenia belonged to the territory which we are speaking about. I maintain that this is not so, and it proved before these photographs can be accepted. The photographs must be rejected.

PRESIDING JUSTICE BURKE: The Tribunal is aware of the fact that any statement made by the counsel for the prosecution as a statement of fact represents simply his own view and does not reach the dignity of evidence.

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We assume that it will later be connected with it since the statement has been made.

MR. FENSTERMACHER: We intend to do that, your Honor.

PRESIDING JUSTICE BURKE: You may proceed.

MR. FENSTERMACHER: The next photograph is Number 536, which become page 122 in the English. The text on the back of the photograph is the same as on the first preceding photograph, and we believe that the picture speaks for itself.

DR. LATERNSEER: I object against this picture in particular your Honor, and its introduction. I object particularly because from this photograph itself, from the decorations of rank it can be seen quite clearly that this is a member of the SS police who were never subordinate in any way at all to the defendants, and therefore, for this reason, this photograph particularly must be rejected.

PRESIDING JUSTICE BURKE: It seems to the Tribunal, Dr. Laternser, the fact is merely a matter for argument rather than a matter for the introduction of proof at this time. The pictures have been received with the clear statement that they would be received for what they are worth. What may follow later is open to the defense at any time.

You may proceed.

MR. FENSTERMACHER: Turning to the next photograph, No. 1165, it should be marked page 123 in the English. The accompanying text for this photograph is the same as with the two preceding photographs, and we believe is an additional photograph of the same event.

Continuing with photograph No. 1166, page 124 in the English, it is an additional photograph which relates to the three preceding photographs and needs no comment here.

Photograph No. 1168, page 126 in the English, investigation established that the picture represents Major Jozu Mirtica. He was captured by the Germans and mistreated.

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The 5-pointed star was hacked into his face by them, and finally they killed him.

Photograph No. 213, page 127 in the English, represents a scene from the neighborhood of the Village of Jajince near Belgrade, where the Germans shot to death and killed some thousands of civilian internees from the death camp of Banjica and where they burned 80,000 bodies of their victims on the pyre, particularly during the last months before their retreat from Belgrade.

Photograph No. 212, page 128 of the English, the text is the same as for the preceding document and needs no further comment.

PRESIDENT WENNERSTRUM: Page 128 is it not?

MR. FENSTERMACHER: That is right, your Honor.

The next is photograph, No. 650, page 129 of the English, investigation established that the picture represents atrocities committed by German troops on the civilian population in northern Istria in October, 1944.

With the final, five photographs, we are concerned with the actions of the German troops as they retreated from Belgrade, in October, 1944.

Photograph No. 720, page 130 in the English, shows a building, No. 6 to 8 Studentenplatz Belgrade which was undermined and destroyed by German troops before they retreated from Belgrade in October, 1944. This building, as well as numerous other destroyed buildings are destroyed buildings are civilian residences in the center of the city and without any military significance.

The next photograph seems to have no number. It should be marked page 131 in the English, which shows the demolished building of the philosophical faculty of the University of Belgrade which in addition to numerous other buildings was set afire and destroyed by the Germans without any military reason before their retreat from Belgrade in October, 1944. Valuable scientific collections and laboratories were destroyed with the building.

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The next photograph, No. 12, page 132 in the English, shows the building and the installations of the Avala mill in Belgrade which was mined and destroyed by the Germans immediately before their retreat from Belgrade on 15 October 1944.

The next photograph, No. 2a, page 133 of the English, shows the building on the corner Gospodar Jevremova and the Koschuskova Street which was set on fire and destroyed by the Germans immediately before they retreated from Belgrade in October, 1944.

DR. LATERNSEER: Your Honor, this should really be checked on. I have just been informed that, for instance, the destruction on picture 112, was caused by an American air raid on Belgrade. There were

several American fire attacks on Belgrade, and now this picture is submitted by the prosecution with the assertion that the destructions were carried out by the German troops in their retreat.

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MR. FENSTERMACHER: Your Honors, if you please, Dr. Laternser's remarks are certainly gratuitously given and cannot be considered evidence. If there is a conflict in fact as to what the picture truly represents, the defense is free to present their version and their interpretation of the destruction at the proper time.

PRESIDING JUDGE BURKE: The fault, if any, is shared equally. You are both doing quite a bit of testifying.

MR. FENSTERMACHER: The final photograph is number 730/23, page 134 of the English. The photograph "shows a destroyed house, 22 FASINA Street in Belgrade. It was mined and destroyed by the Germans immediately before their retreat on 18 October 1944. It has been established that many residents of the building, peaceful citizens of Belgrade were killed thereby. The picture represents the funeral of some of the victims."

DR. SAUTER: Dr. Sauter for the Defendants Lanz and Geitner. Your Honors, we have now been submitted a number of photographs, and you have already stated that you will only accept these photographs for the probative value which can be seen from the photographs themselves. In this direction - in that which concerns the court - we can be satisfied about this because everyone who looks at these photographs can see at once that they prove nothing at all against these defendants. If I nevertheless say something about these photographs very briefly, it is only for this reason that on behalf of my two clients Lanz and Geitner that I cannot leave this uncontradicted, that these photographs are presented against them.

During the past few days we have again experienced that these kinds of generalizations and unproved assertions which are presented here appear next day in German newspapers, perhaps even in foreign newspapers, and the newspaper do not say that the Prosecution authority has submitted a number of photographs regarding which we don't know from where they come, we do not know what they represent, and we also don't know how these executions, etc. came about; but in some newspaper or other, for instance, it was stated that against von Geitner photographs were submitted from which it is to be proved that no less than 68,000 people were burned up in one place on a Pile.

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That is one single case. This goes into the newspapers and incriminates the defendants. And in the opinion of the German people sometimes it has a very drastic effect in the treatment of the members of the defendants.

JUDGE BURKE: To whom are you directing your objections?

DR. SAUTER: I am not making any objection against the photographs in themselves because the Tribunal has assured us that they will, of course, only accept the photographs with the probative value

which can be seen from the photographs. But I would like to state publicly here so that the press does not give these erroneous reports and so that the two clients whom I represent have nothing to do with these things, just as in the same way probably as all the other defendants.

PRESIDING JUDGE BURKE: The Tribunal is neither emotionally or temperamentally unstable. We are quite aware of the weight, if any, to be given by the Tribunal to the exhibits or to the testimony. So, this is not the appropriate time to which to argue the case. Then, the question of the influence upon the Tribunal, if any, of these photographs is one that I think you may safely leave to the judgment of the Tribunal. And what goes in the press, of course, is of no concern of this Tribunal. That is a field which is somewhat beyond the scope of our present activities.

DR. SAUTER: Of course, but the press is present, and the press here present brings the news submitted by the Prosecution here into the press, and it does not help my clients if perhaps three weeks or three months I can prove that my clients had nothing to do with these photographs. These press articles will appear tomorrow or the day after tomorrow, and they poison the whole morale of the people, and then they have an effect on the dependents of the defendants. I want to protest against this, and I want to state here that my two clients and probably also the others have nothing at all to do with these things, even if we cannot unfortunately prevent this kind of evidence of such a questionable value from being submitted here.

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We defense counsel can show to you from the bulletin board a lot of pictures where some people are hanged or murdered from one band or the other band, but we don't do that because we know that nothing can be proved by this. But I think that it is my duty in the interest of the defendants to point out how little probative value there is, especially against the defendants, in photographic material of this kind.

PRESIDING JUDGE BURKE: Dr. Sauter I understand you and I agree with you that the final responsibility, grave though it may be, must rest upon the Tribunal, and we will not form our decisions from anything that may be printed in the papers or in magazines or in unidentified pictures presented to us.

DR. SAUTER: Thank you very much.

PRESIDING JUDGE BURKE: You may proceed.

MR. FENSTERMACHER: With the introduction of documents in Document Book No. 19 we turn our attention to events in Greece during the period of August 1943 to October 1944. Your Honors will recall that during this period General Alexander Loehr was Commanding General of Army Group E, which in turn was subordinate to Army Group F, headed by the Commander in Chief, the Defendant Weichs, and his Chief of Staff, the Defendant Foertsch. Your Honors will also recall that subordinate to General Loehr's Army Group E were two corps, the 68th Army Corps, commanded by the Defendant Lanz. We shall be concerned with the activities of troops under the command of the Defendants Felmy and Lanz through out this and the next two succeeding document books. Turning now to page 1 of the

English and page 1 of the German. Document No. [NOKW-1140](#), which is offered as Prosecution's Exhibit No. 442. This is a biographical affidavit of the Defendant Felmy, executed here in Nurnberg on the 24th of April 1947.

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"I, General Hellmuth Walter...."

PRESIDENT JUDGE BURKE: This becomes Exhibit what?

MR. FENSTERMACHER: No. 442, Your Honor.

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I, General Hellmuth Walter Wolfgang Felmy, being duly sworn, say and depose:

I was born in Berlin on 28 May 1885. I entered the Instruction and Experimental Station for Military Aviation in Doeberitz on 1 June 1912. I was promoted to first Lieutenant on 27 January 1913. On 1 October 1913 I entered the Berlin Military Academy. I became a Captain on 20 December 1914. During the war up to 1918, I was attached to various Air Force Units.

Decorations: Iron Cross, II Class, Iron Cross, I Class, Knight's Cross of the House Order of the Hohenzollerns with Swords.

I was taken over into the Reichswehr in 1919. From 1924 to 1926, I was active in the Reichswehr Ministry, Berlin T1, (Operations Branch). I became a Major on 1 February 1927. On 1 Feb. 1929 I was in the Reichswehr Ministry, Berlin T2. (Organizations Branch). I became a Lt. Colonel on 1 February 1931. On 1 April 1933, I became Lt. Colonel in the Staff of the 15th Infantry Regiment Cassel. On 1 August 1933 I became the Commanding Officer of the 17th Infantry Regiment, Brunswick. I was promoted to Colonel on 1 October 1933. On 1 December 1933, I entered the Reich Air Ministry in Berlin as Chief of Staff with the School Command. I became Senior Air Corps Commander of Munich on 1 April 1935; was promoted to Brigadier General on 1 January 1936; became Commander of the 7th Air District, Brunswick, on 1 October 1936; was promoted to Major General on 1 April 1937, Luftwaffe Group 2, Brunswick; became Lt. General of Air Corps on 1 February 1938, Air Fleet 2, Brunswick and on 1 September 1939 I was Lt. General of the Air Corps, Commander of Air Fleet 2, Brunswick. I was retired on 12 January 1940.

I joined the party in the Fall of 1940; I had no office.

On 21 May 1941 I was reactivated and became Chief of the Military Mission to Iraq. I came to Aleppo on 1 June 1941. German Air Corps units evacuated Syria. In the middle of June I became Commander South Greece, Athens, simultaneously Commander Special Staff "F" Sunion. (Staff of the former Military Mission to Iraq).

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In August 1942 Special Staff "F" was renamed Corps Headquarters LXVIII Army Corps and transferred to South Russia - Calmucks Steppes - and subordinated to the 1st Panzer Army. From

October 1942 to January 1943 fighting in the Calmucks Steppes, protection of wing and flank of the 1st Panzer Army. Up to March 1943 withdrawal movement up to the Mius, Taganrog. In April 1943, the Staff of Corps Headquarters LXVIII was transferred to Peggio (Calabria) to be committed in Tunis. In May 1943 Corps Headquarters LXVIII Army Corps, was transferred to Greece. Then followed employment on the Peloponnesus; enemy landings were to be repelled. In October 1943 Corps Headquarters LXVIII Army Corps were transferred to Psychikon near Athens. Combatting of bands in South Greece. On 12 October 1944, Athens was evacuated. On 25 October 1944 the Staff of Corps Headquarters LXVIII Army Corps with its Operations Echelon was transferred by air to Vukovar (Yugoslavia). From 13 November 1944 until the middle of December 1944, the Staff of Corps Headquarters LXVIII Army Corps was in South Hungary in order to repel the Russian invasion across the Danube near Batina. From the middle of December 1944 to 13 April 1945 I took over Corps Headquarters XXXIV Army Corps in Syrmia. On 8 May 1945 occurred the surrender to the English in Villach (Carinthia).

Decorations: Clasps to Iron Cross, II Class and I Class, German Cross in Gold.

I married Helene, nee Boettcher on 3 July 1919.

I have three sons, 20, 18 and 16 years old. The oldest is a prisoner of war in Egypt.

I have read the above statement consisting of two pages in the German language and declare that according to my best knowledge and belief it is the full truth. I had occasion to make changes and corrections in the above statement. I have made this statement voluntarily without any promise of reward and I was subjected to no threat or force whatsoever.

I should like to hand the photostat copy of this document to your Honors to examine both the signature of the Defendant Felmy and the various initials which he has made on the margin, indicating that he has made changes in the affidavit.

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PRESIDING JUDGE BURKE: I take it, Mr. Fenstermacher, that in the course of the Prosecution's proof there will be evidence introduced as to the fact that this is the Defendant Felmy's signature, or in case...

MR. FENSTERMACHER: Your Honor, at this time.... I beg your pardon.

PRESIDING JUDGE BURKE: Or in case of other documents that may be applicable to other defendants, there will be proof in the Prosecution's case as to the signatures that they are alleged to be.

MR. FENSTERMACHER: If Your Honors please, at this time and prior hereto, we have submitted signatures and initials only for Your Honors' purposes of comparison. I am not at liberty to say whether we shall introduce more positive proof of these signatures or not. I believe I may say, however, that we do not anticipate that the initials or signatures, to which we have called Your Honors' attention, will be denied by any of the defendants. Should that be the case, we will take the proper steps at that time.

PRESIDING JUDGE BURKE: I think it should be kept in mind that it's the Prosecution's duty to make out its case in chief.

MR. FENSTERMACHER: We will do that, Your Honor.

JUDGE CARTER: I'd like to inquire. You say you handed these up here for comparison. Now, what are we comparing them with?

MR. FENSTERMACHER: Well, Your Honors have been signatures of voluntary, different affidavits.

JUDGE CARTER: Well, who says that, in this instance, the Defendant Felmy signed it. Maybe I signed it. How do we know?

MR. FENSTERMACHER: Well, that may be true, Your Honor. I am not sure whether the Prosecution has to introduce positive proof of these signatures or whether we cannot wait until the defendants take the witness stand and then ask them whether these are not, in fact, their signatures.

JUDGE CARTER: In other words, you ask the defendants to testify against themselves in order to make a case against the defense.

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That's my understanding.

MR. FENSTERMACHER: If your Honors please, I believe we can make Our prima facie case without having these various signatures identified. We have shown that the defendants held certain positions during the period with which we are dealing, and certain events happened by troops under their command. We believe that makes for us a prima facie case.

JUDGE WENNERSTRUM: This Tribunal feels that the evidence should be subjected to the rules as we have understood them to be in America. I believe, as representing this Tribunal, there is the question before this Tribunal that we should exact the same type proof here that we should expect in America for it--if we were sitting in America, both as to type of proof and manner of proof.

MR. FENSTERMACHER: Very Well, Your Honor. We shall take prompt steps to introduce positive proof.

JUDGE WENNERSTRUM? I am not interfering with your case. These are merely suggestions.

MR. FENSTERMACHER: Very well, Your Honor.

PRESIDING JUDGE BURKE: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: Turning next to Page 4 of the English and Page 3 of the German Document Book, is Document No. NOKW875, which is offered as Prosecution's Exhibit No. 443. This is a biographical affidavit of the Defendant Lanz, executed by him in Nurnberg on the 7th of March 1947.

"I, Karl Hubert Lanz, swear, testify and declare:

I was born on 22 May 1896 in Entringen, Oberamt Herrenberg (Wuerttemberg) as the first son of the Commissioner of Forests, Otto Lanz and his wife Berta, born Probst. I am of the RomanCatholic faith.

On 1 April 1900 my father was called to the forest service of the King of Wuerttemberg and sent to Stuttgart.

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From 1903 to 1905 I visited the elementary school, from 1905 to 1914 the Humanistic Gymnasium in Cannstadt, where I passed my "Abitur" examination in May 1914.

On 20 June 1914 I entered the service as an officer candidate in the 7th Co., Wuerttemberg 125th Infantry Regiment, in Stuttgart, with which I went into the field on 8th August 1914. Heavily wounded by a grenade on 9 September 1914 at Somaisne (Verdun) lay 4 months in the hospital, finally saw service with the replacement battalion of the regiment in Stuttgart. Promoted to 2nd Lieutenant 4 February 1915, again went into the field beginning in May 1915 with my troop unit, which at that time was on the Eastern front before presnysz (russ. Polen) in battle position. Up to the end of June 1918, I was at the front as platoon and company commander, as well as Battalion adjutant with the 2nd battalion of the 135th Infantry Regiment. On 1 July 1918, I was sent as regimental adjutant to the Wuerttemberg regiment, which at that time was fighting at the Chemin des Dames at Laon (France). With this regiment at first Lieutenant, I saw the end of the war at the beginning of November 1918 on the Western front. In the following 3 months, I had the task of deactivating the regiment in the upper Swabian towns of Isny and Leutkirch, which task was completed on 1 March 1919.

After short employment in setting-up tasks for the border patrol in the East I became adjutant of the 25th Wuerttemberg rifle regiment in the 300,000 man Army in Stuttgart and finally likewise adjutant of the 13th Wuerttemberg Infantry Regiment in Ludwigsburg in the 100,000 man Army. The following 3/4 of a year I was active as CO of a machine gun platoon in Cannstadt, and then for compassionate reasons (ill health as a result of my war wounds) served two years as staff Officer with Wehrkreis V in Stuttgart.

1924 to 125 I was ordered to tactical training with Wehrkreis V in Stuttgart and was assigned in November 1924 as platoon commander to Tuebingen (Wuerttemberg) in an Infantry Company of the 2nd Battalion of the 14th Infantry Regiment.

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From February to October 1926 I was Infantry instructor with the officer candidate courses at the troop maneuver area of Ohrdruf in Thueringen.

On 16 October 1926 I was married in Dusseldorf to Gerty Beterams, daughter of the Economic Counsellor Emil Beterams and his wife Maria, near Ondtmann in Geldern-on-the-Niederrhein. My wife is likewise of the Roman-Catholic faith. There are two children of this marriage; In ebory Lanz, born 27 July 1927 in Stuttgart, and Annemarie Lanz born 9 November 1941 in Berlin.

From November 1926 to September 1927 I was Company Commander in the training battalion of the 13th Regiment Battalion in Schwaebisch-Gmuend. From here, I was assigned to a one year training course for assistant chief of staff in the Reich defense ministry at Berlin and in fall 1928 after promotion to Captain which took place in the meantime, (1 February 1928) taken over into the general staff. From 1928 to 1932, I was employed, in the Department No. 3 (Branch for Foreign Armies) of the Truppenamt in existence at that time. At the end of this, I went to Gumbinnen in East Prussia as company Commander of the 9th Company, 1st Infantry Regiment. On 1 August 1934, promoted to Major; at the beginning of October 1934, my recall to the General Staff of Wehrkreis No. IX in Kassel, newly set up at that time. I was there 2 years as Ib (2nd General Staff Officer); at the end of two years assigned as Ia (1st General Staff Officer), during which time I was promoted to Lieutenant Colonel (1 March 1937). At the beginning of November 1938, my assignment to troops as CO of the 100th Mountain Jaeger Regiment, at Bad Reichenhall in Upper Bavaria took place, my present residence.

At the outbreak of war, I was recalled into the General Staff, with promotion to colonel, and made Chief of Staff of the Wehrkreis V in Stuttgart, where I remained until the beginning of February 1940.

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From here, my call to the front as Chief of the General Staff of the XVIIIth Mtn Corps took place, which at that time was with the Staff at Neuwied on the Rhine. In this capacity, I took part in the campaign against France.

For the assault on the Malmaison Forme at Chemin des Dames (a key point of the combat actions at that time), I received the Knight's Cross to the Iron Cross on 1 October 1940.

On 26 October 1940, I was discharged from the General Staff and put in charge of the 1st Mountain Division from Upper Bavaria, which at that time was in the area of Arras, with the temporary rank of Brigadier General, (1 November 1940). In this capacity, I took part in the campaign against Yugoslavia from Lower Drauburg through Oilli to Bihac, as well as the battles of 1941 and 1943 against the Soviet Union from Lomberg to Stalingrad and in the Caucasus. On 1 November 1943 I was promoted to Major General and decorated for the battles around Elbrus (Caucasus) with the Oak Leaf to the Knight's Cross.

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From 27 January to 20 February 1943 in the meantime General of Mountain Troops, I was temporarily in charge of a battle unit consisting of 2 corps, at Charkov. Assigned to the Fuehrer Reserve again, I was at home in Bad Reichenhall till the middle of June 1943, and took over then as deputy for 4 weeks, the command of the Mountain Corps in the Kuban bridgehead at Temriju. At the end of July 1943, ordered back to the homeland, the command of the XXIIInd Mountain Corps was transferred to me in the middle of August in the Greek area, which was considered a Zone of Operations. After 14 days sojourn without troops and without being committed in Salonika and Athens, I took over on 9 September 1943 the security of Epirus with headquarters in Jeannine. Here the corps remained busy, without large combat action, in the main with security actions against Communist insurgents, until the evacuation of Greece in the middle of October 1944. After retreating battles in Macedonia lasting 4 weeks, the Corps

was committed to Southwest Hungary in the area South of the Plattensee, where it remained until the end of March 1945. Then followed the retreat movements into lower Styria with the defensive front on the Mur. My last mission, after giving up my troops to the neighboring headquarter authorities, consisted of the security and traffic regulating of the roads leading to the west. After the capitulation on 8 May 1945, I took over the assembly and care of numerous foreign troops elements in the area of Radstadt, Wagrain, and Falchau. On the 4th of June these troops were stationed in the area Northeast of Murnau (upper Bavaria), where I had to carry out their discharge in the final weeks. I have never belonged to the N.S.D.A.P.

I have read the statement above, consisting of 4 pages in the German language, and I declare that to the best of my knowledge and belief it is the entire truth. I had the opportunity to make changes and correction in the above statements.

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I have made this statement voluntarily without any promise of reward and I was neither threatened or compelled to do so.

And the affidavit is signed Herbert Lanz, It is dated Nurnberg, Germany, 7 March 1947. Turning next to Page 9 of the English, Page 6 of the German is Document NO. [NOKW-1780](#), which is offered as Prosecution's Exhibit No. 444. This is the Service Record of the Defendant Lanz. I will call Your Honors' attention to the war-time Service Record of the Defendant from 1 September 1939.

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"1 Sept 1939 Chief of Gen Staff Vth Infantry Corps.

"15 Feb 1940 Chief of Gen. Staff XVIII Infantry Corps.

"25 Oct 1940 Cmdr. 1st Mtn. Div.

"17 Dec 1942 OKH Fuehrer Reserve (Chief Army Propaganda) "3 Feb 1943 Cmdr.

Army Group Lanz.

"23 June 1943 Army Group A (Deputy of Dmdg. Gen. on leave) "25 Aug 1943 Cmdg.

Gen. XXII Mtn. Corps."

Page 10 of the English and 6 of the German are the decorations received by the defendant Lanz. Turning next to page 11 of the English and page 6 of the German are various comments made with respect to the defendant by commanders under whom he served. The defendant Weichs, said to him: "21 Feb 43, Frhr. v. Weichs; Excellent work as a leader. Very good intellectual tendency. Very active physically and very capable physically (mountain climber). Exemplary in ruthless commitment of own person. Above average. Energetic, strong willed, very glad to accept responsibility. He has a clear, trained insight for pertinent needs. Above average. Pronounced leader personality of outstanding qualities. C-in-C of an Army. 1 Mar 44, Loehr, Deputy Cmdr Group E;" said of him: "Nationalist Socialist leader personality. The capture of the islands of Kephallonia and Corfu and the annihilation

there of the Italian occupation forces, which were frequently superior, took place under his personal command. He has a personality which forces others to go along with him and he is glad to commit himself. Above average. Retention of assignment.

"10 July 44. in a letter from Frhr. v. Weichs, C-in-C Southeast to o office Chief"; it was said of Lanz: "The following is my comment in agreement with Cmdr. -in-chief Army group E concerning the suitability of Lt. Gen. of Mtn. Troops Lanz for Army Commander.

a) "Advantages: Courage, high personal willingness to commit himself. He frequently completed the missions given to him with great energy and with great care in the East where he was subordinate to me from time to time, as well as during larger scale band operations in the Balkans.

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He knows how to make his troop cooperate.

b) "Disadvantages: He sometimes suffers from changes of his moods, so that his achievements are not always even. In estimating difficult situations he does not always show that severity which he has demonstrated in his personal actions and in his mastery of tactical combat actions. Thus, in the course of the disarmament of the Italian Army and the fighting connected with it, his activity did not come up to standard in two cases. It is only due to the intervention of Cmdr.-in-Chief of Army Group E that no important disadvantages resulted from that.

c) "Conclusion:.. He fulfills his position as Cmdg. Gen. well. However, I have serious objections to his assignment as Army Cmdr. because of his unstable temper."

Turning now to page 13 of the English, page 8 of the German, Document [NOKW-1016](#) is offered as prosecution Exhibit 445. Your Honors will recall that when prosecution presented documents against the defendant Rendulic for the period early September and early October, 1943, we were concerned with the surrender of the Italian troops following the Armistice entered into by the Italian government and the Allied Forces. We now turn to the same period of September and October, 1943, to Greece where other Italian units were being captured by German forces in order to prevent their turning of weapons and supplies over to partisan units operating in Greece.

This is an order of the LXVIII Army Corps commanded as your Honors know by the defendant Felmy, dated 16 September 1943, to one of Felmy's subordinate units of the 1st Partisan Division.

"Subject: Treatment of Italian Troop units who turn over their arms to insurgents and/or negotiate with insurgents. By order of the Fuehrer, the following procedure is to be applied with respect to all Italian Troop units who have permitted their arms to fall into the hands of the insurgents and moreover have made common cause with the insurgents after said troops are captured.

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1.) "The officers are to be shot to death by summary court martial.

2.) "Non-Commissioned Officers and men are to be deported to the East by railroad for labor employment. They are to be treated as prisoners of war and they are to be collected in special transports and to be reported to competent railroad transportation offices individually. Supplement Army Group: Decision according to 1 by Divisional Commander."

The order is signed: "LXVIII Army Corps 1c/No. 236/43 Top Secret of 16 Sept." Or Intelligence Officer.

Turning next to page 15 of the English, page 9 of the German, Document [NOKW-1118](#), which is offered as prosecution Exhibit 446, this is an order from the XXII Mountain Corps. If your Honors will recall, it was commanded by the defendant Lanz. The order is dated 16 Sept 1943 and it is sent to the subordinate units of the XXII Mountain Corps, the 1st Mountain Division, and the 104th Jaeger Division.

"Cases of Italian soldiers changing into civilian clothing and staying with the population are increasing. This means a material increase of danger with bandit. Such Italians are to be arrested by patrols and are to shot."

This order is signed: "Headquarters XXII Mountain Corps Ic."

Turning now to page 17 of the English, page 10 of the German, Document [NOKW-1354](#) which becomes prosecution Exhibit 447, this document consists of a series of daily reports of the Commander-in-Chief Southeast which during this period was the defendant Weichs. Your Honors will recall that his chief-of-staff was the defendant Foertsch. The first report is dated 19 September 1943. It is sent to the OKH Army General Staff, Operations Section in Berlin and is the daily report from the Commander-in-Chief Southeast for the 19th of Sept. 1943. Under the portion of the report dealing with Administration Area Headquarters Saloniki:

"Engagement between our own reconnaissance and bands North of Elasson.

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The attitude of the disarmed Italians has stiffened. Several mutineers were shot."

Then under the section of the Commander-in-Chief Southeast dealing with Serbia, and your Honors will recall that during this period the defendant Geitner was Chief-of-Staff to the Military Commander in Serbia, the report states: "Local band activity, continuing desertions from Serbian State Guard. - Railroad line Prokuplje - Kursumlija blown up. On the whole 47 hostages were shot, 144 members of Serbian State Guard deserted."

This report, as are all others in this series, is signed by the Commander-in-Chief Southeast who was also simultaneously Commander of Army Group F.

Next on page 19 of the English, page 12 of the German, is a daily report from the Commander-in-Chief Southeast to the Army General Staff, Operations Section in Berlin for 23 September 1943. Your Honors will note the receipt stamp dated 24 September 1943, one day after the report of the Army

General Staff, Operations Section, and under the section of the report dealing with the XXII Mountain Corps, commanded by the defendant Lanz:

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The final sentence, the words "special treatment in compliance with Fuehrer order" are stricken out in the original document and the words are clearly legible but there is a pencil line drawn through them. If your Honors will bear this particular incident in mind, the execution by troops subordinate to the XXII Mountain Corps under the command of the defendant Lanz and General Gandin and his staff, later on in this same document book we will have occasion to see a report on the same incident by the XXII Mountain Corps to the Commander -in-Chief Southeast, in which the reference to the execution of General Gandin and his staff are not crossed out.

Turning now to page 21 of the English , page 13 of the German daily report from the Commander-in-Chief Southeast for the 16th of September, 1943, under the section of the report dealing with the activities of the XXII Mountain Corps, Corfu is firmly in our hands except for the mopping up operation necessary in the Northern sector. Mopping up operation proceeding on the island of Ithaka (East of Cephalonia).

Enemy ammunition depot destroyed South of Korca, 50 bandits shot."

Page 23 of the English and 14 of the German, another report from the Commander-in-Chief Southeast to Army headquarters in Berlin, this time the report for the 27th of September, 1943, and again we are concerned with the activities of the XXII Mountain Corps as seen from the report, this particular corps being commanded at that time by the defendant Lanz.

"Cleaning up operations as well as transporting Italians away from Corfu is proceeding. The Commandant of the island was shot."

And again we will have more to say later on on this particular event involving the execution of the Commandant of the Island of Corfu when we introduce a document later on in this document book which consists of the report of the XXII Army Corps to the Army Group E Headquarters.

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Page 25 of the English, 15 of the German, daily report to the Commander -in-Chief Southeast for the 28th of September, 1943, under the section dealing with the XV Mountain Corps, the SS Division Prinz Eugen, Survey on Split:

"At Split 300 Italian officers and 9000 men of the "Bergamo" Division were made prisoners. Treatment in compliance with Fuehrer Order has been initiated."

Serbia:

Draja Mihajlovic bands active Southeastern Serbia. During our own operations 34 Draja Mihajlovic bandits were arrested, 280 suspected followers of Draja Mihajlovic were arrested.

10 Draja Mihajlovic followers shot in retaliation.

And your Honors will recall that in presenting the documents against the defendant Rendulic, we had occasion to introduce the report of the XV Mountain Corps to the Second Panzer Army relating to this particular incident. Continuing with the report of the Commander-in-Chief Southeast for the 28th of September, 1943, the portion of the report dealing with events in Serbia:

And those words too, if your Honors please, are lightly crossed out in pencil on the original document. This report is like all others signed the Commander-in-Chief Southeast, High Command Army Group F.

PRESIDING JUDGE BURKE: At this point, Mr. Fenstermacher, we will adjourn until tomorrow morning at half-past nine.

THE MARSHAL: The Tribunal will be in recess until nine-thirty o'clock tomorrow morning.

(The Tribunal adjourned until 0930 hours, 14 August 1947.)

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Official Transcript of Military Tribunal V, Case VII in the matter of the United States of America, against Wilhelm List et al, defendants sitting at Nurnberg, Germany, on 14 August 1947, 0930, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain if all the defendants are present in the Courtroom?

THE MARSHAL: May it please your Honors, all the defendants are present in the Courtroom with the exception of defendant Weichs who is absent due to illness.

THE PRESIDENT: There has been presented to me a certificate from one of the prison physicians, which I am handing to the Deputy Secretary General concerning the defendant Weichs.

proceedings will continue in the absence of the defendant. You may proceed.

MR. FENSTERMACHER: May it please the Tribunal, your Honors will recall in this document book 19 we are dealing with events in Greece during the period August 1943 to October 1944, and we are particularly concerned with the activities of the defendant Felmy as commander of the LXVIII Army Corps and the defendant Lanz as commander of the XXII Mountain Corps. Both of those corps were subordinate to Army Group E which was in turn subordinate to Army Group F, commanded at that time by defendant Weichs whose Chief of Staff was the defendant Foertsch.

Prior to the adjournment yesterday afternoon, we were considering document [NOKW-1354](#), which is Exhibit 447 in evidence, being a series of daily reports from the Commander-in-chief Southeast to Higher Army Head quarters in Berlin.

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We were on page 27 of the English, page 17 in the German on those reports. We were examining the daily report from the Commander-in-Chief Southeast for the 29th of September, 1943. Under that portion of the Commander-in-Chief Southeast's report dealing with Serbia, "During local operations 27 suspected followers of Draja Mihajlovic were arrested and 38 bandits captured with arms. 10 reprisal shootings."

This report, as are all others, is signed by the Commander-in-Chief Southeast, who was simultaneously Commander of Army Group F. That completes Exhibit No. 447.

We turn next to page 29 of the English and page 18 of the German, Document [NOKW-811](#). This document, if your Honors please, has already been introduced into evidence as Exhibit No. 220, which is found in Document Book 9. At that time, we read certain portions of the document which related to an earlier period in time.

Now we should like to read in the record that portion of the Exhibit which begins on page 31 of the English and page 27 of the German. The document consists of various entries in the War diary of the Commander in-Chief Southeast. The particular entry we are concerned with now is the entry which relates to file notes and telephone conversation for the 19th of September, 1943.

DR. LATERNSEER: Your Honor, the prosecutor has just said that the document, comes from the Commander-in-Chief Southeast but the heading of the letter says "Wehrmacht Commander Southeast."

MR. FENSTERMACHER: I wonder if the Secretary General has the original document and can check that? Exhibit No. 220.

(The Secretary General did not have it.)

MR. FENSTERMACHER: It is true I think, as Dr. Laternser points out, that on page 29 of the English and page 18 of the German, the entries relate to excerpts from the War Diary of the Wehrmacht Commander South east.

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That is for the period 17 August 1942 and your Honors will recall that on the 1st of January, 1943, the title of the Commander-in-Chief Southeast Area was changed from Wehrmacht, Commander Southeast, which translated means Armed Forces Commander Southeast, to Oberbefehlshaber Southeast, which means Commander-in-Chief Southeast, so that while on the 17th of August, 1942, the extracts were from the War Diary of the Wehrmacht Commander Southeast, I believe it is not true that on the 19th of September, 1943, which is the excerpt to which we are now directing our attention, the excerpts are from the War Diary of the Commander-in-Chief Southeast.

I wonder if my explanation satisfies Dr. Laternser?

DR. LATERNSE: Your Honor, at the moment I can't say anything about this. I think this is the task of the prosecutor to prove what period they are speaking about.

THE PRESIDENT: The Exhibit will be received as shown and given such consideration as the Exhibit discloses itself, and being already in evidence we will take it for such probative value as the Tribunal deems it merits.

MR. FENSTERMACHER: Turning then to page 31 of the English, page 27 of the German, file notes and telephone conversation for the 19th of September, 1943. 0940 hours, the Ia, which is the Operations Officer, informs the Chief of Staff, which at this time was the defendant Foertsch: "During the night the order came from OKW through Commander in Chief, Southeast...." and your Honors will note there the reference to Commander in Chief Southeast.

"During the night the order came from OKW through Commander in Chief, Southeast...." which on the 19th of September, 1943, was the defendant Weichs"...to report the names of the Italian officers shot up to now, only blank reports have gone in; only the Commander of Saloniki-Aegea reported that some Italian officers were shot. Otherwise, only shootings of Italian officers in Cephalonia came in question.

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"Lieutenant General Winter..." who at that time was Chief of Staff to Army Group E under General Loehr"... I have here the detailed remarks concerning the 'famous' top secret."

And the entry in the War Diary for 1000 hours, still the 19th of September, 1943, "Telephone conversation of Brigadier General Winter with Major General Foertsch..." If your Honors please, that relates to a conversation between Brigadier General Winter, Chief of Staff of Army Group E with Major General Foertsch, the defendant Foertsch, who at that time was Chief of Staff of Army Group F. ".....concerning possible enemy plans. Attack on the East or West considerations, evaluation of the enemy is now being worked out and will be presented to the Commander in Chief, Southeast."

Finally the entry in the War Diary of the Commander in Chief Southeast for the 5th of October, 1943, 0815 hours, "Brigadier General Winter gives report concerning the situation on Cos..." Your Honors will recall that is a Greek Island. "600 English taken prisoners, among them a Lieutenant Colonel, 2500 Italians captured. Commandant shot. 40 guns booty. 11 planes shot down, 11 taken as booty, further 1 private yacht. Our own losses; 15 dead and 70 wounded."

Turning now to page 33 in the English, page 32 in the German, Document [NOKW-960](#) which becomes Prosecution Exhibit 448.

THE RESIDENT: Did you give an Exhibit number to this one you have already referred to?

MR. FENSTERMACHER: Yes, that has already been given an Exhibit number 220, your Honor, in document book 9.

THE PRESIDENT: All right.

MR. FENSTERMACHER: The next document is now [NOKW-960](#) which becomes Prosecution Exhibit No. [448](#). We shall be concerned from this point on largely with the activities of the XXII Mountain Corps under the command of the defendant Lanz, and the activities of the subordinate units of that corps, for the most part the activities of the 1st Mountain Division and the 104th Jaeger Division.

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This document is a series of reports from the 1st Mountain Division to Higher Headquarters of the XXII Mountain Corps, commanded by the defendant Lanz during this period. The first report from the 1st Mountain Division to Corps Headquarters, XXII Mountain Corps, Ic, or intelligence officer, and it is dated Division Command Post, 9 October, 1943.

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"The division transmits in the enclosure the lists of the Italian officers shot in Sarande.

"At the same time a rucksack will be handed over containing the effects of these officers. For the officers named in numbers 3, 4, 10, 18, 32, 33, 35, 36, 33, 40 and 47, no effects were included."

The report is signed for the Division Headquarters for the First General Staff Officer.

Enclosed also a part of the document is a report from Combat Unit von Hirschfeld to its Higher Headquarters, the 1st Mountain Division.

Your Honors will note on the right hand portion of the document the receipt stamp of the 1st Mountain Division dated the 7th of October, 1943. This particular report from the combat Unit is dated the 6th of October, 1943, and its subject is the Effects of the Shot Italian Officers. The report is sent to the Intelligence Officer of the 1st Mountain Division.

"Herewith, the combat units transmit the effects of the battalion officers shot as traitors on 3.4. and 5 October 1943 in Saranda."

It is signed Detachment Commander Gelony.

Then on page 34 of the English, page 33 of the German, is another report of this same combat unit von Hirschfeld to the 1st Mountain Division. The 1st Mountain Division is in turn subordinate to the XXII Mountain Corps. The report of the combat unit is dated 3 October, 1943.

"List by name of the Italian officers shot by the execution detachment of the 1st Company, 54th Mountain Jaeger Battalion on 3 October 1943 in Saranda."

Then the document has a chart of various sections of the tables broken down into "Current number, Rank, Name, Place of Birth, Date of Birth, Assignment, and former Residence."

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They have listed the name of the first and last of the Italian officers in the table and I should like to pass up to your Honors the actual exhibit so that you might see the intervening names as they appear in the actual document, the name of the Italian officers who were shot by this particular combat unit.

Continuing with the exhibit on page 34 of the English and page 33 of the German is another report of the combat unit von Hirschfeld to the 1st Mountain Division dated 4 October 1943 and again is another list of the names of the Italian officers shot by the execution detachment of the 1st Company, 54th Mountain Jaeger Battalion on the 4th of October, 1943, in Saranda. Again the table follows with the rank Names, Place of Birth and Date of Birth, Assignment, Former Residence, and those Italian officers who were shot.

We have listed the name of the first officer and the the name of the last officer.

Continuing on page 35 of the English and page 34 of the German we find a third series of reports of von Hirschfeld to the 1st Mountain Division, this one dated the 5th of October; 1943, again containing a list of Italian officers shot by a particular execution detachment of the 1st Company; 54th Mountain Jaeger Division.

We have listed the names of the first officer and the last or 49th, officer shot by this combat unit.

Continuing on page 33 of the English and page 34 of the German is the report which the first Mountain division then sent to is Higher Headquarters, the XXII Mountain Corps, with respect to the execution of Italian officers. This particular report from the Division was dated 5 October 1943 and your Honors will recall that this Division was subordinate to the XXII Mountain Corps, commanded by the defendant Lanz.

Under the section of the report dealing with the activities of the Spindler Battalion, "The Fuehrer Order No. 1 was carried out on 58 officers."

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The report is signed for the Division Headquarters for the 1st General Staff Officer.

Continuing on page 37 of the English, page 35 of the German, Document [NOKW-755](#), which is offered as Prosecution Exhibit 449, this is a series of reports from the Commander in Chief Southeast to Higher Headquarters in Berlin, and also a series of reports from Army Group E to the Commander in Chief Southeast. The reports cover a period of time from May 1943 until December 1943. The report for the first portion of the document cover the period from May until August 1943, when General Loehr was Commander in Chief Southeast. Your Honors will recall that the defendant was then Chief of Staff to General Loehr.

The second portion of the reports cover the period from August 1943 until December 1943 and are from Army Group E which during that period was commanded by General Loehr to the Commander in Chief Southeast, which during that period was the defendant Weichs and of course his Chief of Staff, the defendant Foertsch.

We take up first those reports from General Loehr as Commander in Chief Southeast to OKW Headquarters in Berlin for the period from May until August when the reorganization of the Southeast Command occurred.

Page 37 of the English, 35 of the German, daily report of Commander in Chief Southeast to OKW Operational Staff of 2 May 1943, under the section of the report dealing with Greece: "Italian operation in Volos - Lamia - Pharsala area had little enemy contact.

"Rather large amount of weapons, ammunition, explosives and equipment captured. 13 villages destroyed."

And then the report, as are all others, in this series, is signed by the Commander in Chief Southeast, who at that time was simultaneously Commander of Army Group E.

Next the daily report of the Commander in Chief Southeast for the 5th of May, 1943, again we are concerned with the section of the report dealing with Greece:

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"Operation Olymp area from 16th of April to the 4th of May had following results: 117 enemy killed, 885 arrested, transferred for labor assignment.

"10,500 head of cattle captured, 18 bandit camps, 200 field positions, 55 food depots, 16 villages destroyed.

"During Italian operation North-Eastwards of Lamia 16 bandits were shot. Evacuated villages were destroyed."

Next on page 38 of the English, 36 of the German, daily report for the 16th of May, 1943. Your Honors will note the various divisions of the report. We direct your attention to that section of the report dealing with events in Serbia. Your Honors will recall that at this time the defendant Geitner was Chief of Staff to the Commander in Serbia who at this time during the period from May until August 1943, was General Bader. The defendant Geitner was General Bader's Chief of Staff.

"Serbia: Several appearances of bands in whole area. Attacks on camps and telephone lines, 156 shot as reprisal."

Next the daily report of the Commander in Chief Southeast for the 27th of May, 1943. I direct your Honor's attention to that section of the report dealing with the activities of the 373rd Division and its reference to:

"Strong Communist forces (over 1000men) from area West of Travnik on way to the South, supposedly aiming towards Herzegovina. Fighter detachment which was committed made 35 prisoners, additional reconnaissance patrol has been dispatched."

Then the section of the report dealing with events in Serbia:

"125 Communists were shot as reprisal for railroad attacks and sabotage acts in Pozarevac."

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Next the report for the 3rd of June, 1943, under the portion of the report dealing with Greece, "Band, allegedly 150 men strong with 3 English officers from Italian territory in Nestoria area. Vijose - bridge

West of Konitsa (45 km North of Joannina blasted. Supplementary report about railraod attack of Nezeros: 92 Italians and 60 Greek prisoners dead, large number of wounded and missing. 100 Communists from concentration camp shot as reprisal in Larissa."

Then I direct your Honor's attention to this reference:

"Band in Greek uniform has been reported in Soupre area (40 km Northeast of Lamia.)

I think we may turn now to the report on page 40 of the English page 41 of the German dated the 12th of June, 1943, particularly to that section of the report dealing with events in Serbia:

"North of Zajecar band attacks on cattle transports, cattle stolen. 10 reprisal executions.

"According to confidential agent's report, DM bands West of Casak, 400 men strong, North West of Raska, 600 men strong."

Next is the report of Commander in Chief Southeast of 14 June 1943:

"During Communists attack on German horse transport near Klenak station.

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(north of Savac) 12 Germans were killed, 3 wounded, 2 missing, 40 horses, 4 Communists found dead, clad in part in German uniform.

"In Kraljevo - Cacak and Bajina Basta area a total of 21 band accomplices were arrested. In Vrnjci area in shooting between confidential agents and bandit group one confidential agent was killed. For various attacks in district a total of 100 reprisal prisoners have been shot."

Next the report dated 17 June 1943 under Serbia:

"Twenty DM band accomplices were shot in Uzice."

Continuing with the report of the 18th of June 1943:

"Serbia: 350 Communists and 50 Chetniks have been shot as reprisal measures for attacks and sabotage acts which have been committed recently."

Next on page 42 of the English, page 40 of the German:

"As reprisal for the murder of the mayor of Kucevo 20 Chetniks and 10 Communists were shot.

"Near Guca and Uzice German police and Serbian volunteer corps captured 10 Chetniks (among them one leader); 2 were shot, archives and weapons were captured."

Next, on page 43 of the English, page 45 of the German, Daily Report for the 26th of June 1943:

"Serbia: 30 Communist prisoners shot for railroad sabotage acts committed recently."

Continuing with the report for the 27th of June 1943, the portion dealing with Serbia:

"DM mobilizing in Topola area. Near Arandjlovac one DM leader caught, one Chetnik shot. In Krusevac and Belgrade area 150 band suspects arrested."

Then a portion of the report dealing with events in Montenegro Albania:

"As reprisal measures for shot Italian officer a total of 150 Communist prisoners were shot."

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Your Honors will note the ratio there, 150 to 1.

DR. LATERNSEER: I object to the last comment of the prosecutor. Apart from the fact that it was not admissible, it is also false. The original German text runs as follows:

"As reprisal for shot Italian officers 150 Communists shot."

Since one cannot see how many Italian officers were shot by the bands, one also cannot draw a conclusion with regard to the ratio which the prosecutor has maintained. I would ask that this be stricken from the record.

THE PRESIDENT: The Tribunal suggests that the original document be sent to the translators for their interpretation.

INTERPRETER: The translation of the original German is as follows: "As reprisal for shot Italian officers."

JUDGE BURKE: Did the interpreter say officer or officers?

INTERPRETER: Officers.

THE PRESIDENT: You may proceed. This is an example of voluntary statements which are not born out by the records.

MR. FENSTERMACHER: Sorry, Your Honor, I will withdraw my remark.

On page 44 of the English, page 47 of the German, Daily Report of the Commander in Chief Southeast to OKW/Wehrmacht Operational Staff, 28 June 1943, the section of the report dealing with Greece:

"28.6. a.m.: One enemy submarine 50 north of Scarpanto. According to Italian report enemy submarine sighted near Corfu, probably supplying bands. Much dropping of war material and parachuting of enemy agents, among the latter an American first lieutenant in western Greece."

And the Daily Report of the Commander in Chief Southeast of 29 June 1943:

"Greece: Southwest of Ptolemais sabotage of telephone lines, inhabitants assigned as guards. For attack on German non-commissioned officer near Naussa 25 Greek Communist suspects have been shot.

"Serbia: Little local band activities.

"For recent sabotage acts and attacks 350 DM and Communist suspects have been shot in Krusevac area; in other localities 255 reprisal prisoners were shot."

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Next the Daily Report of 2 July 1943:

"Greece: West of Paleo – Pharsalos a German plane which had to make a forced landing was attacked, radio operator murdered. Locality destroyed by Stuka.

"The destruction of surrounding villages in connection with reprisal executions has been ordered and is being carried out. So far four villages have been burned down. As reprisal measures for railroad blast near Litochoron and attack on German non-commissioned officer (Daily Report 29.6) 50 Communists shot.

"Albania – Montenegro: Strong band forces (1000 ?) in Koritsa area receive reinforcements from northwest."

Next on page 46 of the English, page 50 of the German:

"Daily Report of Commander in Chief Southeast, 4.7.43:

"Greece: Mopping-up operation southeast of Servia continued by combat group Salmingen. Further localities burned down; 87 suspects shot in flight."

Next the Daily Report of the 5th of July 1943:

"Allied preparations for attack:

"Active shipping through Suez Canal. Heavy east convoy plotted for the first time between Straits of Sicily and Alexandria confirms the assumption that sea traffic from western to eastern Mediterranean took place continuously. Plotted transport, freight, and tanker tonnage east of Mediterranean amounts to 1.5 million BRT. Main concentration point freight and tanker area Alexandria, transport area Port Said. Transport debarkation area: ports Port Said – Bengasi incl. sufficient for almost one landing division (308 landing boats, newly reconnoitred through aerial photography, in added transport area, not included in calculation.) Tripolis ports, Bizerte incl. for four English landing divisions (no small vessels). No precise information on transport landing area on Levant coast and Cypress.

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"Band, situation in Greece: With small forces on Peloponnes strong concentration on Central Greece. Planned cooperation during the operations of Allies can be counted on with certainty. According to London radio reports, subordination of all bands of Greece under Allied high command in the Middle East is ordered.

"Greece: During night of 4/5 July systematic sabotage operation on Crete with concentration point on Iraklion area, probably carried out under English command. At airfield Kastelli three incendiary charges were released in aircraft blast bays, one Klemm A/c 35 was destroyed, one Flak soldier killed. Further charges were removed in time. In gasoline depot near Iraklion one gasoline blast bay with 10 cbm gasoline was destroyed. Further destructions were prevented by alert troops. In Malaxa (southeast of Chania) cable sabotage on important communication lines. Searching operation so far without result. Increased security measures ordered since 3.7. prevented greater damages.

"Reprisal measures: 50 Greeks shot. Further shootings threatened unless perpetrator has been discovered with the assistance of the population within seven days. Curfew for population on entire island has been fixed from 2100 hours to 0430 hours. The closing of theaters for the population and taverns as of 2000 hours. Furlough veto for Greek Wehrmacht laborers."

Page 48 of the English, 53 of the German, Daily Report Southeast of 13 of July 1943:

"Greece: To Daily Report of 12.7.: 13 people suspected of sabotaging railroad shot. During mopping-up operations on through fare southeast of Servia remaining houses were burned down; suspects shot. During mopping-up operations eastwards of Leskovik five more enemy dead."

Next, Daily Report for the 15th of July 1943:

"Greece: On Crete in locality near Retymnon male population has been pressed into forced labor as measure against Communist propaganda activity.

"Croatia: Area north of Save: North of Banova Jaruga large Communist band (700) has been reported.

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Reprisal operation against locality northeast of Mitrovica (see yesterday's Daily Report) has been successfully carried out. Forty bandits were shot, 82 band suspects arrested."

Next Daily Report of the 14th of July 1943:

"Greece: Sudden revival of band activities on Crete. The support of bands by Allied submarine landings has been proved through discovery of American equipment and through English men killed during combat at the southern coast. (Daily Report 12.7.)

"Area southeast of Iraklion, German company commander was shot at four times in his quarters. Two Greeks were killed while fleeing. In same area arms and explosives were found, three suspects were arrested. In the eastern part of Crete two Greeks who had blasting material in their possession were shot by Italian patrol east of Sfakia was fired on during the night of 12/13.7. Action undertaken immediately remained without result. In locality southwest of Chania weapons were found, one Greek was killed while fleeing. Bands in area southeast and southwest of Retymnon suspected surprise action. According to report of confidential agent, strong band (2000) from Ano Wianos (40 southeast of Iraklion) changed over into Italian territory. One thousand rifles and other weapons allegedly have been landed by submarines."

I think we need not read the rest of the report since it is primarily information on operation of tactical situations.

Beginning next on page 50 of the English, page 54 of the German:

"As reprisal for attack on rural guard patrol northeast of Petrograd 25 Communists were shot."

Next, Daily Report of 18 July 1943, the section of the report dealing with Serbia:

"Local band activity. In southwestern Serbia increased tension between Serbs and Moslems.

"Near Lebane two Communist attacks on Serbia State Guard. Fifty Communists shot as reprisal for attacks on Bulgarian railroad security.

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South of Krusevac battle is taking place between Serbian Volunteer Corps and Communists; so far ten enemy dead. Southwest Pozega Communist band has been arrested by Serbian Volunteer Corps 7 Communists dead, band leader hanged in public.

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Next the report dealing with Italian occupied territory:

During operation in Diokovo mountains 463 band suspects were arrested and brought to a concentration Camp.

Next the report of 20 July, 1943:

Greece:

According to an Italian report a band of the Zervas amounting to 2500 men is allegedly located West of the Joannina - Arta road. Number is exaggerated.

Serbia:

As reprisal for railroad sabotage and murders in Arandjelovac area (Daily Report of 7.7.) 30 Communists and 10 DM - reprisal prisoners have been shot. As reprisal for band activity in Banat (Daily report 16.7.) 10 more Communists were shot.

Then the report of the 21 July 1943, 52 of the English, 61 of the German:

Preparation for attack by the Allies.

North East of Solium convoy with 25 units among them presumably 7 freighters 7 - 10 000 BRT, 9 freighters 5 - 6 000 BRT, Course West. Concentration of Commando and Sabotage troops committed on Cyprus on North Western coast demands special attention in connection with frequent counter-intelligence reports on imminent operation against Dodecanese and Crete.

On 21.7. no own aerial - reconnaissance of Cyprus. British forces in Southern Syria presumably reinforced by 8th Indian Infantry Division (until now Irak).

Greece: According to. Italian report band of 2500 men in Agrinion area, 1000 men in Arta area -, 2000 men in area 40 West of Joannina.

Numbers seem exaggerated.

Turning next to the report of the 25 of July 1943 which is at bottom of page 53 of the English, pages 63 and 64 of the German:

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Greece:

1st Mountain Division: Mopping-up operation according to plan at Joannina - Arta with local enemy resistance. Band dispersed from height position, 20 enemy dead, 1 ammunition dump destroyed, 1 English parachute bomb discovered. Hostages were arrested in all localities. Non-inhabitants of locality are treated as bandits.

Next is report of the 26 - 17 of July, page 54 of the English, page 65 of the German:

"Effects of the situation in Italy:

"So far no effect of the change of government on the behavior of the population.

"Italian proclamation has been announced to Assault-division by governor Rhodes with special mention, that the war continues, that Italy will keep its promise and that adequate instructions have been made to Italian commanders of island including the Legions."

Your Honors will recall that at this time Mussolini was replaced as head of the Italian Government by General Badoglio.

By order of the higher military command Italian Command Post Triest has alerted the German and Italian headquarters to maintain public order. Italian 2nd Army has not as yet received any instructions from Rome. Service continues normally.

According to reliable sources DM has instructed his subordinated leaders in Bosnia and Dalmatia on 26.7. to carry out the following operations immediately in case expected insurrection in Italian Army takes place: The disarming of all Italian units, distribution of Italian weapons to DM units. Recruiting of Yugoslavian Luftwaffe personnel. Later destruction of all traffic roads, occupation of towns and mopping-up operations in coastal areas. Internment of captured Italians and treatment according to international martial law.

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Greece:

Your Honors will note that this was two orders supposedly issued by DM units, of captured Italian soldiers.

2nd Regiment Brandenburg:

1 band locality destroyed, male population arrested, women and children evacuated. As reprisal for surprise fire attack on German truck in Rodiani (12 south of Kozeni) 2 bandits were hanged in public.

Next Dally Report for the 28 July 1943:

Effects of Italian situation:

Italian Officers Corps at Rhodes hopes, that under new government party-political influences will be eliminated in military decisions. The militia is suspicious towards new leadership, Militia-Consuls are ready to continue the fight on the German side in case of separate efforts for peace.

In Athens EAM propaganda among Italian soldiers for separate peace.

Your Honors will recall that later documents will show that the EAM is one of the 2 important Greek organizations:

Next the Daily Report of Commander-in-Chief Southeast to OKW/WFST of 31.7.43.

Greece:

Italian troops on Peloponnesus placed under command of LXVIII Corps Headquarters for special assignment as of 31.7., Your Honors will recall that at this time the defendant Felmy was Commander of the LXVIII Army Corps.

East of Amalias Group IV/Fortress Infantry Battalion 999 fired on by band. As reprisal 2 hostages were shot, 1 locality was burnt down.

Serbia:

Southeast of Kursumlija allegedly 250 Chotniks in English uniform.

I call Your Honors' attention to the date of this report, when it is reported that the Chetniks were in English uniform, 31 July 1943.

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Next the Daily Report of the Commander-in-Chief Southeast for the 1st August 1943;

Effects of Italian situation:

According to report from German liaison officer with Italian VIII Infantry Corps unrest among Italian Officers Corps, a larger part of which urges towards Italy. According to statements of civilian Italians in Nauplion area try to obtain civilian garments from Greeks. In area of Tirana a new independent Albanian government is said to have been formed. Among the members also English officers. In Debar area an open revolt in favor of a new government is expected. An indication thereof is the large scale desertion amongst the Albanian troops.

Next a report of the 3rd of August 1943:

Effect of Italian situation:

Strong propaganda activity of the EAM to entice Italian soldiers in Athens to desert and surrender their arms.

Page 47 of the English, 71 of the German, Daily Report for the 5th of August, 1943, under Serbia:

Continual local attacks and collisions between insurgents and Serbian police, 10 Communist reprisal prisoners were shot. West of Krusevac DM-Commander shot.

Continuing with the report of the 6th of August, 1943:

Greece:

3 band localities destroyed. 3 dumps with weapons, ammunition, clothing and supplies were captured.

Serbia:

Reinforced. DM-movement under English command in area Southwest of Lebane.

Southwest of Cacak 4-500 peasants have been mobilized by DM.

Continuing now with the report for the 15 of August 1943, at the "bottom of page 58 of the English, page 73 of the German:

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Greece:

2 Localities occupied by bands were bombed by Luftwaffe. Attack by small band on electricity plant Karditsa, enemy repulsed by GermanItalian combat group. During operation of 1st Mountain Division in coastal area of Amuzia (yesterday's daily report), 1 English confidential agent, 70 band suspects arrested, 2 localities destroyed.

As reprisal for attack on German gun reported yesterday 3 localities have been burnt down North West of Leskovic.

Serbia:

During operation Arilje further 10 enemy dead, 84 band accomplices arrested, 1 band locality destroyed.

Near Beljevac and Usice harvest sabotage and surprise attacks on communities, 20 members of Serbian State Guard deported or rather deserted. As reprisal 15 Communist prisoners shot.

Next the report for the 17 of August 1943:

Serbia:

10 Communist reprisal prisoners shot for the murder of the Volksdeutsche mayor.

Continuing the report for the 18 of August 1943:

Serbia:

As reprisal for surprise attack on coal-mine near Aleksinac and for the murder of 2 mayors, 30 Communists and 20 Chetniks were shot.

Next the report for the 19 of August 1943:

Greece:

On Crete in village Southwest of Rethymnon, 1 German non-commissioned officer was killed by unknown perpetrator. As reprisal 10 Greeks were shot, male inhabitants of village were taken to labor camps. Attack on Italian garrison of Almiros (25 Southwest of Volos), reported yesterday, was carried out by large (1,000?) well-armed band.

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Next the report of the 21 of August 1943 Commander-in-Chief Southeast, this time General Loehr, whose Chief of Staff was General Foertsch. This report concerns Serbia, where the defendant von Geitner was Chief of Staff to General Bader.

Serbia:

East of Zagubica 2 compressors, 1 steam-roller and other machines heavily damaged through sabotage, 33 Communist reprisal prisoners shot.

Croatia:

Increased aggravation of the situation. Communists and Chetniks clearly recognize the symptoms of disintegration in the Croatian Army. Increase of enemy propaganda, increase of well-prepared attacks by superior forces on Croatian strongholds, whose troops for the most part do not offer resistance. Many desertions of Moslems because of forced induction into the SS. In Legion Division also increased desertion. Allegedly because of rumors concerning entrance of Turkey into the war.

Continuing now at bottom of page 61 of the English, page 78 of the German, Daily Report of the 23rd of August 1943:

Greece:

On Peloponnesus in area 35 Northwest of Tripolis surprise attacks by small bands on German soldiers, 1 missing, 2 suspect localities burnt down.

Explosives and ammunition were captured in villages, villages were destroyed. Near Amphilokia a monastery suspected of belonging to bands was bombed by plane. 2nd Regiment Brandenburg clashed with small band Southwest of Neapolis, 1 band locality was burnt down.

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Next, the daily report for the 24th of August 1943, particularly under "Croatia:"

"Area 114th Light Infantry Division: According to Cetnik report 6 Communist brigades are in Drvar area."

Turning now to the bottom of 62 of the English, page 80 of the German, from here on to the rest of the exhibit, we shall be concerned with daily reports issued by Army Group E to the Commander in Chief Southeast and this covers the period after the reorganization of the Southeast Command, at the end of August 1943 until December 1943; and during this period Army Group E was commanded by General Loehr whose Chief of Staff was Brigadier General Winter, to whom the preceding reports made several references; and the report is to the Commander in Chief Southeast (High Command of Army Group F), the defendant Weichs and his Chief of Staff, the defendant Forestch; and during this period, from August 1943 to December 1943 Your Honors will recall that General Felmy was commander of the 68th Corps in Greece and General Lanz was in Greece as Commander of the 22nd Corps and General Speidel was in Greece as Military Commander in Greece.

First, the daily report of the High Command of Army Group E to the Commander in Chief Southeast for the 26th of August, 1943:

"German vehicle was fired at on Crete in area of Arkolochori (24 South of Iraklion). Perpetrator escaped in the darkness. 32 hostages were arrested and taken to a forced labor camp."

Next, in the middle of page 63 of the English, page 81 of the German, the daily report of the Army Group E to the Commander in Chief Southeast for the 26th of August 1943:

"After evacuation of population and transport of men to forced labor camps, band village Worisa (10 North of Tympakion) on Crete was destroyed by bombs from 7 July"; and the reference "Ju" is to a type of airplane the German Army employed.

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Next, the daily report for September 9, 1943:

"Army Group Southern Greece" General Felmy took command. General Lanz (22nd Mountain Corps) took over command of 1st Mountain Division and 104th Light Infantry Division."

Continuing with the report of Army Group E to Army Group F for December 9, 1943.

"Army Group Southern Greece"--Your Honors will recall Army Group Southern Greece is now commanded by the defendant Felmy--"During mopping-up operations of Levadeia 20 band suspects were arrested. Ammunition was found. Locality was partly burned down. As reprisal measures for 1 murdered German soldier 10 Greeks were hanged."

Next, the report for the 13th of September, 1943, section of the report dealing with Crete:

"Increased enemy reconnaissance activity over island. 25% of Italian garrison is willing to fight with German Wehrmacht (Formation of Construction battalions, etc., is planned) 50% neutral (truck drivers and other specialists to be taken over into Wehrmacht) 25% declining (evacuation urgent). During reconnaissance in mountain area North of Tympakion own strong patrol caught in ambush, 12 dead, 5 wounded, 6 missing, dead mutilated. During the relief operation which was launched, bands escaped. 2 villages have been burned as a temporary reprisal measure. Further operations are planned with support of Luftwaffe."

And the section of the report dealing with the 22nd Division of the Mountain Army Corps the Corps commanded by the defendant Lanz:

"As reprisal measure for attack on German truck convoy (daily report 11.9 Belish was burned down."

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Next in the daily report for the 15th of September 1943, the section of the report dealing with activities of the Commander of Saloniki-Aegean:

"Near Volos large number of Italians (approximately 1000 men) went over to bands."

Next, the daily report from Army Group E to Army Group [F](#) for the 17th of September 1943:

"Commander Saloniki-Aegean: After strong resistance Kalarmama was taken by units of SS Panzer Infantry Regiment 1, population fled, locality was burned down by own forces."

Next, the report for 21 September 1943:

"Amy Group Southern Greece" defendant Felmy's unit: "During own reconnaissance in coastal area of the Gulf of Maliakos contact with the enemy with well-armed bands (partly clad in Italian uniform).

"Commander of Saloniki-Aegean: During own reconnaissance little contact with the enemy South Southeast of Bilishte and South of Kastoria. As reprisal for sabotage on telephone lines, 4 hostages were hanged in Kocani."

Next the report from Army Group E to Army Group [F of](#) the 23rd of September, 1943, the report for the activities of the 32nd Mountain Corps, commanded by the defendant Bantz--Your Honors will recall that earlier in the report from the Commander in Chief Southeast to OkH and OKW in Berlin we quoted from a section of that report dealing with the execution of General Gandin and his staff, General Gandin being an Italian officer, and we remarked that the reference to General Gandin and his staff's execution was crossed out in pencil, and I remarked that later on in a document we would find the corresponding report coming from the Corps to the Army Group [F referring](#) to the same incident in which the reference was not crossed out and this is that reference."

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"Remaining mopping-up operations on Cephalonia continue. General Gandin and staff have been taken prisoner. Special treatment according to Fuehrer decree."

Next, the daily report for the 24th of September 1943, page 67 of the English, page 88 of the German--this is a report for the day after the previous reference to General Gandin and his staff, having been given special treatment-- section of the report dealing with the activities of the 22nd Mountain Corps, commanded by the defendant, General Lanz:

"General Gandin and all his officers were shot."

This, Your Honors, completes the incident to which we refer in Count 3 of the indictment, paragraph 12-J.

Next, the daily report of the Army Group E to the Commander in Chief Southeast for the 27th of September, bottom of page 67 in The English, page 89 in the German--again we are concerned primarily with the events of the 22nd Mountain Corps:

"On Corfu island commander was taken prisoner and shot."

Section of the report dealing with events covered in the jurisdiction of the Commander of Saloniki-Aegean:

"During reconnaissance combat northeast of Larissa, 25 bandits were shot, 1 band locality destroyed, small amount of weapons captured. On the upper course of the Kliakmon well-armed band repulsed and pursued."

Next the report for the 4th of October, 1943:

"Crete: During mopping--up operations North of Paleochora. (see daily report of 1.10) well-armed medium sized band was dispersed, 40 enemy dead, 3 villages were burned down."

Next, the bottom of page 68 of the English, 91 of the German, daily report of the Army Group E to Commander in Chief Southeast for 5 October 1943:

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"Operation 'Eisbaer': Italian island commander was shot."

And then the section of the report dealing with activities of the 68th Army Corps, commanded by the defendant Felmy:

"Command of the area up till now under Army Group Southern Greece taken over by Corps Headquarters 68th Infantry Corps."

And still continuing with the section of the report dealing with the activities of that Corps commanded by Felmy:

"As reprisal for murder of Regiment Commander and sabotage of telephone lines (see daily report of 2.10) locality of Akmotopok (northeast of Philippias) was entirely destroyed and all inhabitants shot. North of Paramythia renewed sabotage of telephone lines, local mopping up south of Joannina."

This, if Your Honors please, is a reference to Count 2 of the indictment, paragraph 9-F.

Continuing on page 69 of the English, page 91 of the German, daily report of the Army Group E to Commander-in-Chief Southeast for the 14th of October 1943:

"Commander Saloniki-Aegean:

During Ossa operation a further band supply dump destroyed. Italians captured from the bands were shot. Operation continued. As reprisal for attack on Engineer company (daily report 12.10) and for railroad sabotage in Tempi-valley (daily report 10.10) several estates near Elassen and locality of Pyrgetes were razed to the ground."

Continuing with the daily report for the 20th of October, 1943 from Army Group E to Army Group F:

"Concluding report on Ossa operation: Enemy losses: 205 prisoners, 37 dead, 42 wounded. 13 dumps of various amounts of ammunition and rations and clothing captured and destroyed. 3 localities (among them Spelia) were leveled to the ground.

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Own losses: 2 dead, 3 wounded."

Skipping to the bottom of the page, 70 of the English, 94 of the German, daily report for the 7th of November, 1943, again the section of the report dealing with the activities of the 68th Corps commanded by the defendant Felmy:

"18 Communists were shot in Tripolis as reprisal for railroad sabotage committed lately."

Page 71 of the English, 95 of the German, report of the 13th of November, 1943, and again that section of the report dealing with the activity of the 68th Corps is pertinent:

"During local mopping-up Southeast of Tripolis several hostages were taken. In Erythrea 80 suspects were arrested and brought to a labor assignment camp."

Next the report of the 15th of November:

"Commander of Saloniki Aegean: During local mopping up operations North of Volos 53 bandits were taken prisoner, several were shot. 1 band locality was burned down. As reprisal for attacks committed lately in Kateri area 20 Communists were shot."

Page Unlabeled

"During reprisal operation against bands in Korea area, 1 locality was taken in spite of resistance. All men capable of bearing arms were shot, locality destroyed."

This reference relates to Count 2, paragraph 9-J, on the indictment.

Next, the daily report of the Army Group E to Army Group [F for](#) the 5th of December, 1943, 68th Corps, commanded by Felmy:

"50 hostages were shot in Aighion for attacks committed lately."

And that is our reference to Count 7, paragraph 5-P, of the indictment.

Next, the daily report from Army Group E to Army Group [F for](#) December 6, 1943, under "68th Corps":

"For attack on railroad stronghold East of Tripolis (daily report of 2.12) 50 hostages were hanged."

On page 75 of the English, page 100 of the German, we begin a series of three reports from Army Group E to Army Group [F which](#) relate to a reprisal measure carried out in the Kalavrita area in the Peloponnes Peninsula of Greece, and I ask your Honors to make a special note of these three reports and the events to which they refer because the prosecution will have occasion within the next several days to put on the witness stand a survivor of the Kalavrita operation.

First is the daily report from the Army Group E to the Army Group F for the 16th of December 1943. Your Honors will note that the events of this operation are all found in that portion of the report dealing with the activities of the 68th Corps commanded by the defendant Felmy:

"Operation Kalavrita continued without enemy contact. Reprisal measures near Kalavrita (yesterday's daily report) so far: 9 villages destroyed, 142 men shot."

Next, the daily report from Army Group E to Army Group [F for](#) the 14th of December, 1943:

"68th Corps: Near Kalavrita 70 corpses of the murdered members of the 5/799 were found. During further reprisal measures 3 localities were burned down. Kalavrita was entirely destroyed. 511 male

inhabitants were shot." 1934 Skipping to the bottom of page 72 of the English, 97 of the German, daily report of the 28th of November, 1943, portion of the report dealing with Commander of Saloniki Aegean -- I beg your pardon -- portion of the report dealing with Aegean:

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"During mopping up operation northeastern area of Sames enemy contact with armed Italians. 1 officer, 53 enlisted men captured. Several were shot. Prisoners were treated as-- and I believe those two words should be changed to read "franc-tireurs."

Is that correct, Dr. Laternser?

Dr. Laternser has indicated that the final two words in that sentence should be changed to read "franc-tireurs."

THE PRESIDENT: What would the spelling be?

MR. FENSTERMACHER: Fr a n c - t i r e u r s.

THE PRESIDENT: A little slower again.

MR. FENSTERMACHER: I beg your pardon?

THE PRESIDENT: Will you repeat a little slower?

MR. FENSTERMACHER: Fr a n c - t i r e u r s.

Continuing the report from Army Group E to Army Group F for this period from August 1943 to December 1943, page 73 of the English, 98 of the German, daily report of Army Group E to Commander-in-Chief South East of November 29, 1943, Section of the report dealing with the 68th Corps, Commanded by Felmy:

"As reprisal for band attack on Tripolis Sparta road (daily report 26.11) 100 hostages shot at the place of attack. During search through Corinth many hostages were arrested, weapons and propaganda material were confiscated."

The report is signed: "High Command of Army Group E" and this, your Honors, please, relates to Count 1, paragraph 5-N, of our indictment.

Next, report from Army Group E to Army Group F of the 1st of December, 1943, the section of the report dealing with the Mountain Corps commanded by the defendant Lanz:

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Next, the daily report of Army Group E to Army Group F for the 15th of December, 1943 -- again we are concerned with that portion of the report dealing with the 68th Corps:

"During continuation of reprisal measures in Kalavrita area 1 more village and 2 monasteries were destroyed. At local operation parts of the Polish Regiment 18 (Military Commander..)" -- I believe, your Honors, the word "Polish" should be changed to read "Police Regiment 18" and "(Military

Commander of Greece)", who at that time was the defendant Speidel. "Southeast of Levadein had enemy contact in Evangelistra (15 Southeast of Levadeia). Locality was burned down."

DR. LATERNSEER: Your Honors, I would just like to ask the prosecutor to read again the report of the 15th of December because at the moment I could not follow it and perhaps there is something about which I am not certain.

It is the daily report of the Army Group E to the Commander in Chief Southeast for the 14th of December.

MR. FENSTERMACHER: This is page 75 of the English, page 101 of the German.

"68th Corps: Near Kalavrita 70 corpses of the murdered members of the c/749 were found. During further reprisal measures 3 localities were burned down. Kalavrita was entirely destroyed. 511 male inhabitants were shot."

Continuing on page 76 of the English, 102 of the German, with the last report which refers to this Kalavrita reprisal operation, the report for the 16th of December 1943 from Army Group E to Army Group F, the portion of the report dealing with the 68th Corps:

"Mazeika (11 southeast of Kalavrita) was burned down; with that reprisal measures have been concluded."

The report is signed: "High Command of Army Group E."

Continuing with the reports from Army Group E to Army Group F, at the bottom of page 76 of the English, page 102 of the German, daily report for the 17th of December, 1943.

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"68th Corps: As reprisal for bridge blasting and murder of 1 German soldier 1 band locality has been destroyed, 30 Communists shot in Tripolis area.

"22nd Mountain Corps," commanded by defendant Lanz: "With reference to attack on truck convoy northeast of Agrinion which was announced yesterday: 4 trucks burned down, 2 missing returned. As reprisal 3 band localities were destroyed."

Skipping to the bottom of page 77 of the English, page 104 of the German, daily report from Army Group E to Army Group [F](#) for the 21st of December, 1943:

"22nd Mountain Corps: In Agrinion increased Communist propaganda activity. 1 Band locality was burned down in reprisal for sabotage of long distance lines west of Joannina (daily report of 19 December)" Portion of report dealing with the activities of the Commander of Saloniki-Aegean (Administrative subarea Headquarters 395:

"The new success against the bands in the territory of administrative subarea Headquarters 395 can be attributed to the repeated personal interference of the commander of Saloniki Aegean, Major General Pflugradt."

Turning finally to page 79 of the English, page 106 of the German, the last of these reports from Amy Group E to the Commander in Chief Southeast, this one for the 31st of December, 1943, the 22nd Mountain Corps:

"During continuation of reconnaissance operation northwest of Metsovon 2 localities were taken during battle, 1 band locality was burned down."

Turning next to page 80 of the English, page 107 of the German, Document [NOKW-970](#), which is offered as prosecution exhibit 450, these are several reports from the 1st Mountain Division to the 22nd Mountain Corps, commanded at this time by the defendant Lanz.

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First -- Evening report of the units, 31 August 1943, 99th Mountain Infantry Regiment, 2015 hours: "During Canal operation, 5 armed bandits were captured. They were shot to death. Additional suspects were arrested."

Next -- Evening report of the units 3 September 1943, 98th Mountain Infantry Regiment: "Near Akmotopos, apparently there as observers, two armed civilians were shot to death by the 4th Battery. Two rifles and several rounds of ammunition were captured."

Page 81 of the English, 107 of the German, the report of the 1st Mountain Division dated 31 August 1943 to the German General Staff with the Italian 11th Army, same text to 22nd Mountain Army Corps:

"No band activity. During Canal operation 5 armed bandits shot to death. An additional 7 suspects arrested. Near Koronopulon (5 kilometers northwest of it) 17 prisoners including 5 carrying guns." Signed: "1st Mountain Division," the "Ic" or Intelligence Officer.

Finally, the report of the 1st Mountain Division dated 4 September 1943 to the 22nd Mountain Army Corps, same text, which was sent to German General Staff with the Italian 11th Army: "11 bandits shot to death."

THE PRESIDENT: We will take our morning recess at this time.

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DR. SAUTER, for the defendant Lanz. While submitting the last document, document 970, Exhibit 450, the prosecution has noted that some units had gone to the 22nd Mountain Corps which was then under the command of General Lanz. I would like to add the following statement to this. This is an error of the prosecution, for a half an hour ago, the prosecution read a daily order of the 9 September. It is to be found on Page 82 of the German edition of this document book. I do not know at the moment which page of the English, but a report of the 9th of September, 1943, and the prosecutor himself read and I quote here literally:

"General Lanz, Commander of the 22nd Mountain Corps, took over the command of the first Mountain Division and the 4th Jaegerdivision".

Therefore, this determines the fact that at that period of time to which the document 970, Exhibit 450 refers, General Lanz was not yet commander of the 22nd Mountain Corps. He only took over the command of this corps on the 9th of September. I wanted to correct that matter.

MR. FENSTERMACHER: Your Honor, I should like to call the Tribunal's attention, and also Dr. Sauter's attention to Page 9 of the English document book at page 6 of the German document book. That is a service record of General Hubert Lanz, and we want to note that on the 25th of August, 1943, the service record indicates that General Lanz became Commander General of the 22nd Mountain Corps.

DR. SAUTER: Mr. President, what the prosecution has just claimed, is correct. General Lanz received an appointment on the 25th of August, 1943. At that time he worked at a Division Theater of war, but he did not take over the 22nd Mountain Corps until the 9th of September. That is shown from the document which was read by the prosecution itself, and that date can only be decisive on which General Lanz actually took over the command of the troops, and that was doubtless on the 9th of September.

PRESIDENT WENNERSTRUM: The Tribunal will give consideration to the various documents to which counsel for the prosecution and the defense have called to our attention, and also their comments.

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It is a question of fact which will receive consideration by the Tribunal.

DR. SAUTER: Thank you, your Honor.

BY MR. FENSTERMACHER:

We turn now to Page 83 of the English document, 109 of the German document, [NOKW 1104](#), which is Prosecution's Exhibit No. 451. This is a series of orders from the 1st Mountain Division to various of its subordinate units, as well as reports from the subordinate units of the 1st Mountain Division, and the 1st Mountain Division itself, to the 22nd Mountain Corps.

The first is an order of the 1st Mountain Division dated 13 September 1943, and I believe there will be no issue of fact that at that time the defendant Lanz commanded the 22nd Mountain Corps, and that the 1st Mountain Division was subordinate to that corps:

"Special Instructions for the Ic area No. 6. Civil Administration. With the disarming of the Italian Army the government in the Epirus is transferred to the German occupation troops."

Your Honors, we will be hearing a good deal about the Epirus section of Greece, and your Honors will find in the informational pamphlet which the prosecution prepared and submitted to the Tribunal, a map of Greece and the Southeastern area, and the Epirus section is the western section of Greece below the Albanian border.

"The Greek civil administration is subordinated to them.

Organization of the Internal Administration:

The administrative area Epirus coincides more or less with the area of the Division. The total number of inhabitants is about 400,000 (census of 1940). Since then a migration of about 15% from Greek cities. At the head is the General Governor in Jannina. The establishing of liaison by Ic of the Division. 4 Prefectures are subordinated to the General Governor:

a) Prefecture Jannina, total number of inhabitants 180,000, of these 2,000 are Jews. Collaboration with Ic Division. 2 Sub-Prefectures are subordinated to the Prefecture:

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aa) Konitsa, Sub-Prefect Costandos.

Establishing of liaison by Staff Lederer.

bb) Pogonion, Sub-Prefect Onufriu.

cc) The town Jannina, 23,000 inhabitants, the mayor (Dimarchos) Wlachlidis Dimitrius.

Collaboration with garrison headquarters Jannina.

To aa) and bb): All Mayors are subordinated to the Sub-Prefects.

b) Prefecture Arta, which is another area in Epirus, Jannina being the capital. Prefecture Avta, total number of inhabitants 70,000, of these 12,000 in Arta, Prefect Matios, establishing of liaison by the 98th Mountain Jaeger Regiment.

c) Prefecture Prevesa: total number of inhabitants 80,000, of these 11,000 in the town Prevesa, Prefect Papadaki, establishing of liaison by 98th Mountain Jaeger Regiment.

d) Prefecture Thesprothis: total number of inhabitants 70,000, of these 18,000 Mohammedan, in Paramythia 3,000. Headquarters of the Prefecture is Paramythia, Prefect Krudulis (is considered unreliable and is soon to be replaced). Establishing of liaison by 99th Mountain Jaeger Regiment".

Your Honors will note here that two references are made to subordinate units of the 1st Mountain Division, the 98th Mountain Regiment, and the 99th Mountain Jaeger Regiment, reference to which we have had occasion to refer to earlier in this document book:

"The General Governor, the Prefects and Sub-Prefects will be appointed by the Government. In case unreliability is determined, immediate protective custody, with a report to the Ic of the Division for the appointment of a successor. The Mayors are appointed by the Prefects for an indefinite period. In case of unreliability to be relieved by Regimental troops, etc. in agreement with the Prefectures. The Prefectures and Sub-Prefectures will receive the necessary instructions from the General Governor."

Now I direct your Honors attention particularly to this next paragraph, paragraph 10 of this order of the 1st Mountain Division and the date of the order is the 13 September 1943, at which time the defendant Lanz is commander of the 22nd Mountain Corps to which this particular division is subordinate:

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"10) In order to oppose energetically the continued raids on convoys and members of the Wehrmacht, it is ordered, that from 20 Sept 43 onward, for every German soldier wounded or killed by insurgents or civilians, 10 Greeks from all classes of the population to be shot to death. This order must be carried out consistently in order to achieve a deterrent effect."

The order is signed by the First General Staff Officer. I ask Your Honors to please keep in mind the date of this order, 13 September 1943, because we shall have occasion in the last document in this document book to refer to a later order about a month later, in the middle of October, 1943, in which this division raises the reprisal quota from the 10-to-1 ratio outlined here, to a ratio of 50-to-1.

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MR. FENSTERMACHER: Turning next to Page 16 of the English, Page 112 of the German, the Evening Report of the unit, 15 September 1943. The section of the report dealing with the activities of the 98th Mountain Jaeger Regiment, which was, of course, subordinate to the 1st Mountain Division. "At 0930 hours attack with trench mortar fire on stronghold near observation point 446. During mopping up operation against Neochoraki no enemy encountered, the village also free of civilians, was completely destroyed." Next, the Evening Report of the Unit for the 16th of September 1943, again the 98th Mountain Jaeger Regiment. "2nd Battalion 0630 hours mopping up operation against Kompoti carried out. The village itself is free of enemy and civilians. It was destroyed and burned down. The area of the valley leading towards the east was put under artillery fire. As a result an ammunition dump blew up." It is on the bottom of Page 86 of the English, Page 113 of the German. "The area of the valley leading towards the east was put under artillery fire. As a result an ammunition dump blew up. 10 bandits were shot to death. 1 destroyed Italian machine gun was captured." Turning to Page 88 of the English, page 114 of the German, the report of the 1st Mountain Division, dated 17 September 1943, to Corps Headquarters of the 22nd Mountain Corps:

"Enemy surprise attack on our own truck convoy 17 kilometers south of Joannina. It was the first time a raid was made on this stretch since arrival of the Division. Otherwise, no bandit activity worth mentioning. Supplementary Report to the 16 Sept: North of Konica a telephone unit was fired upon by a band with 2 machine guns and several rifles. 2 Russian volunteer auxiliaries were wounded. As reprisal measure 1 village north of Konica was burned down. Ammunition exploded in the houses.

Mopping up operation in the area of the attack 17 kilometers south of Joannina without contact with the enemy. The surrounding villages were speedily evacuated by the population, and were burned down. Own losses during the raid:

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1 officer and 4 men killed in combat, 1 man missing, 9 men wounded (2 of these remained with the unit), 2 trucks severely damaged."

I think we may skip the next report and turn to page 90 of the English and page 116 of the German -- another report of the 1st Mountain Division to the 22nd Mountain Corps, the Evening Report, and the textual matter of this is primarily more or less the same as it was in the report which I have just finished

reading. I should like to read the last paragraph of the report on Page 91 of the English, Page 117 of the German.

"On 17 Sept between 0630 and 0700 hours a supply column was fired on near Theriakision (17 kilometers south of Jannina) by a band of unknown strength. Own losses 5 dead, among these 1 officer, 7 wounded, presumably 4 missing. 2 trucks seriously damaged. In the face of our counter measures the band retreated in an easterly direction, all villages east of the place of the attack, in a radius of 4 kilometers, were burned down. At various places ammunition exploded. The entire population had fled."

The next three reports tie in one with another. First, is the Evening Report of the unit for the 18th of September 1943, the 99th Mountain Jaeger Regiment, which, of course, is subordinate to the 1st Mountain Division. "In Sulopulon 3 civilians were arrested and turned over to the Field Police. They had Italian uniforms in their possession." Then, turning to the bottom of Page 92 of the English, Page 118 of the German, the report of the 54th Field Gendarmerie Unit, to the 1st Mountain Division Ia, or intelligence officer, dated Local Headquarters, 19 September 1943, one day after the Evening Report which I have just read. "The Greeks Spostulus Babadozulus from Reiko, Laplos Gamazas from Reiko, Spiridon Ganatos from Gallochori were shot to death at about 2030 hours on the 18th of September 1943." Next, on Page 93 of English, Page 118 of the German, a report from Group Remold, dated Group Battle Headquarters, 19 September 1943.

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"Subject: Interrogation of the persons arrested by German Security Sentries on 18 June of whom 8 men and 1 woman were shot to death on 19 September 1943." The report is sent from Group Remold to the 1st Mountain Division.

"On Saturday the 18 Sept 43, 60 Greeks (18 men and 42 women) were arrested by our Security Sentries. They came from the villages Vlacheri, Pende Eklisies, Plaketi and Petrovica. They were on their way via the bandit village Seljani in order as they stated to reach Paramythia by the shortest way to visit the market there. These people were picked up by German soldiers on the road Seljani - Paramythia. Another group came from the bandit village of Elatarja and Aj Kiriaki. When these peasants were stopped by our own and the Albanese Security Sentries, about 10 of these people tried to flee; in order to stop or delay those fleeing the Albanese shot at them. At the same moment bandits who had been hiding west of Eleftherochori opened fire on our guards. As a result of the interrogations it was determined, that several of the arrested took care of the supply of the bandits, back and forth along the line Plaketi - Rachestiva - monastery Panajias Paramythia. The supplies were deposited in the monastery Panajia and were taken over there by the bandits. At times up to 300 bandits were supposed to have sojourned in the monastery Panajias. Of these prisoners 8 men and 1 woman were shot. The rest of the prisoners, 35 women and 10 men are employed for road building."

I call Your Honor's attention to the preceding sentence and the words, "As a result of the interrogations it has determined." On the bottom of the document the receipt stamp of the 1st Mountain Division shows that this report was received by them on the 21st of September 1943. Turning next to page 95 of

the English, page 120 of the German is a report from the 1st Mountain Division to the 22nd Mountain Corps, dated the 23rd of September 1943. "During a mopping-up operation on 22nd September east of Kompoti (southeast of Arta) 8 civilians were surprised whilst they were making entrenchments and were shot to death."

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And turning next to page 96 of the English, page 121 of the German, is a report from the 2nd Security Company, dated 24 September 1943 about armed reconnaissance against the place Bratovice on 23rd of September 1943.

I. Situation By means of interrogations of civilians it became known that in Bratovice, a mountain village situated about 12 kilometers south of Bilishte, an ammunition dump of the bandits was said to be located.

This ammunition was said to have been left behind by the withdrawing Italian troops and brought to Bratovice via Hocište by the bandits. No details were known about the strength of the bandits in the area of Bratovice.

II. Decision Based on this situation, I decided to carry out an armed reconnaissance against Bratovice.

III. Carrying out On 23 September 43 I loaded 4 NCO's and 80 men onto 2 trucks and drove with them along the road Bilishte - Bozhigrad as far as a point 6 kilometers south of Bilishte.

I fixed the departure from Bilishte at 0200 hours in the night, because I wanted to reach Bratovice whilst it was still dawn. As I had intended, I succeeded in this fashion in surprising the enemy. The first armed bandits appeared only when my advance unit had reached the end of the village lying opposite to the side of attack. In a short skirmish they were taken care of. During the searching of the houses which I immediately ordered, single civilians armed and also unarmed, tried again and again, to flee under the protection of ledges and garden walls. This, however, was prevented since I had assigned 2 groups west and east of the village as a security measure. In 5 houses, rifles, ammunition and smaller objects of equipment of Italian origin were found. These houses were burn down. At first I could not find the ammunition dump.

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By means of energetic interrogations of civilians my attention was drawn to the school house in which there was a comparatively well equipped medical collecting station, consisting of 10 complete field beds and a medicine cabinet. The cellar was locked from the outside. In order to camouflage the entrance to the cellar the bandits kept a horse before it. When the cellar was entered, several shots were suddenly fired from the inside. In spite of repeated challenges the bandits did not leave the cellar not even when we shot at them with rifles; I also had hand grenades thrown in. In order to avoid losses, I ordered the whole school house to be set on fire, where upon I heard several pistol shots and the detonation of a hand grenade. When the fire had taken hold of the cellar also the detonations continued for more than an hour.

Here must have been, in addition to rifle ammunition and hand grenades, explosives or trench mortar ammunition, to, as a side wall of the cellar was completely torn out. In one house a German rifle explosive grenade was also found. The mopping up of the village had already taken up so much time that I had to assume that the bandits would assemble and cut off our retreat. Therefore I chose a different way from the road approach.

And the report is signed by Hiller. And I believe there is omitted from the German reference that Hiller is a lieutenant and an officer in charge of a company. Turning next to page 99 of the English page 124 of the German, is Document No. [NOKW-865](#), which becomes Prosecution's Exhibit No. 451.

JUDGE WENNERSTRUM: Is that not 452?

MR. FENSTERMACHER: I beg your pardon, Your Honor; it is 452. This is an order from the 22nd Mountain Corps to its subordinate unit, the 1st Mountain Division. It is dated 24 September 1943. "To the Division Commander, The Corps informs." Of course, the Corps Commander, at that time, was the Defendant Lanz. "By order of higher authority, no prisoners are to be taken during operation 'Verrat' (treason)," signed 1st Mountain Division.

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And the teletype to the Mountain Jaeger Regiment 99, a subordinate unit of the 1st Mountain Division, and then an informational copy to the Divisional Commander, Igumenica. "For operation 'Verrat' there will be brought up to Igumenica on 24.9 evening: 1 Company 2nd Regiment Brandenburg (South Tyrolians)." If your Honor, please, the 2nd Brandenburg Regiment is a German unit, but for this operation the 1st Company, 2nd Regiment Brandenburg (South Tyrolians) were "in Italian uniform and with Italian arms."

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MR. FENSTERMACHER: Next, the order of the 1st Mountain Division, dated 18 September 1943, "Use care while telephoning; the enemy is listening," which appears at the top of the divisional order which again concerns this particular operation, given the code name "Verrat." It the pursuance of treason, the like of which history has never seen, which the Italian government has committed against Germany, the Italian Commander of Corfu decided to stop the occupation of the its land Corfu by German troops by force of arms. Since 13.9, German planes flying over the island, and on 15.9 that Combat Group Dodel, which had put to sea for the occupation of the island, had been fired upon.

Thereby the garrison of the Island of Corfu, which consists mainly of the 18th Italian Infantry Regiment, has joined hands with cowardly treason, and even beyond that, has gone over to the side of our enemy in open combat. Details of the garrison - see sketch. (Changes in the garrison are possible and probable). And the order is signed von Stettner, who at that time was the Commanding General in the 1st Mountain Division. Turning next to Page 102 of the English, Page 126 of the German, is Document No. [NOKW-867](#), which becomes Prosecution's Exhibit No.453. These are orders from the 1st Mountain Division to subordinate units, and from the 22nd Mountain Corps to the 1st Mountain Division, which relate to reprisal measures for the death of a regimental commander, subordinate to the

1st Mountain Division. The first is dated, 1st Mountain Division, Division Headquarters, 27 September 1943.

Division Order for Mopping up of Coastal Sector to Saranda - Delvinon.

(Operation "Spaghetti")

Enemy:

In the coastal sector from Donispol to Saranda and near Delvinon, weaker Albanian bands, partly communists party nationalists. The southern most band center is Konispol. In the area of Delvinon, about 4,000 armed Italians were negotiating concerning the surrender of their arms to the bands on 20.9. In the area of Saranda about 2,000 Italians are said to have surrendered their arms to the bands. It may be assumed that the majority of the Italians has gone aboard meanwhile in Saranda and has been taken either to Corfu or southern Italy.

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And then the units to be committed for this operation are listed. We turn to Page 103 of the English, Page 127 of the German, to Paragraph 6 of the division's order, which refers to Method of Warfare: The enlistment of the nationalist bands for cooperation with the Germans requires the extensive employment of Albanian middlemen and the preservation of Albanian possessions from destruction and pillaging.

Armed people bearing a hostile attitude are to be shot on the spot. Villages from which firing takes place or where armed enemies are found, are to be burned down. The male population of these villages is to be arrested. In the remaining villages, hostages are to be arrested (mayor, Teacher). They are responsible with their lives for the peacefulness of the local population. And the order is signed Stettner; he was the Commanding General of the 1st Mountain Division. Next, on Page 104 of the English, Page 127 of the German, is a Corps Order of the Day, issued by General Lanz, who was Commanding General of the 22nd Mountain Corps. The order is dated 1st of October 1943. I want to express my sincere and deep condolences to my old First Mountain Division for the gr***, loss experienced tonight when the Commander of the 98th Mountain Jaeger Regiment, Lieutenant Colonel Salminger, was killed by bandits.

I expect that the First Mountain Division will avenge this nefarious bandit murder of one of our best leaders by a ruthless reprisal action within a circumference of 20 km. of the place where the murder occurred. The order is signed, "The Commanding General, Lanz." If Your Honors will bear in mind the date of this order, the 1st of October 1943, we shall have occasion, later on, in this document book, to introduce evidence relating to the reprisal actions which were, in fact, taken to avenge the murder of the regiment commander. Turning next to Page 106 in the English, Page 129 of the German, is Document No. [NOKW-909](#), which becomes Prosecution's Exhibit No. 454. These are a series of reports from subordinate units of the 1st Mountain Division, and also reports of the 22nd Mountain Corps.

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I think we need not read the first few of these reports, but turn to Page 109 of the English and Page 131 of the German. And on that page is found a report from the 1st Mountain Division, dated Divisional Headquarters, 29th September 1943, to the Corps Headquarters, 22nd Mountain Corps, Daily Report of 29th September:

2) Enemy:

Group Haken:

Bands destroyed the telephone poles Arta - Philippas and Mendid in night of 28 and 29 Sept. During counter measures which were carried out immediately the 2nd Company of the 54 A.A. arrested 30 male civilians who were found in the area without identification papers and were hiding in the cellars-- of Neovori and Kompoti. All these civilians were shot to death. The report is signed "For Division Headquarters, For the 1st General Staff Officer." The next page, Page 110 of the English, Page 132 of the German, Evening Report of the unit, 29th September 1943:

98th Mountain Jaeger Regiment

b) On the Line Afrtae - Menidi 16 ples were cut down with hatchets 3 kilometers south of Arta. Some of the wires were carried off. An immediate search by the 2nd Company of the 54th A.A. south of Arta brought the arrest, as already reported, of 15 male civilians without identification papers in the morning and 30 in the afternoon. The civilians were arrested in the abandoned villages of Neovori and Kompoti as well as in Brushwood of the vicinity and were turned over to the Local Administrative Headquarters. All Civilians were shot to death.

At 1230 hours a light motor boat entered the port.

Armament: Two 8.8 guns.

(page 12 of original And the report of the 3rd Battalion of the 99th Regiment:

In Paranythia 50 Greeks were shot to death as reprisal measure for the raid on 20 Sept on a reconnaissance troop west of reference point 124. 149 Italian prisoners set out toward Bisdumi.

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Next, on page 111 of the English, Page 132 of the German, Noon Report of the unit of the 98th Mountain Jaeger Regiment. "As reprisal for the sabotage of the telephone line, 17 civilians were already shot to death." Next, the report on the same incident from the 1st Mountain Division to Corps Headquarters for the 30th of September 1943, under 98th Mountain Haeger Regiment, "As reprisal measure for sabotage of the telephone line 17 civilians were shot to death at dawn." Next, on Page 112 of the English, Page 133 of the German, a report of the 1st Mountain Division to General Lanz, who is Commander of the 22 Mountain Corps, dated the 2nd of October 1943. And I believe in the German Document Book the reference to the two groups listed are reversed. In the English Document Book: Group Haken: The attack of Group Haken was not successful against the enemy who was being reinforced. Of 10 pollboxes which were discovered, 3 were destroyed during had to hand combat. About 40 Bandits were killed. Losses: 1 killed in combat, 16 wounded.

Group Eisl: Has mopped up the area of Akmototpos. Peta is free of the enemy. During the mopping up operation in the area east of Arta the village, of Psychorrachi (7 kilometers southeast of Arta) was burned down and 5 civilians shot to death as reprisal measure.

Next, on Page 113 of the English, Page 134 of the German, Evening Report of the 98 Mountain Jaeger Regiment. "RECENTLY an exceptionally strong recruiting for bandits could be observed among the civilian population. During the mopping up operation in the area east of Arta the village Peychorrachi (7 kilometers southeast of Arta) was burned." Next, the report from the 1st Mountain Division to 22nd Mountain Corps Headquarters, dated 3 October 1943.

Captain Spindler together with couriers on motor bikes and single soldiers succeeded, in spite of rather strong enemy in the flanks, in breaking through to the height west of the defile near the Shepez ruins and through the defile to Tepelene, Tepelene was occupied and villages east of the road were burned down. The enemy continues to occupy with strong forces the height west of the Shepez Ruins.

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And then going to that portion of the report dealing with activities of the Group Dodel, in the middle of Page 114 of the English, Page 135 of the German, "Fuehrer decree No. 1 was carried out on 16 officers." Next, Page 115 of the English, Page 135 of the German, is another report of the 1st Mountain Division to 22nd Division Headquarters again dated 3 October 1943:

At about 0900 hours a surprise attack by bandits on as escort motor bike acting as protection for the Commanding General on trip to Prewesa 13 kilometer south of Jannina and which and stopped. 1 NCO of the Field Gendarmeries / Corps Staff was found dead, undressed and robbed near the spot where the raid was committed. 4 Hostages were immediately shot as reprisal. Further reprisal measures are being carried out by the 79th Field Replacement Battalion. East of Jeannina lake, in the Struni-Lingiades pack animals of the bandits are at work Immediate counter measures are being carried out by parts of the 79 Field Replacement Battalion. Village being burned down.

And the Division's report to the Corps is signed "For the Division Headquarters, For the 1st General Staff Officer." Next, Page 116 of the English, Page 136 of the German, Evening Report of the unit: "von Hirechfeld: Pass north of Kuc taken. The 1st Battalion of the 99th Regiment withdraws to Kuc along the line 1443,1027,694. Booty taken in combat: Own losses: 2 wounded. No. report as yet from 41st Engineer Detachment. Plans for tomorrow: Push towards the north." And the report of the 54th Jaeger Battalion: "The shooting of 16 Italian officers was carried out." And then, if Your Honors please, is a reference which we have already seen on Page 114 of the English, Page 135 of the German, under the activities of the Group Dodel. Continuing on Page 116 of the English, Page 136 of the German: "Supplementary Report to the Evening Report of the unit: 3 October 1943, 79th Field Replacement Battalion. The 79th Field Replacement Battalion reports the termination be the operation against Lingiades and Strumi. Lingiades and the heights 1015 and 1277 were taken against weak enem resistance. %0 civilians, some of whom had been hiding in houses, were shot to death.

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The village was burned down."

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Turn next to page 117 of the English, 137 of the German, another report from the 1st Mountain Division to General Lanz, XXII Mountain Corps Headquarters:

3 kilometers north of Theriakision attack by bands on convoy of General Lanz. 1 Field Gardarne dead and robbed, counter measures in progress up to now 4 civilians shot to death.

In the morning heavy supply traffic between Struni (2 kilometers northeast of Jeannina) and Lingjades. As counter measure villages burned down. Final report not yet available.

Finally on page 118 of the English, 137, a report from General Lanz himself, the Commanding General of XXII Mountain Corps, dated Local Headquarters, 3 Oct. 1943.

Again beginning with the records of General Lanz, Commanding General of the XXII Mountain Corps to the subordinate units, the order dated 3 October, 1943:

On account of the repeated cable sabotage in the area of Arta:

30 distinguished citizens (Greeks) from Arta, 10 distinguished citizens (Greeks) from Filipias, are to be arrested and kept as hostages.

The population is to be notified that for every further cable sabotage 10 of these 40 hostages will be shot to death.

The arrest, guarding and shooting to death will be directed by the Commander of the Reconnaissance Detachment, 54, Major Seidl. The order to shoot to death will be given by the Headquarters of the Division.

The order is signed, in type script, "Lanz."

Your Honors will note the distribution list of the order: "Commander of the Reconnaissance Detachment 54, 98th Mountain Jaeger Regiment," and Division Ic, or Intelligence Officer.

Page 119 of the English and 138 of the German, is another report of the 1st Mountain Division, dated 4 October 1943:

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"South Albania: In the Afternoon the group Spindler inspite of strong enemy resistance, broke through the defile near the Shepez ruins and broke through the Tepelene in spite of flanking fire. The villages east of the road were burned down. The enemy continues to hold with strong forces the heights west of the Shepez ruins. In Tepelene 40 bandits were shot to death.

.....

The mopping up operation Struni-Lingiades on the northeast bank of the Jannina lake terminated. Lingiades burned down. The heights 1015 and 1277 taken against weak enemy resistance. 50 persons

suspected of being bandits shot to death. Ammunition stock of bands blown up. 20 pack donkeys captured."

Page 120 of the English, 138 of the German, another report of the 1st Mountain Division to the XXII Mountain Corps, dated 4 October 1943:

"By our own mopping up operation east of the road Jannina -Filippias the entire area up to the Arachtes valley cleaned of bandits. Those bandits who could not be brought to battle, retreated into the Arachtes valley. By the destruction of nearly all the villages, they were deprived of their livelihood in the area road Jeannina-Filippias-Arachtes valley. In spite of this through mopping up, one must reckon with further acts of sabotage and raids, since, according to creditable statements of civilians and captured bandits, the majority of the band groups existing in this area, is distributed along the Arachtes valley and east of it.

.....

3).....

1st Battalion of the 99th Mountain Jaeger Regiment mopped up Kue in the course of the afternoon. Reconnaissance to Kalarati. Large amount of booty the entire group von Hirschfeld (is still being sorted out, supplementary report will follow).Own losses:

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2 dead, 12 wounded."

I think we may skip over the next report, an ordinary operation of a tactical nature.

Turning to page 132 of the English, 139 of the German, for the report of the 1st Mountain Division to the XXII Corps, dated 4 October, 1943:

Mopping up operation Eisl continue beyond Akmotopos. Villages destroyed as reprisal measure. All civilians shot to death.

.....

g) Along the supply road Jannina- Arta the male population of the neighboring villages employed. In case of further attacks or acts of sabotage the hostages will be shot."

At the bottom of the page 122 of the English, 140 of the German, an additional report from the 1st Mountain Division to General Lanz's XXII Mountain Corps Headquarters dated 4 October under paragraph 2 of the report, the section dealing with the activities of the combat group Dodel, "Group Eisl destroyed Akmotopos (9 kilometers northeast of Filippias) completely as reprisal measure.

All civilians were shot to death.

3)Owing to strong bandit activity on the supply road Arta, strengthened defenses on the road Joannina, Tani Awgo, were installed by the Administrative Headquarters Joannina, Tani Awgo, were installed by the Administrative Headquarters Joannina.

Furthermore the male civilian population of the surrounding villages was employed as protection for the supply road. In case of raids and –or acts of sabotage a corresponding number of hostages from the population will be called to account from time to time."

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May I direct your Honors' attention to the phrase "a corresponding number of hostages from the population will be called to account from time to time."

Next the report from Administrative Headquarters Joannina, dated 4 October 1943, reference: operation Serwiana-Aetorrachi, the report sent to the 1st Mountain Division, the Ia, or Operations Officer.

"The operation was carried out today as ordered. Motor transport to Serwiana without special occurrences. At 0530 hours near Pt. Ilias, three and half kilometers southeast of Serwiana, Company Progl was shot at by 2 light machine guns and about 10 riflemen. The bands defended themselves from summit to summit in a delaying way, so that the Company reached Aetorrachi only at 1000 hours. The enemy resistance was especially strong on the height 1058, 1 kilometer west of Aetorrachi there were also entrenchments. The enemy resistance was broken by the use of an Infantry gun and trench mortar. Aetorrachi was largely evacuated by the population, whose retreat towards the east into the Arachthes valley could be observed, not however combatted as the distance was too large. Along the line of the height 1058 to 851 the bandits used 6 light, 1 heavy machine gun and an 8 centimeter trench mortar.

The villages Aetorrachi, Rawnes, Skala, Keyfowen were destroyed and burned down. Of about 30 persons some were killed in combat, some were shot to death. The same number was captured and delivered to the prisoner collection point."

Turning next to page 128 of the English, 143 of the German, I believe the intervening reports are similar to those which we have already read into the record. They contain a good deal of operational and tactical matters, which are of no particular importance in view of the other documents which have already been introduced.

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This is on page 138 of the English and 143 of the German, as a report to the Corps Headquarters, XXII Mountain Corps, for the 5th of October, 1943.

"South Albania:.....

The area east of the road Jannina - Filippias up to Archtes valley in principle cleaned of bandits. All villages burned down in order to deprive, the bandits of a means of livelihood" Next the report of the 1st Mountain Division to General Lanz:

at XXII Mountain Corps Headquarters, dated 6 October 1943:

"In the area southeast of Arta the 2nd Company of the 54 Artillery Battalion burned down 2 villages as reprisal for the activities of bands during the last few days".

Next is the report of the 1st Mountain Division. I beg your pardon, special instructions of the 1st Mountain Division, dated the 5th of October, 1943, section of the order dealing with hostages:

"In so far as hostages are taken from the prisoner collection camp for truck trips, they are to be returned to the prisoner collection camp immediately the trip is terminated. The unit which collects them is responsible for their being guarded."

The order is signed for the Divisional Battalion Headquarters the 1st General Staff Officer. The distribution list of the order is indicated as having been in draft.

Next on page 129 of the English, 145 of the German, is a report from Secret Field Police Group 621:

"Command at the 1st Mountain Division," This report is dated 5 October 1943, and relates to the operation in connection with the murder of Lt. Colonel Salminger, the Regimental Commander subordinate to the 1st Mountain Division.

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Your Honors will recall that on page 104 of the English, and page 127 of the German, in a corps order of the day, dated 1 October, 1943, General Lanz said that he expected that the 1st Mountain Division would avenge the nefarious bandit murder of the regimental commander Salminger. This is a report now dated 5 October 1943, four days after General Lanz's order with reference to the same affair.

"Subject: Surprise attack by bandits on Lieutenant Colonel Salminger and the ensuing operation with Captain Eisl into the eastern territory of bands around Klisura."

In the night of 30 Sept/ 1 Oct. the bandits had committed acts of sabotage on the telephone lines. For a distance of about 6 kilometers they had cut off, hacked off or blown to pieces the telephone poles. The bridge security across the Lures stream had been kept under fire by the bandits. About 4 kilometers away from this bridge security the bandits had fastened 4 telephone wires across the road and furthermore had used a telephone pole to block the road. The car of Lieutenant Colonel S. ran into this blockade at full speed and as a result of the rebound, skidded into the Luros stream. He was found in the water about 50 meters below the wire blockade since at this spot the stream was dammed up artificially by shrubbery and stones, the dam was cleared away and the water let out. The car had received a shot in the hood and on the right side of the windshield. The driver of Lieutenant Colonel S was found dead under the car, he had a shot in the abdomen and his left half of his face was smashed in by the accident. Both persons were recovered and brought to Pravesa by the unit."

THE PRESIDENT: The Tribunal will be recessed at this time.

(A recess was taken until 1330 hours.)

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Court No. V, Case No. VII.

AFTERNOON SESSION The hearing reconvened at 1330 hours.

THE MARSHALL: The persons in the Courtroom will be seated.

The Tribunal is again in session

THE PRESIDENT: Mr. Fenstermacher, before you commence your presentation of further documents, the Tribunal has certain rulings to announce.

The first ruling is in connection with the application by defense counsel for approval of a trip to the document center, War Department, Washington, D.C., and the main portion of the ruling is as follows:

"The Tribunal has under consideration the application of the defendants for permission to send two commissioners to Washington, D.C., for the purpose of examining original documents stored there from which excerpts and parts of documents have been offered in evidence in support of the allegations of the indictment by the prosecution.

"We find that the statement of the defense is true to the effect that certain excerpts and parts of documents taken from the captured War Diaries of the German Army have been tendered and received in evidence by the prosecution. We find also that the War Diaries, or so much thereof as was captured by the American Army, have been transported to Washington, D.C., or its environs. We find also, as alleged by the prosecution, that a large number of documents in excess of those received in evidence, have been made available to the defense.

"It is the considered opinion of this Tribunal, however, that a right exists on the part of the defense to examine any or all of the portions of the War Diaries and documents from which excerpts and portions of documents bearing upon the "same subject matter have been taken, more particularly described as the War Diaries of the 12th Army and the Army Southeast, Army Group F, Army Group E, 2nd Panzer Army, and corps and divisions subordinate thereto; and that such right of examination is not adequately protected by the assertion of the prosecution that "it has been constantly emphasized to members of the prosecution's research staff in Washington that photostatic copies of all documents having a substantial bearing on the case, whether helpful or harmful to the defense, must be sent to Nurnberg.

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The statement constitutes an insufficient answer to the application for two reasons: (a) the defense is not obliged to rely upon the judgment of the prosecution and its research staff as to whether any document or portion thereof has any substantial bearing on the case, and (b), that it would be impossible for the prosecution and its research staff to properly appraise the credibility and relevancy of such material without knowledge of the precise defense to be made to the charges of the indictment.

"It is the order of the Tribunal, therefore, that the War Diaries, documents and instruments from which documentary evidence has been taken and offered in evidence by the prosecution be made available to the defendants (a) by permitting an examination of such documents by designated representatives of the defendants in Washington, D.C., or (b) by transporting such documents to Nurnberg for examination by the Defense, or (c) for failure of the United States to so do, it will be presumed that the evidence withheld which could have been produced or made available to the defendants, would be unfavorable to the prosecution."

The following ruling is also presented for the Tribunal in connection with an application for the production of War Diary of the LXIX Reserve Army Corps from August 1943 to March 1944.

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"Upon consideration of the above referred to application the tribunal finds as follows:

"That Article IV, subsection F, of ordinance 7 of the military government of Germany, relative to the organization and powers of certain military tribunals, is as follows:

"A defendant may apply in writing to the Tribunal for the production of witnesses or of documents. The application shall state where the witness or document is thought to be located and shall also state the facts to be proved by the witness or the document and the relevancy of such facts to the defense. If the tribunal grants the application, the defendant shall be given such aid in obtaining production of evidence as the tribunal may order."

"The tribunal further finds that in the application as presented there is no statement set forth as to what state of facts are sought to be proved by the document sought and as to their relevancy as bearing upon the defense of the defendant, Ernest Dehner.

"The tribunal therefore finds that the application of the defendant, Ernest Dehner as made by his counsel, Hans Marx, under date of June 24, 1947 should be denied."

Dated this 14th day of August, 1947, and signed by the members of the Tribunal.

I am handing the original of these two rulings to the Deputy Secretary General.

You may proceed, Mr. Fenstermacher, with presentation of further documentary evidence.

MR. FENSTERMACHER: If it please the Tribunal, prior to luncheon recess, we were working at a report of the Secret Field Policy Group 621 which referred to the attack made by bandits on Lt. Colonel Salminger, the Regimental Commander subordinate to the 1st Mountain Division, which was in turn subordinate to the XXII Mountain Corps under the command of the defendant Lanz.

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I think we were on page 131 of the English and page 145 of the German. Continuing on the bottom of page 131 of the English, page 146 of the German, with the report:

"The place from which the bandits had fired on the car, could also be determined. Several empty cartridges were found there, they were of Italian origin.

"On 1 Oct 43 the headquarters of the secret Field Police was notified by the Ic of the 1st Mountain Division that on the state road Jannina - Arta, Lieutenant Colonel Salminger had been attacked by Bandits and had been kidnapped. The attack was carried out on 1 Oct between 0200 and 0300 hours about 3 Kilometers north of the Village Klisura. At a conference with the Ic the latter ordered that confidential agents be sent into the bandit territory of Klisura to determine the whereabouts of the kidnapped Lieutenant Colonel S. The same day a spy was sent into that area. Up until today no trace of this person has been found and it must be assumed that he was captured by the bandits. Furthermore the

Ic ordered, that a member of the Secret Field Police, able to speak the Greek language, was to be assigned to the battle H.Q.s of Captain Eisl in Klisura, in order to interrogate on the spot prisoners captured during the coming searching operation, and possibly to send out spies (A-Persons).

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"On 1 Oct 43 the undersigned was assigned to the battle H.Q.s of Captain Eisl and arrived at 1330 hours at Klisura, Captain Eisl to whom I reported, notified me, that Lieutenant Colonel S. was not kidnapped, but had been found dead during the morning. The immediate examination of the place of the accident gave the following results:

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"As Captain Eisl had to undertake a further operation into the eastern part of the bandit territory of Klisura and as my orders ordered me to interrogate the captured prisoners on the spot and to sent off spies, I participated in the operation. Already in the evening of the 1 Oct 43 we could determine from the battle H.Q.s Klisura, that in the mountains in the east there was a lively patrol action on the part of the bandits. Captain Eisl could not give an order to fire because the distance was too great.

"On 2 Oct 43, 0500 hours, the march into the eastern mountains commenced. The villages N Kura, Gorgomyles, Markates and Muliana which had already been burned down during a former operation has been abandoned by the population. In the mountain range situated east of these villages however, human beings in flight could be seen. However we could not determine whether they were bandits of civilians. Captain Eisl however ordered the mountain riflemen to shoot on the persons in flight: hits were observed. As a result of the combing out of the villages mentioned, Athanasies Stasis a Greek was captured and interrogated. He refused to make any statement; but drew attention to the fact that further east a great many bandits were grouped. In agreement with Captain Eisl, he was used as a guide. In the village of Akmotopos he tried to escape, and was therefore shot to death. When the Germans approached the village of Akmotopos, they received fire from both sides, when the fire was returned, the bandits fled. A heavy maching gun and a light machine gun entrenchment were discovered. From this village too, all inhabitants have gone into the mountains. The houses are being burned down, the "cattle which cannot be used by the troops, is being killed, in order to prevent the bandits from seizing it later on.

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From this village a patrol unit was sent in a southerly direction. This unit encountered 15 civilians who did not stop when challenged and therefore were shot to death. When searched neither arms nor papers were found. On its way back, this patrol unit arrested the Greek woman Maria Sofu, she refused to make any statement and did not even give her native village. She was also shot to death.

"On 3 Oct 43 the operation was continued in a northerly direction. The high plan of N Kura was crossed. Shortly before Anogion newly constructed bandit positions were sighted, which however were not occupied. During the continued course of the operation the villages Agios Georgios and Rapsai,

which had also been abandoned by the population, were burned down. In the last named village a prisoner, who had hid himself in a cellar of his house was captured, since he refused to make any statements, he was shot to death. This Greek was the miner, Stefan Vrissos.

"4 Oct 43: The operation was terminated on 3 Oct 43. At the oral report at the 98th Regiment Captain Eisl asked for the cooperation of the undersigned. On the same day I returned to Headquarters since my task was completed.

(Signature)

Olbricht" Next is the report from the Secret Field Police Group 621, Local Headquarters, 6 October 1943, to the Ic of the 1st Mountain Division, which in turn sends a report on to the XXII Mountain Corps.

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Your Honors will note in the lower right hand corner of the document the receipt stamp of the XXII Mountain Corps Headquarters dated 10 October 1943, page 134 of the English and 141 of the German:

"Enclosed report of the Secret Field Police Jaannina for information and request to return after use."

And the XXII Mountain Corps returns the report on the 11th of October 1943;

"and with permission of the 1st Mountain Division sent back after acknowledgement for the General Headquarters Commander of the General Staff," And it is noted, "Received 12 October 1943."

We now turn to page 136 of the English, 149 of the German, document [NOKW 864](#) which becomes Prosecution Exhibit 455. This document is a series of reports from the 1st Mountain Division to the XXII Mountain Corps. The first page of the document contains: File Notes for the Commanding General, and the date is 19 October 1943, written in hand:

"Arrests in the Divisional Area: 766 persons

A) Of these were released 390" Because of inability to prove aiding and abetting of bands 40 After having served short term jail sentences 137 Hostage in whose places of origin no more bands appeared 213

b) For labor employment in Germany Deported 160 persons Reason:
suspected of being members of bands and unable to show place of work.

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"Of which there are at present still in the prisoner collecting camp Florina 56 Labor employment in territories not endangered by bands 40 persons

c) Shot to death:

Paramythia: Reprisal measure for 6 murdered German soldiers 58 Thereakision:

Reprisal measure for murder of Lt. Col. Salminger 14 Arta, Klisura:

Suspicious elements near the localities where attacks had occurred (about) 30 Joannina City:

4 Total 106 persons 2 Jews and 1 Greek hanged in Florina in reprisal for 2 murdered Germans (names: the brothers Batis and Vakucopulo. All were arrested for aiding and abetting bands) 1 Greek shot to death for attempted sabotage on bridge near Sulopulon.

d) Of the civilians prisoners, approximately 200, taken over from the Italians, 195 were released. At this time still being held for aiding and abetting bands 5

e) Still detained 70 persons Of these 70 persons, 14 are hostages and 5 are prisoners taken over from the Italians.

Remainder "of prisoners:

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Interrogation not yet concluded or serving short term jail sentences."

Page 138 of the English and 149 of the German is the Unit Evening Report for 19 October 1943 of the 99 Jaeger Regiment, which was subordinate at this time to the 1st Mountain Division.

"8 bandits captured by reconnaissance patrol from Kanallakion to point 402/45. 4 shot to death. 1 priest, who was with the bandits, shot while trying to escape."

Turn next to page 139 of the English and 150 of the German; I direct your Honors' particular attention to this order. It is an order of the 1st mountain Division dated 25 October 1943:

"Special directives pertaining to Intelligence Work No. 9:"

Your Honors will recall at this time the 1st Mountain Division is subordinate to the XXII Mountain Corps commanded by the defendant Lanz. Earlier this morning I asked your Honors when we were considering page 83 of the English Document Book, page 109 of the German Document Book, Document 1104, which was offered as Prosecution Exhibit 451, to note the date of that particular order of the 1st Mountain Division which was 13 September 1943. It, too, contained special instructions for the Ic area and in that order there was a directive that ten Greeks be killed for each German soldier wounded and killed by insurgents or civilians. I now refer to this order on page 139 of the English and 150 of the German dated a little bit more than a month later than the first order, this one dated 25 October 1943, an order by the same 1st Mountain Division subordinate to the defendant Lanz.

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"Orders issued up to now are changed as follows: (a) If a member of the German Wehrmacht is killed by either attack or murder in a territory considered pacified, 50 Greeks (male) are to be shot for 1 murdered German. Application for the order of execution is to be made through the Military Commander of Greece," Your Honors will recall at this time, 25 October 1943 the Military Commander of Greece was the defendant Speidel.

"who represents the executive power via the Divisional Ic. The unit will safeguard the corresponding number of hostages until the decision arrives.

"b. The decision regarding executions for losses in band combat is made by the competent troop commander. Here also the ratio is 1 to 50. The ore-requisite for the order of execution is indubitable proof that the population of a village has participated in hostile action against the German Wehrmacht. In addition, the villages are to be destroyed.

"c. It is expressly prohibited to ravage villages merely because members of the German Wehrmacht have been shot at from there. The bends frequently follow the tactics of making peaceful villages suspected of being accomplices of the bands so that they may gain recruits from the population which fears German reprisal measures.

"d. The indigenous copulation may be used for the protection of military installations or of these important for the war economy. They are to be made responsible for guarding these installations under the threat of corresponding compulsory measures if they refuse.

"e. The execution ratio of 1 to 10 is ordered in the case of a murder of a pro-German Greek or a Greed working for the Germans.

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"2. The German Reich has recognized the independence and liberty of Albania. It is the task of the German Wehrmacht to establish good relations with all loyal Albanians in the interest of a beneficial cooperation. A national Albanian committee has taken over the political leadership of Albania. Together with German authorities, this committee is trying to restore order in the country. The German General Plenipotentiary in Albania, with his office in Tirana, has been appointed as a military authority, with a joint staff, the military commander in Montenegro. Political directives will be issued to him by the special Plenipotentiary of the Fuehrer for Balkan questions.

"3. Escaped and recaptured prisoners of war may be punished only by disciplinary measures. Shooting to death is in contradiction to international law. However, they are to be treated as franc-tireurs if they carry weapons or if they resist recapture.

"4. All prisoners of the enemy Air Force are to be transferred without interrogation to the Divisional Ic for transfer to the competent Luftwaffe authority. All captured documents are to be sent along under seal. All enemy airplanes making emergency landings in the Divisional area, which still contain exploitable instruments are to be guarded by the unit. Any dismantling is to be stopped by all means. The exact location is to be reported to the Divisional Ic.

"5. Subject: Burial of executed, people: It has happened repeatedly that people shot to death for reprisal measures have been uncovered by heavy rainfall. The burial of people shot to death has to take place in prescribed graves."

And the order is signed: "For the Division Hqs.

1st General Staff Officer" The time of this order is 25 October 1943.

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1st Mountain Division was subordinate to the XXII Mountain Corps in command of the defendant Lanz. The XXII Mountain Corps in turn was subordinate to Army Group E which itself was subordinate to Army Group [F commanded](#) by the defendant Weichs and his chief of staff the defendant Foertsch.

Next on page 142 of the English and 152 of the German, a report of the 1st Mountain Division to the XXII Mountain Corps dated 27 October 1943:

"Preliminary Report on Successes and Captured Material:

Material Captured:

2 heavy machine guns 5 light machine guns numerous rifles (destroyed) approximately 100 rounds of infantry ammunition 40 enemy dead 3 prisoners (shot to death) About 40 villages burned down."

Next on page 143 of the English, 152 of the German, a report of the Combat Group von Hirschfeld to the 1st Mountain Division. The report is dated 28 October 1943 and the receipt stamp is 1st Mountain Division and indicates the report was received at the Divisional Headquarters a day later, on the 29th of October 1943.

"Report of Enemy Situation in the area of Combat Group v. Hirschfeld during operation 'Tiger'. The bands fought in this area in civilian clothing. Mostly they wore blue riding breeches and high boots. All villages along the Arachtes Valley were destroyed. Almost all houses contained supplies of ammunition."

Finally, the report of the 1st Mountain Division to XXII Mountain Corps Headquarters of the 28 of October 1943:

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"Enemy - about 100 men strong withdrew from Krania (70 km. north northeast Metszon) in a general northern direction at the approach of our troops. The ammunition dump there was evacuated as much as possible. The village was burned down. 12 men arrested as hostages for cable sabotage in Vangalati (10 Km Northwest Konispol)."

The report is signed: "For Division Headquarters The First General Staff Officer" We turn next to page 145 of the English, 154 of the German, Document [NOKW 1133](#) which becomes Prosecution Exhibit 456.

This is again various orders from the 1st Mountain Division to its subordinate units. The first is dated 20 October 1943.

"For the formation of the convoy the following are to be detached:

The remaining personnel is to be taken from the prisoner collecting camp Braja."

And the order for 1st Mountain Division for 23.10.43.:

"Subject: Formation of an auxiliary carrier-company for Mountain. Main Assembly site 'Tiger'.

1.) Company consists of 60 Italians. Leader: P.F.C. or corporal of the Medical Corps."

If your Honors please the report now relates to the first order directing that personnel for this convoy be taken from the prisoner collecting camp at Braja.

"2.) Collection of the 60 Italians with trucks. Divisional supply leader from the prisoner of war camp Braja. Detachment detailed to collect to report on 24.10 at 0600 hours to the advance message center von Eyb, Joannina.

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"3.) Equipment of the Italians. Each man must at least have one field-pack.

"4.) IVc detail at least 6 pack animals for the transportation of the wounded. Collection by the Italian carrier company from the horse Assembly Point Joannina by 24 Oct. 08.00.

"5.) Weapons and equipment department provides the improvised pack and saddle equipment (local-type saddles.) Fitting of saddles on the pack animals, in the arsenal after the horses have been collected.

"6.) Provisioning: The carrier company is dependant on the Mountain. Main assembly site for food supplies. When assembling it is to take along food rations for 3 days."

The order is signed, "For Divisional Hqs.

The second General Staff officer."

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Turn finally to page 147 of the English and 156 of the German, Document [NOKW 959](#), which becomes Prosecution Exhibit 457. These are various reports from subordinate units, with General Lanz as Commander of the XXII Mountain Corps. The first is a report from the Mountain Jaeger Field Replacement Battalion 79, to 1st Mountain Division, received 1st Mountain Division on 6 November 1943.

"Report on the Band Situation in the Area of Korca

1.) Band Area I, Dibar, Labinoti, Qävemolle, Approximately 200 bandits coming from the direction of Dibar attacked the town major's office Xicevo and kidnapped the staff (45 kilometers North of Orid Ochridasee) on 1.11.

at 0530 hours.

.....

2.) Band Area III. Voxkopje, Vithuqi.

According to reports by confidential agents about 200 to 300 bandits are said to have spent the night from 2nd to 3rd November 1943 in Goskova - Vlocan Melcan (10 kilometers West Northwest Korca). I, Battalion/Brandenburg thrust ahead toward Voskop (9 kilometers West of Korca) on 3.11. It met

strong resistance. Voskop was burned down, 30 persons between the ages of 18 and 60 were shot to death.

4.) The Battalion requests information whether the 8 hostages, held for interpreter Walter Jennewin (report of 31.10.43) may be hanged.

Ic ko (handwritten initials)" Next the "Report on total Captured Material III.

/Mountain Infantry Regiment 98 "Puma" November '43/2000 hours.

8 villages destroyed among them main base point district Points 422, 530, 536.

1 tent camp near 530 destroyed."

The various losses are listed. I think we need not spend any time on those.

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Continuing on page 148 of the English, 151 of the German, a report from the 1st Mountain Division dated 4 November 1943 to Corps Headquarters XXII Mountain Corps:

"The villages of Dragumi (6 kilometers southeast Paramithia) taken against strong enemy resistance. Bandits retired to the gorges, to the west and southwest; village was burned down."

The next is Evening Report of the Unit:

"Mountain Infantry Regiment 99: The village of Dragumi taken against strong enemy resistance at 1400 hours. Enemy forces about 200 men strong, 1 light machine gun, 1 heavy machine gun. Neither men nor animals found in the village. Bandits retired to the gorges west and southwest. When marching off the enemy again pressed after us. The village was burned down."

Next is the evening reports of 4 November 1943, I, II, III battalions of the 99 Regiment:

"Statement of the bandit leaders reported captured in last night's reports:

1.) Zervutochis Konstantino, 51 years old and born in Alexandria, (Egypt) Statement:

I am an insurgent but I did not carry any arms. I only advised Papos regarding the organization of the band. Papos frequently came to my house. I was an insurgent only as long as the Italians were here because I wish to remain a Greek always. If I knew that the Germans would remain here for a longer period I would again become an insurgent, but since I know that they will remain only a short time, I will not be a bandit.

2.) Mathisani Georgo, 46 years old and born in Templona on the Island of Korfu.

Statement: I was with the Papos Band but I was not the Deputy of the insurgent leader. I was in charge of the supply (rations, fodder, ammunition and arms). (Marginal note: With the word when?) I only know that Serenedis, the deputy of Papos, who was born in Potamos and another Rebel Leader Giovanni, as well as Koshinos, Kuranades, are said to be on the Island.

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They continue to command the band and are recruiting new people. Everything else will be reported in writing tomorrow.

During the transfer from Korfu to Igumenica one priest of the Greek Catholic church and one civilian were shot while trying to escape."

Turning next to the report at the bottom of the page 150 of the English 160 of the German:

"Final Report Operation Mountain Infantry Regiment 99:

"Village and ridge southeast of Prodromi taken against weak enemy resistance about 1400 hours About 1530 hours the attack was advanced on Dragumi and Ridge 586. Houses still standing after the last battle were set on fire.

The villages of Karijot, Velianti, Prodromi and Dragumi, which were supply bases for the bandits during the winter, were eliminated thereby."

Next a report of the 1st Mountain Division dated 3 November 1943 to Field Gendarmerie Detachment 54 rather this in an order of the division to the detachment, rather than a report:

"1.) The Greek Niko Bakola is to be shot to death for aiding and abetting bands. The execution is to take place unobtrusively. Execution report to Division Ic. The carrying out of the death penalty is to be made public.

2.) The 3 Italians: Severi, Francesco Campanella, Calogero Pirino, Benetton are to be transported to Florina as prisoners of war with an Italian transport.

Proper papers are to be made out.

3.) The member of the Italian Wehrmacht, Furnerie, Francesco is to be shot to death because he is suspected of belonging to a band. Execution report to Division Ic.

4.) The Greek Johannis Itos is to be shot to death for prohibited possession of arms and for aiding and abetting the bands. Execution report to Division Ic."And, the order is indicated as having been received by the Field Gendarmerie Detachment a day after the order is dated, that is to say on the 4 November 1943.

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Page 152 of the English, and 161 of the German is the order which the Field Gendarmerie Detachment, - a report which the Field Gendarmerie Detachment 54 sent to the 1st Mountain Division Ic, or Intelligence Officer, on the 8 November 1943, five days after it received the divisional order.

"Subject: Order 1. Mountain Division Ic of 3.11.1943.

The Greek Nikola Bakola The Greek Johannis Itos The Italian Francesco Furnerie were shot to death today at 1700 hours.

They were properly interred with proper regard of all cautionary measures."

Next, on page 152 of the English and 162 of the German is a proclamation. It refers to the same incident:

"Proclamation The population is informed that the following persons were shot to death:

1.) Niko Bakola, born 1915, trade: carpenter; residence: Jannina, Villar Street 50. He was convicted of:

- a) Asking Italian soldiers to fight against the German Wehrmacht.
- b) Recruiting Italian soldiers to serve with the bandits.
- c) Attempting to purchase arms and ammunition for the bandits.
- d) Anti-German propaganda."

"2.) Johannis Itos from Greveniti Reason:

Prohibited possession of arms."

Next the report of the "Mountain Jaeger Field Replacement Battalion 79 To 1st Mountain Division Ic., report dated 8 November 1943 Enclosed the Field Replacement Battalion submits a delivery slip concerning 20 kilogram of bread for the Revenge Battalion Hakmaye (Leader Petri Dume) which was found in the possession of Ismael Asim of Turan (West of Korca) who was a member of the Revenge Battalion Hakmaye.

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Ismael Asim was shot to death according to martial law on 6.11.1943."

Next is the report of the "Mountain Jaeger Field Replacement Battalion 79."

dated 8 November 1943, to 1st Mountain Division:

"Subject: Reprisals for the Albanian Walter Jennewein."

Your Honors will recall that on page 147 of the English 146 of the German, and dated 4 November 1943 this same Mountain Jaeger Field Replacement Battalion 79 requested information whether the 8 hostages held for interpreter Walter Jennewein had been hanged. Now, on page 153 of the English, and 163 of the German, we see the answer, which was given apparently to the battalions enquiring. This is a report of the Battalion to the 1st Mountain Division Ic.

"The reprisals for the Albanian Walter Jennewein were carried out by the 1st Battalion/Brandenburg itself."

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"18 persons were shot to death in the neighborhood of Voskop on 6 November 1943."

Next a report from Garrison Headquarters Corfu to the Division Ic, a report dated 5 November 1943.

"Subject: Bringing in of Prisoners." There is a handwritten note: "To the 1st and 2nd Death Penalty Commander."

"The following prisoners are being transferred to Division Ic: Mathiani, Georgio - 46 years old, from Debloni.

He states: I was with the Rebel Band of Pappas. I am not the deputy of the Rebel Leader. I was in charge of the supply (arms, ammunition, rations, fodder) I only know that the deputy of Pappas, Seremedis, (born in Potamos) and another Rebel Leader named Koskinas, Giovanni (born in Kuramades) are here on this Island. They continued to lead the bands and are recruiting people.

Randazzo, Ciro, 27 years old, born in Palermo, Italian soldier.

He states: I have not been with the rebels long and I am not informed regarding the details.

The two bandits, together with a third bandit, were found with loaded rifles in Debloni on 3. Nov. 43. One of the bandits were shot on the spot; the house in which the bandits were found was burned down. Appendix: The suspects named above include a very reputable farmer who has been seized as a hostage.

According to the enclosed report, the priest of the Greek Church, Colida, Spiridione and the Greek Nicokanra, Sebastian who were given over to the 2nd Regiment/99 for transfer to the Division Ic were shot to death while trying to escape."

Finally, a last report on page 155 of the English, 164 of the German, is an order from the 1st Mountain Division to Field Gendarmerie Detachment 54. The Gendarmerie Detachment's receipt stamp for the order appears on the document dated 10 November 1943, one day after the Divisional order is dated.

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"Mathiano, Georgio and Randazzo, Ciro are to be shot to death for armed resistance."

And then the report of the Field Gendarmerie Detachment 54 to the 1st Mountain Division indicating it was carried out, the order that was received from the division. This report is dated 10 November 1943.

"Subject: Order 1st Mountain Division Ic of 9 November 1943.

"The Greek Mathiani, Georgio, The Italian Randazzo, Ciro were shot to death at 1700 hours today and properly interred."

And that, if your Honors please, completes the presentation of the documents in Document Book XIX.

DR. LATERNSEER: Your Honor, on the occasion of the conclusion of the evidence presented by the prosecution in Document Book XIX, I ask for clarification of the following questions important to the defense.

What is now to be done about the treatment of the subject of the entire contents of the document book or just the parts which have been read out?

THE PRESIDENT: Is your inquiry based upon the result of the ruling made earlier this afternoon?

DR. LATERNSEER: no, your Honor. There is no connection between the two. As defense counsel, I must know what has become subject of the case in order, for example, to be able to judge whether, in

connection with any one point, the submission of evidence by the prosecution has, any conclusive value; for, if it is not conclusive, the defense need not go into the point.

Mr. President, my attention is called to the fact that possibly the contents of my statement has been distorted by the translation of the word "schluessig," "conclusive." I mean the following:

I must know what is subject of the case, for only then can I judge whether, for example, the submission by the prosecution of any one complex is sufficient or not and, according to that, the defense has to act. For this reason, I would be very much interested in whether the entire document book has been subject of the proceedings or only those parts of it which have been read out here.

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THE PRESIDENT: It is the judgment of the Tribunal that the whole exhibit is and now if you wish to read any portions of it which have not been read by the prosecution, you may do that in your defense, but the entire document is offered, as I understand it, and the prosecution is calling particular attention to certain phases of it.

DR. LATERNSEER: And what is the essential part, Mr. President? Is it what is contained in the document book or the photostat of the exhibit which the prosecution has given to the secretary general?

THE PRESIDENT: If there is any portion of the document which you, as representative of the defense, wish to present to the Tribunal, that is your privilege, along with that which has been submitted to us in the English translation.

THE PRESIDENT: I would suggest that the whole thing that goes to the Secretary General is in evidence.

DR. LATERNSEER: I understand that, your Honor, but if this is so, then the whole exhibit cannot be brought in because it has only been partly translated. In other words, the Tribunal does not, cannot gain an entire impression of the whole exhibit.

THE PRESIDENT: If there are certain portions of it which the defense counsel feel are important to their defense, they have the privilege and it is their right and their duty to see that the matters are presented to the Tribunal.

DR. LATERNSEER: Your Honors, I shall discuss this matter with my colleagues.

THE PRESIDENT: Very well.

MR. DENNEY: Your Honors please, I have just handed your Honors a paper which was typed in my office in English which contains the usual all-time advice that is administered to witnesses who are Greek Nationals. If Dr. Laternser wishes, I will be very glad to have this translated into German and submitted to him. May we have a statement on the record to that effect, Doctor?

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DR. LATERNSEER: Your Honors, that will not be necessary.

MR. DENNEY: Thank you, Doctor.

Your Honors will recall that at the commencement of the trial the first step in the proceedings was the reading of an affidavit by Mr. Niebergall who is presently in the document room. However, I have noted, in going through the documents, that we have occasional documents which are what might be called "anti-Niebergall" and, with that in mind, I should like to read the Coogan affidavit which was used before the International Military Tribunal and will cover such documents as bear the earlier numbers and are taken from the International case and which were developed at that time.

I believe all the defense counsel are familiar with the Coogan affidavit. However, for their convenience I have 11 copies here in German. You may want it for your files -- 3 copies for the Tribunal. I must apologize, your Honors, for the condition of these photostats or mimeographs but the pages are getting rather worn. It has been used so much. Then one in English and German for the interpreters and stenographers, court reporters, and the original one which I have left which I can read is Major Hatfield's copy, so I will give that to him after I have finished.

"19 November 1945." This, if your Honors please, will be assigned perhaps the easiest way would be to call it Exhibit 1-B" and then it will be right next to the Niebergall affidavit which covers the period subsequent to the so-called "Chief of Counsel" which was prior to the present office of "Chief of Counsel for War Crimes."

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"19 November 1945.

"I, MAJOR WILLIAM H. COOGAN, 0-455814, Quartermaster Corps, a commissioned officer of the Army of the United States of America, do hereby certify as follows:

"The United States Chief of Counsel in July 1945 charged the Field Branch of the Documentation Division with the responsibility of collecting evaluating and assembling documentary evidence in the European Theater for use in the prosecution of the major Axis war criminals before the International Military Tribunal. I was appointed Chief of the Field Branch on 20 July 1945. I am now the Chief of the Documentation Division, Office of United States Chief of Counsel.

"I have served in the United States Army for more than four years and am a practicing attorney by profession. Based upon my experience as an attorney and as a United States Army officer, I am familiar with the operation of the United States Army in connection with seizing and processing captured enemy documents. In my capacity as Chief of the Document Division Office of the United States Chief of Counsel, I am familiar with and have supervised the processing, filing translation and photostating of all documentary evidence for the United States Chief of Counsel.

"As the Army overran German occupied territory and then Germany itself, certain specialized personnel seized enemy documents, books and records for information of strategic and practical value. During the early stages such documents were handled in bulk and assembled at temporary centers. However, after the surrender of Germany, they were transported to the various document centers established by Army Headquarters in the United States Zone of Occupation. In addition to the documents actually assembled

at such document centers, Army personnel maintained and secured considerable documents "insitu" at or near the places of discovery. When such documents were located and assembled they were catalogued by Army personnel into collections and records were maintained which disclosed the source and such other information available concerning the place and general circumstances surrounding the acquisition of the documents.

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"The Field Branch of the Documentation Division was staffed by personnel thoroughly conversant with the German language. Their task was to search for and select captured enemy documents in the European Theater which disclosed information relating to the prosecution of the major Axis war criminals. Officers under my command were placed on duty at various document centers and also dispatched on individual missions to obtain original documents. When documents were located, my representatives made a record of the circumstances under which they were found and all information available concerning their authenticity was recorded. Such documents were further identified by Field Branch pre-trial serial numbers, assigned by my representatives who would then periodically dispatch the original documents by courier to the Office of the United States Chief of Counsel.

"Upon receipt of these documents they were duly recorded and indexed. After this operation, they were delivered to the Screening and Analysis Branch of the Documentation Division of the Office of United States Chief of Counsel, which Branch re-examined such documents in order to finally determine whether or not they should be retained as evidence for the prosecutors. This final screening was done by German-speaking analysts on the staff of the United States Chief of Counsel. When the document passed the screeners, it was then transmitted to the Document Room of the Office of United States Chief of Counsel, with a covering sheet prepared by the screeners showing the title or nature of the document, the personalities involved, and its importance. In the Document Room, a trial identification number was given to each document or to each group of documents, in cases where it was desirable for the sake of clarity to file several documents together.

"United States documents were given trial identification numbers in one of five series designated by the letters: "PS", "L", "R", "C", and "EC", indicating the means of acquisition of the documents.

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Within each series documents were listed numerically.

"After a document was so numbered, it was then sent to a Germanspeaking analyst who prepared a summary of the document with appropriate references to personalities involved, index headings, information as to the source of the document as indicated by the Field Branch, and the importance of the document to a particular phase of the case. Next, the original document was returned to the Document Room and then checked out to the photostating department, where photostatic copies were made. Upon return from photostating, it was placed in an envelope in one of several fireproof safes in the rear of the Document Room. One of the photostatic copies of the document was sent to the translators, thereafter leaving the original itself in the safe. A commissioned officer has been, and is, responsible for the security of the documents in the safe. At all times when he is not present the safe is

locked and a military guard is on duty outside the only door. If the officers preparing the certified translation, or one of the officers working on the briefs, found it necessary to examine the original document, this was done within the Document Room in the section set aside for that purpose. The only exception to this strict rule has been where it has been occasionally necessary to present the original document to the defendants for examination. In this case, the document was entrusted to a responsible officer of the prosecution staff.

"All original documents are now located in safes in the Document Room, where they will be secured until they are presented by the prosecution to the court during the progress of the trial.

"Some of the documents which will be offered in evidence by the United States Chief of Counsel were seized and processed by the British Army. Also, personnel from the Office of the United States Chief of Counsel and The British War Crimes Executive have acted jointly in locating, seizing and processing such documents.

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"Substantially the same system of acquiring documentary evidence was utilized by the British Army and the British War Crimes Executive as that hereinabove set forth with respect to the United States Army and the Office of the United States Chief of Counsel.

"Therefore, I certify in my official capacity as hereinabove stated, to the best of my knowledge and belief, that the documents captured in the British Zone of Operations and Occupation, which will be offered in evidence by the United States Chief of Counsel, have been authenticated, translated, and processed in substantially the same manner as hereinabove set forth with respect to the operations of the United States Chief of Counsel.

"Finally, I certify, that all Documentary evidence offered by the United States Chief of Counsel, including those documents from British Army sources, are in the same condition as captured by the United States and British Armies; that they have been translated by competent and qualified translators; that all photostatic copies are true and correct copies of the originals and that they have been correctly filed, numbered and processed as above outlined."

"William H. Coogan, Major, Quartermasters Corps, 0-455814."

If the Court please, I should like to request that the marshal be directed to summon the witness, Nicolas Neris.

THE PRESIDENT: The Marshal will present the witness named to the Tribunal.

DR. SAUTER (Counsel for defendant Lanz); Mr. President, I ask first of all to determine whether the examination of this witness has been announced at all previously. We were given the names of seven witnesses who were supposed to be examined but, if I correctly understood the name of this witness, this witness does not seem to have been previously announced. It might be a good idea to clarify this point.

MR. DENNEY: Do you have the list up there, Major Hatfield, of the witnesses?

If your Honors please, this witness -- notice was sent down on 1 August. The first name of the witness was unknown at the time and I notice now that it is typed here as "Nezis" N e z i s. The address given is: "Police Headquarters, Athens, Greece"; and his occupation as, "Chief of Police", and the nature of his testimony, "Pertaining to the activities of the German occupation troops in Greece during 1941-1945." That was the best information which we had at that time.

DR. SAUTER: A witness Nezis, N e z i s, has been announced. That's true, but a witness, Nicolas Neris has not been announced. If this witness is identical with this police chief Nezis who has been announced to us, then, of course, we would have no objection to the examination of this witness.

MR. DENNEY: I can assure Dr. Sauter that this is the man that is over there, who is purportedly described on page 2 of the notice which was sent him which has: "(Blank) Nezis, Greek, Police Headquarters, Athens, Greece, Chief of Police, pertaining to the activities of the German occupation troops in Greece during 1941-1945."

DR. SAUTER: Thank you. The matter is all right now.

THE PRESIDENT: Are we ready to proceed with the examination of this witness?

MR. DENNEY: Yes, your Honor, please.

THE PRESIDENT: The interpreter, Dr. Dimitrios, will rise and be sworn.

I do solemnly swear that I will perform my duties as interpreter to the Tribunal according to the best of my ability and skill.

(The interpreter repeated the oath).

THE PRESIDENT: The witness will now be sworn.

I, Nicolas Neris, swear to speak the truth, and only the truth, in reply to whatever I am asked, without fear and without prejudice.

(The witness repeated the oath).

THE PRESIDENT: You may be seated.

PRESIDENT WENNERSTRUM: You may be seated.

DIRECT EXAMINATION OF NICOLAS JOHAN NERIS BY MR. DENNEY:

Q. What is your name?

A. Nicolas Johan Neris.

Q. Where were you born?

A. In the Island of Mykenes in Cyhlandes, in Greece.

Q. When?

A. On the 15th of February, 1900.

Q. Where did you go to school?

A. In the law school, of the University of Athens.

Q. Did you finish your studies?

A. Yes.

Q. Are you a lawyer?

A. Yes.

Q. Are you licensed to practice law in Greece?

A. Yes.

Q. What was your position in 1940?

A. I was Deputy Police of the Chief of Athens and Director of the Protection against the aircraft.

Q. You say Deputy of Protection against aircraft. Do you mean in charge of the air raid warning system?

A. Protection of the non-fighting population against the air raids.

Q. What is your present position?

A. I am the acting General of the National Institute of the Organization under Reconstruction.

Q. The organization in reconstruction of what?

A. Of the country.

Q. What country?

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A. Greece.

Q. Thank you. Do you recall approximately when the German troops came to Greece?

A. On the 27th of April, 1941 the German troops entered Athens.

Q. And at that time what was your position?

A. I was Deputy Chief of the Police in Athens.

Q. How long did you remain in that position?

A. Approximately 6 months.

Q. Then what did you do?

A. I was transferred as Chief of Staff of the Police Court.

Q. How long did you retain that post?

A. Approximately for one and one-half years.

Q. And what did you do after that?

A. I was chief of the school for police officers.

Q. Where were you during all of this period?

A. In Athens.

Q. Was the school for the police officers in Athens?

A. Yes.

Q. And how long did you stay there?

A. Nine months.

Q. And then what did you do after that?

A. After the bombardment of Pyraeus I was again nominated as the director of the protection from the aircraft.

Q. That is, you returned to this job in connection with the air raid protection?

A. Yes, the protection of the civilian population.

Q. How long did you keep that position?

A. Until the day of the liberation.

Q. And when was that?

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A. The 12th of October, 1944.

Q. And what did you do after that?

A. I was nominated as director of the police in the Ministry of the Interior.

Q. Directing your attention now to the period immediately following the German entry into Athens, which you have stated was some time late in April, 1941, will you tell the Court what you observed in your official capacity, about the conduct of the German troops?

A. As soon as the German Army entered Athens, and hoisted the German flag over the Acropolis, and captured all of the positions that were good for occupying, they began to requisition all of the stores and warehouses of food that were at that time in Athens. By the stores and warehouses, I do not mean only all public ones, and the Army storehouses, but the private ones and every store and shop that contained any foodstuff.

Apart from the foodstuffs, every hotel or restaurant was requisitioned for the need of the German Army. During our fighting against the Italians the Greek government had ordered the population to buy no more foodstuffs than they needed for a period of two or three days, to prevent the lack of food stuffs from the market without any good reason. According to this order of the Greek government, the population had not stored in their houses any big quantities of food stuff.

After the requisition and confiscation of all of these storehouses, the Germans notified the people of Athens that they should not have in their possession more foodstuff than was needed for some days, under a heavy penalty of imprisonment. As it was natural, after some days the lack of foodstuff was noticed in the markets. At the beginning the poorer classes, later on the middle class, and still later on the more wealthy classes, had no food.

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During the months of May, June, July, and August, the situation was not so bad because the population could buy fruit and vegetables and could feed themselves by that way, but by the month of September the hunger and starvation begun to be shown on the population of Athens.

Many things happened, and since that period, that is to say from September, 1941, the hunger and mass starvations were mounting continuously.

PRESIDENT WENNERSTRUM: The Tribunal will take its recess at this time.

(A recess was taken until 1515 hours.)

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THE MARSHAL: Persons in the Courtroom will please be seated.

The Tribunal is again in session.

JUDGE WENNERSTRUM: You may proceed.

MR. DENNEY: May it please Your Honors, with reference to the list which has been furnished to the Tribunal and the defense counsel, we should like to apologize for my lack of familiarity with the Greek language and some of its characters. And at this time we advise, particularly the defense counsel, as to some minor changes in spelling which will be necessitated whenever the individuals in each case are those whom we have specified. And in order that the proceedings will go along when the other Greek witnesses are produced, I think it might be well to read the names. The first name should be "Karamertzanis," which is spelled K A R A M E R T Z A N I S, and the first name of that witness -- that is the last name -- is "Panayotis," which is spelled P A N A Y O T I S. The next name...

DR. LATERNSE: Dr. Laternser. We don't want to hear these names so exactly. They will be repeated. The way the names are presented will be repeated when the witnesses appear.

MR. DENNEY: Well, perhaps that may be taken on behalf of the defense counsel that Prosecution will not be held responsible for lack of interest with Greek or familiar names -- names which are submitted to us.

JUDGE WENNERSTRUM: Do I take it, Dr. Laternser, that there will be no question raised as to the identity and the correctness of the names as sent in the notices presented to the Court and to the defense counsel? Dr. Laternser has indicated that there would be no objection, and the record may so show.

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MR. DENNEY: If it please Your Honor.

DIRECT EXAMINATION CONTINUED BY MR. DENNEY:

Q: Now, may I ask if you will continue your narration please?

A: This situation got worse by the issuing of an order by which the import of foodstuff was forbidden in the area of Athens. At that time the population of Athens started to find ways of getting out of Athens to find food. But for every exit from Athens a special permit of the German Kommandantur was needed, but such permits were very difficultly issued. Only for causes of illness or death were such permits issued to those who demanded them. During the last of October, November, December, January, and February 1942, the situation was tragic.

Q: Let me -- may I interrupt for just a moment so that the record will be correct. You are speaking of October, November, and December, 1941, and January and February 1942. Is that right?

A: Yes, sir.

Q: Proceed.

A: In the streets of Athens women and children were found, and many of them were falling down out of starvation. All the edges of the streets were covered with garbage because they had not the means in Athens to carry them away, because the Germans had confiscated all the means of transportation. In this garbage, and especially the garbage near the German billets, men, women, and children searched in vain to find something to eat. Many people fell on the garbage dead. As for the means of communication, everything was requisitioned by the German Army except - with the exception of some useless means of transportation. All those useless means of transportation could not be moved because of the lack of petrol.

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The dead were transported on small wheelbarrows, many time on the shoulders of their relatives. The families who had some one of the members dead did not notify the authorities, with the intention of keeping his ration book and having something more to eat. And at that time the cemeteries of the suburbs of Athens were ordered to accept dead from Athens because the numbers were so big that the cemeteries of Athens were not sufficient for their burial. They managed, at that time, to find a little bit of gasoline so as to use big motor vehicles in which they transported fifty to sixty corpses to the cemeteries.

Q: About what had been the death rate in Athens prior to the entry of the German troops?

A: Approximately 18 persons per day.

Q: And 18 persons per day is about 240 a month -- or 540 a month? Excuse me.

A: Yes.

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DIRECT EXAMINATION CONTINUED BY MR. DENNEY:

Q And what was the death rate during the period of which you spoke--the year-end 1941 and the beginning of 1942--for that six-months' period?

A From the registry of Athens and from the authorities of the cemeteries, or those people to whom they are declared when they did, we know, at that time, the death rate was 5,000 a month; that is to say, ten times more than before the war.

Q Now, you spoke of the registry. (Withdraw) You spoke of the registry. Will you tell the Court what that was?

A The registry is the public office when you declare someone when he has died. His name is put on a list, and that public office gives you the permission for the burial of that person.

Q And the other source of your information you said was from the cemetery people. How did you get that information?

A The police asked the directors of the cemeteries to give the numbers of the persons who were buried without any permission from the registry because many people were thrown over the fence of the cemeteries and were left there by their relatives.

Q And, of course, there was no way of identifying these dead bodies which were thrown into the cemeteries?

A No, It was impossible. The relatives did not want his body to be identified because they wanted to keep his ration book.

Q Now, does that conclude what you have to say with reference to the food conditions and the resulting conditions of the population in Athens during this period?

A This period is so tragic that you could talk on for days and days; but I do not want to take the precious time of the Court.

Q Now, will you tell the Tribunal what happened with reference to the hospitals in Athens?

AAAs soon as the Germans entered Athens all the hospitals of Athens were requisitioned by the German Army for the needs of their men.

Page 1,998

In most of these hospitals were the wounded soldiers of the Albanian War. But as the Army had capitulated and was dissolved the Army doctors of these hospitals remained in the hospitals as civilian doctors to take care of the wounded soldiers. One after the other, the hospitals were requisitioned by the

Germans, and these wounded persons who were in them were put out in the streets. The wounded soldiers who were without legs, without arms, and without eyes were kept in a hospital situated on the Avenue of Queen Sophia. The Germans ordered the requisition of this hospital with a notice of three hours. The director of the hospital had not the means to transport his wounded men and no house where he could put them in. He applied to the police and I went personally myself in my uniform on the spot. The wounded men were lying on the pavement on the laps of the female nurses. When I got there a wounded soldier, without arms and legs, spat into my face. I understood that by doing that he intended to show his contempt for the Greek Government who could not protect and take care of him any more. I did my best to find a house, and at last I found a school called Marashion. But we had no means to transport them; so we transported them on our hands in blankets. This is the way we were obliged to take the heroes of the Albanian Front.

Q Did they allow (Withdraw). What did they allow the people who were evicted from the hospital to take with them?

A They were allowed to take only their blankets.

Q Did they leave the hospital equipment in the hospital?

A Yes.

Q And who took the hospital over?

A The Germans who had the intention to occupy that hospital at 4 o'clock in the afternoon.

Q How many hospitals in Athens did the Germans requisition?

A I can't say precisely. But I remember that they left over to the Greeks a small part of the hospital called Evzone and another small section of the Red Cross hospital.

Page 1,999

Q How big a hospital was this one of which you have spoken?

A It had approximately three hundred beds.

Q Did there come a time when the SS moved into Greece?

A Yes.

Q And will you--when was that approximately?

A I don't know; I don't remember exactly the date.

Q Will you tell us what happened after the SS came?

A I would like to tell you what happened before the arrival of the SS.

Q All right.

DR. LATERNSEER: Your Honor, I object to this question. It refers to the activity of the SS in Greece. None of the defendants charged here had any discipline in a jurisdictional way in any activity of the SS. And the fact that it was illegal can never be charged against the defendants. This complex cannot interest us, and I ask you not to allow it to be discussed here.

MR. DENNEY: In connection with that, Your Honor, it may not interest Dr. Laternser, but it's certainly of interest to us and there is no condition, and I assume there won't be, that the defendants--some of them--were in that theater. That is, in Greece. It was all part of the Southeast. The Tribunal has seen documents with references to SS divisions--the 5th SS Corps, the Waffen SS, the SS Skanderbeg Division. And for Dr. Laternser to maintain that the SS is not in any way concerned with these people is, I submit, extending it a little far, and I submit the witness may testify as to what was done by Germans down there.

JUDGE WENNERSTRUM: The matters to which Dr. Laternser refers, appear to this Tribunal to be defensive in nature and will receive such attention as the defense desires to present at the time they submit their testimony in evidence. The objection will be over-ruled.

Page 2,000

BY MR. DENNEY:

Q Witness, I had asked you a question but you said there was something else you wanted to say first. Will you please continue with what you wanted to tell the Tribunal.

A I would like to tell you about the requisition of the houses and of the means of transportation.

Q Please do.

A The requisition of the means of transportation was done on such a big scale that only very few remained for the use of the population. All the communications of the civilians was made by walking and sometimes in big distances. And about this time many requisitions of central houses was made and the citizens had nowhere to live.

Q It is true--

DR. LATERNSEER: I object to this statement. The witness cannot state what he wants to state -- it is usual that a witness answers his questions. What he has just said now has nothing to do with the question put to him. When the question was put to him the witness said, "I want to talk about this now". He has to answer questions.

MR. DENNEY: I would suggest that Dr. Laternser keep his ear phones on and listen in German. He would understand that I had withdrawn the question in view of the witness's statements that he had something he wanted to tell the Tribunal, and I asked him to please tell the Tribunal what he wanted to tell them.

We have not questioned on the SS as yet.

PRESIDENT: WENNERSTRUM: The objection is overruled.

BY MR. DENNEY:

Q Please continue.

A It is true that later on the German authorities instituted the service in the German commandatur to take care of the people who were driven away from their homes, but at the beginning, it was hopeless for them. They had nowhere to go. At the same time, the electric current was cut from the houses of the civilians and only the German institutions had any electricity.

Page 2,001

By that way the Greek people were in the dark. For the telephonic connections of the different German services and units, the Germans put on a special service of telephones. These wires were put on the pavements, on the ground, and if they were cut during the night, - any of these wires was cut - it was considered sabotage.

We asked the Germans to put these wires on high poles so that the population was not endangered by any reprisals, if any such wire was cut. They did not allow it to us. We ordered Greek civilians to keep an guard on these wires during the night, and one night one of these wires was cut off. Then the Mayor of Athens, Professor Meringis, thereupon was arrested, and was taken to the Ministry of the Interior of Greece.

Later on, the chief of the Police was ordered to be arrested; at that time I was deputizing for him being away and so I went to the Ministry of the Interior where I was detained. The Germans asked us to give them 20 names of 20 Greek citizens who would be considered as hostages, and we refused to give away these names. Two ministers of the Quissling government were called to come to the Ministry of the Interior. The ministers ordered us to give away these names. Both the mayor and myself refused again to give these names, and we said that we could only give our own names. The ministers left, and we were under arrest until 6 o'clock in the afternoon.

And later on the Germans asked us to pay a fine of one million drachmas. It was late in the evening, and the banks were closed, and the cashier of the police was also closed, so the Mayor under custody, went to his own house, brought back to the Ministry of the Interior the one million and handed it over to the Germans. The Germans kept our names and liberated us, set us free. The railway going to Larissa, Peloponnesus, - on these railways a wagon was put in front of the engine. This wagon was uncovered, but had wires, and in this wagon 20 or 30 or 40 Greek hostages were put. They were unprotected from the sun, the rain and the cold, and they were put into that wagon for the safety of the German troops against the attacks of the guerillas.

Page 2,002

Q Did you see such cars on the trains?

A I used to see such cars every day, because I lived near the railway of Larissa and Peloponnesus. Very seldom there was a train without one or two such cars.

Q And those cars were placed where on the train?

A. These cars were placed before the engine. They were covered with wires only. Then followed the engine. After the engine came a car or wagon where the German guard was and then was the rest of the train.

Q. Well, all right, now were these cars placed there in winter and summer?

A. Yes, winter and summer.

Q. And did you see them winter and summer?

A. Yes, sir.

Q. And you saw them in front of most of the trains that left Athens during the occupation?

A. Yes, on the trains that left Athens and came into Athens.

Q. Now, was there a concentration camp in Athens?

A. Yes, a concentration camp of Chaidari.

Q. Where was it?

A. Northwest of Athens, on the road leading from Athens to Eleusis, a little bit farther out of the street, not exactly on the main road but a little bit inside.

Q. When was that camp opened?

A. I don't exactly remember but I think it was opened in 1943.

Q. What people were sent there?

A. People who were arrested in different blockings-off.

Q. I am sorry, I didn't understand you.

A. People who were arrested during the different blockings-off of different districts in Athens.

Q. Will you tell the Court how these district blockings-off took place?

A. At different districts of Athens and in different times of the day or of the night the Germans surrounded a district of the town or a street and they arrested a certain number of citizens who inhabited that surrounded area. Of those arrested, some were sent to the concentration camp of Chaidari and the most, the great bulk of them, were sent to Germany for forced labor and very often some of them were executed on the spot.

Q. Did you receive reports of these executions in these blockingoff actions?

A. I received a report from police headquarters of Piraeus of the execution of people during the blocking-off of Kokinia.

Q. Will you tell the Court what that report was?

A. The report said that on a certain date, which I cannot remember now, the Germans surrounded or made a blocking-off, as it was said at that time, in the district of Nea-Kokinia, and they arrested a great number of civilians. Out of this number, a number of ten to fifteen people, I cannot exactly tell you the exact number, were led near a wall which was near the place of the arrest and were executed on the spot without any trial or any formality.

Q. How were these people picked?

A. They used an informer who was hiding his dress by a black garb and a black mask on his face. He passed over the lines of the arrestees and he indicated some of them. By this manner the persons who were to be executed were picked.

Q. Did he say anything when he designated these people?

A. He only showed in his hand without speaking at all. This was the usual manner in every blocking-off and in Valuja (?) and in Chaidavi and in Kaphallenia (?) and in Verroia (?). Those are districts of Athens.

Q. How were the Jewish people treated in Athens?

A. At first, an order was issued by the Germans that every Jew had to report to the Rabbi. After a certain short time, those Jews who were ordered to report to their Rabbi were ordered to present themselves to the German Kommandantur where their names were taken down and then they were set free.

Later on, during a religious celebration they had at their synagogue, they were arrested in masse by the Germans. Later on, they were persecuted in their own private houses because in Greece they didn't live in a separate part of the town but they were living among other people and there was no distinction between Jews and non-Jews.

Page 2,005

At the beginning the Spanish Jews were protected but later on the Spanish Jews also were persecuted and some of them managed to escape to the Middle East or went to the mountains.

Q. One or two questions about some of the matter you have gone over. Were the police armed? The Athens police, that is, were the Greek police armed?

A. The Greek police had nothing else but clubs but during the last months of the occupation they gave them very few arms.

Q. You spoke of the requisitioning of food by the German troops. Did they pay for that food?

A. No, they never paid. They paid later on when they were taking Greek banknotes of three billion drachmas.

Q. Now did there come a time when you received a report with reference to some deaths which occurred in Kalavrita?

A. In Kalavrita all the male population of the town was executed.

Q. Did you receive reports of this?

A. When I knew of this happening, I went to my superior--

Q. Now please answer my question. I asked you if you received reports of the deaths in Kalavrita?

A. I was not competent to receive such a report because my competence did not extend to Kalavrita.

Q. Did you have something to do with Greek pension system?

A. As the director of the air raid protection, I was the competent authority to give pensions for all those who were killed by the air raid bombardments and to those who were executed by the Germans without previous military decision.

Q. Did you receive in that capacity reports which requested pensions for people in Kalavrita?

A. Yes.

Page 2,006

Q. Approximately how many reports did you receive and what did they state?

A. I cannot exactly remember the total number but the reports I received and the demands for pension mentioned the execution of the fathers and all the male children of every family in Kalavrita. I have in mind requests of the widow of a father who was killed with his five and another with his six male children.

Q. In your capacity on this pension committee did you receive other requests for pensions?

A. I received thousands of these requests but I cannot exactly remember all of them but I remember the most important of them and those were those of Kalavrita, Distomon, Rogon, Lamerno, Zachlorou.

Q. And what did these reports give as the cause of death on them?

A. Mass execution by the Germans.

Q. Do you recall when the Italians withdrew from Greece?

A. Late in the summer of 1943.

Q. Do you recall any events which happened after that?

A. Yes. Could you restate your question, Mr. Denney?

Q. Well, I am directing your attention to the time late in 1943 when the Italian forces withdrew from Greece and asking you whether or not you recall any events which took place thereafter in Athens about which you would like to tell the Tribunal.

Page 2,007

A. Then the executions of the hostages were intensified.

Q. Dr. Dimitrios, will you please speak a little louder. Please speak into the microphone.

A. After the recapitulation of the Italians the executions by the Germans were intensified; they grew in numbers.

Q. Did you get reports in the police office in Athens with reference to executions?

A. We could not receive official reports because these would be considered as espionage.

Q. Well, did your police officers report to you nevertheless?

A. After every execution the police officer of the (district of Skopeftirion) rifle range - that is where most of the executions took place - was called by the Germans to take them away and see to the burial.

Q. Did he then advise you as to the numbers of people who were buried?

A. Yes.

Q. And how long did these killings take place, over what period of time?

A. I remember the execution of 7 officers and that was the first one in Athens, of 7 Navy officers among whom was the Lieutenant Kasagros; the execution of 120 people, and then the execution of 73 people near Defni, the last days before the withdrawal of the German forces from Athens. I remember also several executions of smaller numbers of persons, that is to say, 7 to 10, but I cannot certify their dates.

Q. During what period of time did these executions take place?

A. Especially after the arrival of the SS these executions and the blockings-off were intensified.

Q. And when did the SS come to Athens?

A. I am not very sure; I don't remember it well, but I believe it was in the late summer of 1943.

Q. You have told us about the attitude toward the Jewish people.

Page 2,008

Do you know anything about transports of Jewish people from Athens?

A. In cattle cars many people were put in, in a way that they could hardly stand. There was no room for them to sit down and in that way, in those closed wagons, which only had small holes for breathing, they were transported out of Athens. I personally saw many trains loaded with such a burden.

BY JUDGE BURKE:

Q. Will you repeat the answer?

A. I personally saw many trains loaded with such human burden.

Q. Human burden?

A. Human burden, yes.

BY MR. DENNEY:

Q. Do you mean cargo, Dr.?

A. Yes.

MR. DENNEY: He means cargo, Your Honor.

Q. How big was the concentration camp of which you have spoken?

A. This concentration camp was used as a barracks before the war. When the Germans came, it was unused so they took it over and used it as a concentration camp. The area, the whole area of this camp, is about approximately as big as this court house.

Q. And when you say the court house, you mean the whole court house, you don't mean this little room?

A. Certainly.

Q. How many inmates could the camp accommodate?

A. It contained between 2,000 and 3,000 people but it could contain many more.

Q. What were the inmates used for?

A. Forced labor, and others were imprisoned there. From that concentration camp the hostages who were to be shot were taken, and from that concentration camp they used to take people and send them to Germany for forced labor and the contents of this concentration camp were usually renewed when it began to get empty.

Page 2,009

MR. DENNEY: If Your Honors please, I have no further questions. Perhaps defense counsel might like to start cross examination tomorrow in view of the shortness of time remaining here.

THE PRESIDENT: Would you prefer that your cross examination commence tomorrow morning, Dr. Laternser?

DR. LATERNSEER: May I put a few questions.

CROSS EXAMINATION BY DR. LATERNSEER:

Q. Witness, could you describe to me this court of law in which you are present: how many wings it has, etc.; how many floors?

MR. DENNEY: I submit, Your Honors, the question is immaterial. He said the concentration camp covers about the same area as this whole court building.

THE PRESIDENT: Overruled.

BY DR. LATERNSEER:

Q. Witness, would you kindly describe this to me? We have to have this description by half past four. How many wings has this court house got?

A. The building or this room?

Q. You were comparing the concentration camp, the alleged concentration camp, with this court house, and you said that it had been at least as large as this building. For you to say that you must know the size of this building. How many wings has this building got?

A. I do not know the length or the width of the space that is covered by this court house. I never spoke about this building or the wings or whatever else of this court house. I only said that the concentration camp was about the dimension of the grounds of this court house.

Q. How long do you estimate this building in which you find yourself now; how long in distance?

A. I cannot tell you how many meters it is long or wide but particularly what I saw of it I can say it was approximately the same as that of the concentration camp.

Page 2,010

Q. If you make comparisons, you should know this building in more detail. How many rooms approximately does this court house contain?

MR. DENNEY: If Your Honors please, I submit that the witness has made the comparison and I might know Dr. Laternser is as tall as Dr. Sauter or shorter, and I might not know how tall Dr. Sauter is or how tall Dr. Laternser is, and I don't think he should be allowed to argue with the witness.

DR. LATERNSE: I did not argue with the witness. I put very precise questions to him.

Q. I repeat my question. How many wings has this court house got?

A. I have never counted them.

Q. How many floors has this court house got?

A. I never counted them because it was of no interest to me.

THE PRESIDENT: The Tribunal will be adjourned at this time until 0930 tomorrow morning.

(The Tribunal adjourned until 0930 hours, 15 August 1947.)

Page 2,011

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants sitting at Nurnberg, Germany, on 15 August 1947, 0930-1630, Justice Carter, presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

May it please your Honors, all defendants are present in the court room.

The persons in the court room will be seated.

JUDGE WENNERSTRUM: Marshal, will you ascertain, if all the defendants are present in the courtroom?

MARSHAL: May it please Your Honor all the defendants are present in the courtroom.

JUDGE WENNERSTRUM: Judge Edward F. Carter will preside at this day's session.

PRESIDING JUDGE CARTER: You may proceed, Mr. Denney:

MR. DENNEY: I believe at the conclusion of yesterday's session Dr. Laternser was cross-examining the witness.

PRESIDING JUDGE CARTER: Dr. Laternser.

NICHOLAS NERIS - Resumed CROSS EXAMINATION (Continued) BY DR. LATERNSE:

Q. Witness, you said yesterday that from 1940 on you were Deputy Chief of Police in Athens. Until when were you in that office?

A. Approximately six months after the entry of the German troops to Athens.

Q. And when was that? When did the six months come to an end as far as the date is concerned?

Page 2,012

A. I don't remember the exact date.

Q. If you don't know the exact date may I ask you to give me the approximate date?

A. When the Germans entered Athens, the Chief of the Police resigned and Mr. Vassilopoulos became Chief of the Police. With him I became Chief of Staff of Mr. Vassilopoulos.

Q. I asked you for the approximate date when you gave up this office?

A. I can't exactly remember the date.

Q. I did not ask for the exact date but for the approximate date?

A. I can't remember exactly those dates because I was serving in Athens as Deputy Director of the Police and as Chief of Staff of the Police. I was all the time there.

Q. If you say the whole time, what do you mean by that?

A. I mean that during all this period I was in Athens.

Q. When you left the office of Deputy Police what did you become then?

A. Chief of Staff of the Chief of Police.

Q. And from which time to which time did you hold this position?

A. As I said yesterday approximately one year and a half.

Q. Into which period of time do these 18 months fall as regards dates.

A. I cannot remember by heart these dates. If I knew it would have been so important to you I would have made a certificate and show it to you; if I would tell you now it wouldn't be the correct dates.

Q. Witness, I mean the time in which you were Deputy of the Chief of Police in Athens and Chief of Staff of the Police Corps. That must have been experiences in your life that this should cause you to remember the approximate dates. I, therefore, ask you for the approximate dates for the period of time in which you were Chief of Staff of a Police Corps?

Page 2,013

A. He wants to help you as much as he can but he cannot remember even approximately these dates.

Q. You can't even approximately remember these dates in order to make this quite clear?

A. He cannot because if he tried to do it may not be the truth.

Q. You want to say then that you know neither the exact date nor the approximate date of the time during which you were Deputy Chief of Police in Athens, and of the time during which you were Chief of Staff of the Chief of Police. Do you really want to say that.

A. I don't remember the exact date.

Q. My question is whether you want to say that you don't even remember the approximate date?

A. During 6 months after the entry of the German troops in Athens he was Deputy Chief of the Police and after this 6 months he was one year and a half Chief of Staff of the Chief of the Police. It would be very easy to give you the precise dates if he knew you would have been so interested in them.

PRESIDING JUDGE CARTER: Might I suggest to the interpreter that he answer in the first person just as the witness does. Do you understand what I mean?

DR. DIMITRIOS: Yes, your Honor.

BY DR. LATERNSEER:

Q. When did the German troops leave Greece?

A. The German troops left Athens on the 12th of October 1944.

Q. And what office did you occupy after the withdrawal of the German troops?

A. I was the Director of the Air Raid Protection.

Q. After the withdrawal of the German troops did you not occupy another office? I assume as Director of Air Raid Precaution, after the withdrawal of the German troops, you didn't have much to do.

A. Yes, after the withdrawal of the Germans I had another job.

Page 2,014

Q. And what was this position?

A. I was Director of the Police section of the Ministry of the Interior.

Q. One thing, witness, is correct, that during the German occupation you were for a longer period of time Deputy Chief of Police and Chief of Staff of the Chief of Police.

DR. DIMITRIOS: I didn't get the question.

Q. One thing is true, witness, you were during the German occupation Deputy Chief of Police and Chief of Staff of the Chief of Police.

MR. DENNEY: If your Honors please, I object to the form of Dr. Laternser's question.

PRESIDING JUDGE CARTER: Objection sustained.

DR. LATERNSEER: I believe that the translation of my question sounded perhaps a bit different in English, as I put it in German.

Page 2,015

BY DR. LATERNSEER:

Q I asked, as far as I remember, that one thing is true, witness, that during the occupation you filled the office of the Deputy Chief of Police and the other one, the meaning of which as the Prosecutor sees it is not contained in the German feeling for language. It may be that this meaning came out in the translation. I cannot judge that.

MR. DENNEY: He has stated facts; I don't think he has to preface them with the remark he has again made.

PRESIDING JUDGE CARTER: You might ask another question, Dr. Laternser.

BY DR. LATERNSEER:

Q Witness, is it correct that during the time of the German occupation you were Deputy Chief of Police in Athens and later Chief of Staff of the Police Corps; the main meaning of this question lies in the fact that you occupied these offices during the time of occupation.

A Yes, it is quite true.

Q Witness, when did you arrive at Nuernberg?

A I left Athens last Sunday morning and got to Nuernberg last Monday afternoon.

Q Did you come by train?

A I came by plane.

Q Why didn't you come by train? Are there no trains in Greece?

A There are no trains coming direct from Greece here.

Q Is there no train service between Greece in the direction of Germany?

MR. DENNEY: The witness hasn't been qualified as a railroad expert.

DR. LATERNSE: You don't need to have an expert. One can know that without being an expert.

A There are no trains connecting Greece with Germany nowadays, but I received an order from the Greek Ministry of Foreign Affairs to travel on that plane.

Page 2,016

Q Where are you living at present in Nuernberg?

A I live now at the Grand Hotel.

Q Is that a German hotel?

A Well, it is a German hotel but where only Americans are living.

Q Was that hotel confiscated from the Germans?

MR. DENNEY: Your Honors please, I don't think the witness is competent to testify as to whether the Americans confiscated something or not.

PRESIDING JUDGE CARTER: I think the objection is good; sustained.

BY DR. LATERNSE:

Q When did the Germans enter Greece?

A They entered into Athens on the 27th of April 1941.

Q Was Greece not only occupied by German troops but also by Italian troops?

A I know that at that precise date only German troops came into Athens.

Q How was it in the time after that? Who occupied Greece?

AAAt that time we were like slaves and we didn't know what happened to the rest of Greece but at that precise date only German troops came into Athens.

Q I did not now ask you for the exact date but I am asking you who kept Greece occupied, during the time in which it was occupied at all.

A Not only German troops but Bulgarian troops and Italian troops used to occupy different territories of Greece.

Q Witness, which part of the country was occupied by German troops and which part of the country was occupied by Italian troops?

A I cannot tell you exactly which parts were occupied by each of the two enemy forces but the only thing I tell you is that the Italians were brought in by the Germans as their satellites.

Page 2,017

Q Witness, apparently you don't know many things quite clearly and for that reason I don't ask you quite definitely. But I want to know some things approximately which as the then chief of Police you ought to know, and for that reason I want to know which part of the country was occupied by German troops and which part was occupied by Italian troops?

A I don't know.

Q Do you say witness, that you as deputy Chief of Police of Athens, do not know which parts of Greece were occupied by the Germans and which part of Greece was occupied by the Italian troops?

A If I don't know something extremely well I cannot give an answer to it.

Q And if you don't know something exactly I ask you in what area were the zones in Greece, the Italian zones and German zones?

A Well, that is what you asked me before and I told you I don't know it precisely.

Q Witness, who was in Southern Greece, German or Italian troops?

A I was always in Athens during that period and in the beginning only the Germans troops came, but later on they were followed by Italian troops.

Q You just mentioned Athens. Under whose military command was Athens, under the German Command or the Italian Command?

A The German

Page 2,018

Q Witness, and I am telling you that it stood under Italian command?

MR. DENNEY: If your Honor, please, I think that the witness is testifying and not Dr. Laternser, and it is not shown that Dr. Laternser was in Athens in any capacity during this time.

JUDGE CARTER: Sustained.

Q Witness, that is you want to say that Athens was under German command?

A Yes, and the Italians were brought later on by the Germans in Athens.

Q When was that?

AAAt first they made the big parade in which the Italians took part and after that parade the Italians disappeared and came later on.

Q What do you mean by later, when did they come back?

A I can't tell you the exact date, but sometime later General Gelosa came to Athens under the protection of the Germans.

Q And at any time did Athens pass from German sovereignty to Italian sovereignty?

A Yes.

Q From that time onwards Athens was under Italian command?

A I don't know the exact date, but I can testify that the Germans always stayed in Athens.

Q Witness, I want to recall to you that you said that you were Deputy Chief of Police in Athens, you simply must know that from a certain period onwards Athens was under the military command of the Italians?

A I repeat that I don't remember the exact date, but I can tell you that the Italians were in the same position as us Greeks, that is to say that they were under the hands of the Germans and obeyed their orders.

Q I did not ask you of the position of the Italians, I asked you quite clearly whether Athens was at any time under the military command of the Italians?

Page 2,019

A Yes, under Andreas Akropolis, a big German and a smaller Italian, and a Greek one.

Q Under a Greek one?

A Yes, I told you so.

Q That is to say, witness, it is correct that Athens was at a certain time under Italian command, you have just confirmed that?

A Yes, I know.

Q Now, we want to try, witness, and I am asking you to help me here to fix the period of time during which that applied; you said that from the time of the occupation onwards you were approximately for 6 months Deputy Chief of Police in Athens: During your activity there were there any changes in the command, that is to say that the Italians had the Military command of Athens during your period of office?

AAAt the beginning only the Germans were in the military command of Athens; later on they brought the Italians with them, but the Germans still stayed in Athens.

Q Witness, I grant you that there were some German Departments, but what is of interest to me in this case is, who carried out the Military sovereignty in Athens at that time, and I am asking you whether during your period of office as Deputy Chief of Police in Athens the command passed from the German Agencies to the Italian agencies?

A There was a difficult date of transfer of the command of Athens from the Germans to the Italians, but I do not remember it, but I say again although the Italians had taken over the command of Athens they still obeyed the orders of the Germans. That is not known only to me, but to every single person in Greece.

Q Witness, I only want to ask you things that you know; have I understood you correctly now, that you are confirming the fact that during your period of office as Deputy Chief of Police in Athens the command was transferred to the Italian offices at least as far as the City of Athens was concerned?

A It was transferred to the Italians, but I repeat again it was only technically transferred to them.

Page 2,020

Q And all during your period of office as Deputy Chief of Police - this transfer took place during your period of office as Deputy Chief of Police?

A Yes.

Q Since you were Deputy Chief of Police from the occupation onwards for 6 months, you said then this command must have been transferred shortly after the occupation became certain, from the year 1941?

A The transfer was not made at the beginning of the entry of the Germans into Athens, but a little bit later on.

The Italians could not stay for a single day in Athens if the Germans had not stabilized their position there.

Q You are certain then that the Military command of Athens was transferred shortly after the invasion of the troops; I repeat, you said that the transfer of the Military command from the Germans to the Italians, as far as the area of Athens is concerned, took place a little time after Germans marched into Athens, but certainly during the year 1941, is that correct?

A Yes.

Q Do you remember that it was already in June 1941?

A I cannot remember exactly in what month that took place.

Q Is it possible it had already taken place in June 1941?

A I tell you I cannot decide the date, but I know that when the Germans came and fixed everything, they took everything for themselves, then they allowed the Italians to come into the country.

Q Witness, as Deputy Chief of Police in Athens you surely had to deal with the occupation authorities?

A On very rare occasions I had to deal with them.

Q Could you name a few of these occasions?

A I can tell you about the time when the German flag was pulled down from the Akropolis.

Page 2,021

Q No, I am now referring to the time during which you were Deputy Chief of Police in Athens, that was the first six months after your occupation, as you said yourself I am now asking you with whom you dealt with during these first six months, with which Italian departments you had to cooperate?

A I had no relations whatever with the Italians.

Q The Italians showed no interest in your position as Deputy Chief of Police of Athens, is that right?

A Because they had the backing of the Germans and they were quite brutal on that.

Q Witness, I am asking you quite clearly, during your period of office as Deputy Chief of Police in Athens did you never negotiate with Italian agencies?

A No.

Q You never had any dealings with an Italian officer?

A What sort of dealings?

Page 2,022

Q. Negotiations which concerned your sphere of work which were carried out by the police in Athens?

A. Those dealings were made by the chief of police, by the director of the police. I was the deputy of the chief.

Q. I am asking you, witness, quite clearly, whether you personally never in your capacity as deputy chief of police in Athens ever talked with the Italian officers.

A. I had no dealings whatever with the Italians; only the chief of police and director of police had to do these dealings. I had no competence.

Q. What field was within your competence?

A. I tried to perform my police duties, which was rather shadowy at that time.

Q. Witness, the starting point of my questions I asked by whom Athens was occupied and I am now asking you to answer this question.

A. At the beginning, at the first beginning Athens was occupied only by the Germans, and later on the Italians came in until the capitulation of Italy in 1943. At that time the Germans arrested all the Italians and they kept them as prisoners.

Q. By far the greatest time of the occupation, during the greatest time of the occupation, Athens was occupied by the Italians then?

A. Yes, in 1942 and the early part of 1943 until the Italian capitulation.

Q. Witness, this is not clear enough for me. You said previously that the command was transferred from the Germans to the Italians even during the time which you were deputy chief of police, and it must have been 1941 then.

A. I say that the Italians were there in 1942 and the early part of 1943 until the Italian capitulation.

Q. Wasn't it already in June 1941? Please reflect for a moment and then give me your answer.

A. I don't remember the exact date of the difficult transfer of the command of Athens.

Q. Is it out of the question, witness, that it was already in 1941?

A. I don't deny it may be possible that that happened in 1941.

Q. Thank you. That is sufficient for me at this juncture. Witness, you know that the Greek Army capitulated?

A. The Greek Government never capitulated.

Q. Who signed the conditions of capitulation?

A. I don't know.

Q. You don't know, although you occupied such a high office?

A. I know that some Greek generals signed an armistice which was never recognized by the official Greek Government, and later on some of these quisling generals became ministers and prime ministers.

Q. One of the generals who signed became a minister later on in which government?

A. I can testify that the first quisling prime minister was a General (name unintelligible), and he had as ministers some other generals called Marko Demestias.

Q. How was it after the capitulation? Were not all Greek soldiers at that time at once released from captivity?

A. I repeat that the Greek Government never capitulated, but the Greek Army was dissolved.

Q. Another question. Where was the Greek Government at that time, within or outside the country?

A. At that time of the capitulation the Greek Government was in Athens in the hotel of the Grand Britannia.

Q. The Greek Government was inside the country at the time of the capitulation, is that right?

A. The Greek Government was in Athens at that time.

Q. Do you really want to testify to that under oath?

A. One Friday evening the two last Greek ministers left Athens, and two days later, that is to say, on Sunday, the German troops came into Athens.

Q. Witness, you are evading me a bit. I must say that. I asked you whether during the time of the capitulation, as you said before, whether during that time the Greek Government was in Athens.

A. Well, I do not recognize this capitulation and I don't know when that happened. The Greek government was inside Athens two days before the Germans came into Athens.

Q. Now, you say two days before the Germans entered Athens. A short time ago you said that the Greek government was in Athens during the time of the capitulation. There is a bit of difference. How was it now?

A. I was in Athens and I could not know what happened in the front, so I cannot tell you the exact day of the capitulation.

Q. Witness, first you tell me that the Greek government was in Athens during the time of the capitulation, and then you tell me that the Greek Government was in Athens two days before the capitulation, and now you are telling me that you don't know when the capitulation took place. I want a clear answer now to a clear question.

During the time of the capitulation, was the Greek government inside the country or outside the country, or don't you know?

A. I don't know the date of the capitulation. I told you that the two last members of the Greek government left Athens two days before the entrance of the German troops -not the capitulation, the entrance of the German troops in Athens.

Q. The result, then, is that you say that two days before the capitulation a few members of the Greek government were still in Athens. Is that correct?

Page 2,025

A. I repeat again that two days before the entry of the Germans, not the capitulation, as I said before; two days before the entrance of the Germans in Athens the members of the Greek government were there -- that is on Friday, and the Germans came in on Sunday.

Q. Where was the government later on?

A. (Switch not turned on)..... and later on, after Greece was taken by the Germans, it was transferred to a foreign country.

Q. And which country was that?

A. Egypt.

Q. Witness, after the capitulation were the Greek soldiers released at once from captivity by the German armed forces?

A. The Greek soldiers were returning to Athens.

Q. That is not an answer to my question. I asked you whether it is correct that the German armed forces released the Greek soldiers, all of them, immediately after the capitulation.

A. I don't know. The generals may know it better than me.

Q. Witness, you certainly have a number of acquaintances who had been soldiers. Is that correct?

A. Yes, I have.

Q. They soon came home?

A. Yes, they did come back.

Q. Among your acquaintances did you know any officers?

A. Yes, there were.

Q. Did they not tell you that they could still carry arms?

A. Yes, against the Italians, of course, we could.

Page 2,026

Q. Shortly after the occupation was there not an order by Marshal List published in which the following was said:

"You may" -- and this means the German troops -- "You may be very proud of this decisive success, since you gained it in a hard fight against English troops and against the Greeks who so bravely defended their country."

"You may be very proud, indeed, regarding this decisive success since you gained it in a hard fight against British troops and against the Greeks who bravely defended their country."

And there is a further sentence: "You will treat the Greek prisoners in such a manner and thus deal with them as they deserve it, as brave soldiers."

Don't you remember that shortly after the occupation an order of this kind was published?

A. This order was addressed to the German troops.

Q. But it was also made public. Don't you remember that?

A. I know that the Germans particularly recognized the heroism of the Greeks and they believed that this recognition would be more satisfactory towards the Greeks; but, unfortunately, the opposite thing happened towards these heroic warriors. When the Germans came in Athens they threw them away.

Q. Just a minute. I didn't ask you regarding this question. We will deal with this later on in detail. I am only asking you, do you remember that an order of this kind was published and was made public in Greece? That is the only thing I want to know at this moment.

A. I don't know about this order. The only thing I know is that the Germans recognized the heroic resistance of the Greek army.

Page 2,027

Q. Witness, yesterday you said something about the great difficulties regarding the food situation during the time of the occupation which cannot be denied in the whole extent. Now, you had at that time ration cards for food?

A. We had ration books for bread at the beginning and later on for other food also.

Q. At the beginning for bread. Now what were the quotas or quantities you got, monthly, weekly or daily, such as you had it? You said bread, first of all didn't you?

A. 75 grams daily.

Q. Do you really want to say that it was 75 grams daily?

A. Yes, nominally, because in reality nothing was given.

Q. Was there a lot of fruit and vegetables on the markets during the whole time of the occupation?

A. There were a lot but most of it was taken by the German Army and a small quantity was allowed for the Greek population. I told that yesterday.

Q. How do you know this, that a lot of stuff was removed from the markets for the German armed forces?

A. We could see it.

Q. Now, what did you see there?

A. We could see German trucks taking stuff out of every food shop in Athens, out of every fruit cellar; and the Germans had already requisitioned the greater part of the farms around Athens, and when you went to such a farm to buy something, vegetables or fruit, the plea was:

"This requisitioned by the Germans and you cannot buy anything from us."

Q. That may be true these farmers told you that but was it like this in reality?

A. Yes, it is true because of all these deaths out of starvation how can they be explained?

Q. You said just now that every one was dying of hunger. Is that also slightly exaggerated?

Q. Did you not say that everyone was dying of hunger?

A. Yes, I told you that they were dying of starvation.

Q. But, witness you said, "WE were dying of hunger." That doesn't seem to be quite correct. I would ask you, witness, to remember, even when you are asked by me, that you are under oath.

A. Well, you may be right because you are lucky enough not to be in Greece as a Greek slave.

Q. I am really upholding your evidence because you said: "WE were dying of starvation."

What fat rations did you get?

I was just being told that the last item has not been translated.

What fat rations did you get?

A. Nothing.

Q. Do you really want to say that, that you got no fat rations at all?

A. Absolutely nothing.

Q. And what did you get as far as meat was concerned?

A. Yes, with the rations, absolutely nothing. The few quantities of meat that were available on the black market were so expensive that only a few people could pay and buy them. Only once in three months the average people could have a meal of meat and that was coming from different animals who died from starvation.

Q. You said that you did not get any fat. Did you get oil?

A. With rations, no.

Q. And otherwise?

A. Well, on the black market one could find some oil but it was at such prices that you would have had to sell your house to obtain a tin of oil.

Q. Witness, during the time of the occupation -- that is, when it started -- were there any large Greek stores of food?

A. Yes, there were.

Q. Were these really large stores which existed at that time?

A. I can't tell you the exact quantities that there were at that time but I know that the food was enough or last for us for one year to one year and a half and that was foreseen by the Greek government which had issued an order for all the population not to buy more food and store it in their houses than they needed for a short period.

Page 2,030

Q. That is, you want to say that when the German occupation began the Greek administration had great, large stocks of food for 18 months?

A. Yes.

Q. Who told you that?

A. I know that from the public storehouses which were requisitioned by the Germans.

Q. Don't you know what I mean regarding the size of the stocks? Weren't you told that by any official departments?

A. No.

Q. Witness, in the proceedings before the International Tribunal the Greek government submitted a memorandum. Do you know this memorandum?

A. No, I don't know it.

Q. Then you don't know which attitude is contained in this official memorandum regarding the stock piling of Greece with food?

A. I don't know anything about it.

Q. Your statement that the stocks would have lasted for 18 months at the time of the beginning of the German occupation -- do you want to maintain this statement in the official statement said that the stocks had been nearly completely exhausted through the previous battles?

A. When I see such a notice of my government, well, I won't maintain my statement but as long as I don't see it I will maintain it.

Q. You want to say, in contrast to the attitude taken up by the Greek government which says the stocks were nearly exhausted -- you want to testify under oath here in Court and apparently from your own knowledge that the stocks of food in Greece would last for 18 months?

A. If those quantities of food stuffs were not enough for all of this period as for the Greek was concerned I know it would be enough for the town of Athens for that period.

Q. And who told you that?

A. I know it from my personal knowledge because I visited those warehouses which contained butter, oil, sugar and other food stuffs -- flour.

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PRESIDING JUDGE CARTER: We will take our morning recess now.

(A recess was taken)

Page 2,032

PRESIDING JUDGE CARTER: You may proceed, Dr. Laternser.

MR. DENNEY: If your Honors please, we have two new interpreters now, and at this time I have spoken to defense counsel about it and they are agreeable. Perhaps your Honor would like to administer the oath.

PRESIDING JUDGE CARTER: The interpreters will stand and be sworn.

INTERPRETER SIMHA: I do solemnly swear that I will perform my duties as interpreter to the Tribunal to the best of my ability and skill. (Oath also repeated by Interpreter Ame Anagnostopoulos.)

CROSS EXAMINATION - (Continued) WITNESS NICHOLAS JOHAN NERIS BY DR. LATERNSE:

Q Witness, shortly before the recess we spoke of the stock piles in Greece, concerning food. You said that according to your judgment there were available stocks for one and one-half years. Now I ask you: how did you find that out?

A I know that from the warehouses which used to be filled before the arrival of the Germans and which were emptied by the Germans upon their entry into Greece.

Q That is to say, that is your own judgment that there were stocks for one and one-half years.

AA As a witness, of course I am testifying from my own knowledge.

Q Did you find out about all stocks, in order to arrive at this judgment?

A That is my opinion, as I stated before.

Q How was Greece, - that is through what connection, - how was Greece fed in normal times?

A Until the arrival of the Germans, Greece was absolutely independent with a very few exceptions. They lived from their own land, with a few exceptions, a few things were imported from the outside. The reason was that the English had also brought a large amount of foodstuffs.

Page 2,033

Q In what kind of transportation or ships, - how was the food imported?

A The food was sent into Greece by all means of transportation, which the Germans later on took away, without worrying about the food situation of the country.

Q We will determine that yet.

Witness, - granting the difficult situation so far as food is concerned, - wasn't it contributed to by the fact that Greek and British troops, during the withdrawal, destroyed the railroads?

A The British did not destroy anything, and I shall repeat my testimony as given before; it was the fact that the Germans had stolen all of the food we had, that contributed to the situation of that country.

Q Witness, do you want to say, under oath, that the British troops during their withdrawal did not destroy anything in the matter of transportation facilities? Do you really want to testify to that?

A I couldn't actually say that, that they didn't destroy anything at all, but I shall again repeat my testimony, that everything, all we had in foodstuffs and everything else, was stolen by the Germans.

Q Witness, I want to get an answer to my question. You said first, that the British troops during their withdrawal did not destroy any transportation facilities. I ask you whether you want to testify to that, under oath.

A I told you before that I was stating everything under oath, and I shall stick to my testimony, but I would like to repeat, as I did so many times, the starvation which I described yesterday, and all of the other difficulties, which the Greek people were going through, was simply due to the fact that the Germans had stolen everything we had in Greece.

It is, of course, a known fact that if possible, sometimes trains were blown up, and the means of transportation were thus troubled, but that does not mean, necessarily, that the Germans were not responsible for that also.

Therefore, I stick to my testimony again, and say that they were the ones who had stolen everything we had.

Q We will discuss that matter yet.

CROSS EXAMINATION CONTINUED BY DR. LATERNSEER:

Q In order to refresh your recollection, don't you know that the British, during their withdrawal, destroyed the Bralo bridge near Thermophlae that thus, the only connection between Saloniki and Athens, was thereby interrupted?

A That fact was not known to me. All I know is that trains were still coming in from Saloniki, going to Athens for the Germans, not for the Greeks. I don't know if the trains stopped right near that point -- bridge which you call Bralo -- but in any case I do know that the trains were coming from Saloniki in to Athens.

Q Do you know that was true for the whole time?

A All I can tell you is that the -- if you want to call it tactical communication -- between Saloniki, Athens, and the Peloponnes did exist; so all I can tell you is what I saw. I saw trains loaded coming in full of food for the Germans.

Q You also want to say this for the time when the Bralo bridge was destroyed by the British troops and then later was destroyed a second time by the Partisans?

A I do remember the incident when the Greek forces blew up the bridge of Bralo, but even from that period of time I do remember that trains were coming into Athens. Possibly a stop-over was carried out there where they would carry the food across or where the train would change on some of these bridges. In any case the communication was still good because the food was coming into Athens.

Q Witness, you were very much concerned with the food situation in Athens?

A Yes, the government thought it important.

Q Witness, then you would also have to know that the German army ran food ships for the Greek population from Saloniki to Athens which were unfortunately torpedoed.

A I don't know that. That is absolutely new to me; but, in any case, all I know is that the population of Athens was dying of starvation, and I know that for certain.

Q Witness, don't you know either that the British troops caused Greek ships in the harbor Alexandria to be retained so that the foodstuffs brought for the Greeks could not get to Athens?

A I couldn't know that, for the very simple reason that the Germans wouldn't let me listen to foreign broadcasts or to radio stations.

Q I didn't get the answer. Did you stick to this order?

A Yes indeed.

Q Did you find that out later?

A I didn't.

Q Witness, do you know, and you would have to know, if you were concerned with the food situation -- do you know that those Greeks who worked for the Germans were completely fed by the Germans?

A That was the business of the German Army and not my business.

Q I ask you whether you know that the Greeks who were employed by the German troops and by German authorities were fed by the Germans?

A I told you what the relationship was with the Greeks, but of course, if the Greeks were working for the Germans possibly they were fed. But only a very few worked for the Germans.

Q Witness, do you know that it was forbidden to the German soldiers to eat in Greek restaurants to of regard for the Greek population?

AAAt that time the restaurants didn't have anything anyway.

Q Do you want to say that the restaurants never had anything to offer during all the time of the occupation?

A I wish to say that during the time of the occupation the restaurants didn't have anything at all, and I mean that until the period of time when the Red Cross started sending food into Greece. And if the restaurants had anything to eat, it came from the blackmarket and was only for blackmarketeers.

Page 2,037

Q You just mentioned the Red Cross deliveries. Do you know, Witness, that these Red Cross deliveries from Switzerland and Sweden were made possible only because German military authorities especially saw to it?

A I heard something entirely different. I heard that our allies wanted to send us foodstuffs but that the Germans wouldn't permit them to do so. They would make certain difficulties.

Q Witness, I will now show you some proof that it is just the contrary. I believe that I must now point out to you, and you must know it very well as a lawyer, that in these proceedings you have to testify without hate. Do you know that?

A I know that, and I can tell you that I do not have any hate against the Germans; I'm just sorry for them.

Q Witness, you just said that the food deliveries from foreign countries were brought in against the will of the Germans.

A I didn't exactly say that. I said that there were certain difficulties. Now, I don't know and I imagine there were certain objections on the part of the Germans, but there must have been some sort of negotiations which finally enabled the ships to come to the harbor and bring the foodstuffs. How else could they come if it hadn't been for the help of the Germans?

Q That is already something different from what you have said before, Witness. Witness, one question: Who was the Papal Nuntius at Athens at that time?

A I didn't know him.

Q You didn't know him?

A No, I tell you I didn't, but if you would give me his name maybe I would remember it.

Q He was the ambassador Roncati from the Roman Vatican to Greece.

A. No, I didn't know him, nor did I ever hear that name.

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CROSS EXAMINATION CONTINUED BY DR. LATERNSEER:

Q You just spoke of the Red Cross deliveries. When did they come through?

A I believe it was after the middle of 1942 and 1943.

Q From where did these deliveries come?

A They came from America, from Canada, from England, from Egypt, and also from the Middle East.

Q Were there any from Sweden?

A I believe so. I don't know for certain, but I believe so.

Q Do you know that just the German authorities were especially supporting these deliveries?

A I didn't know that, no.

Q Do you know that the German troops especially helped in bringing in the harvest for the Greek population?

A No, I knew the contrary.

Q What do you mean by the contrary? Was the help refused?

A I know of no such help.

Q Do you know, witness, that the Greek fisheries, with the help of the German troops, were made workable again?

A We Greeks didn't see any fish.

Q Are you married?

A Yes, indeed.

Q Do you have children?

A Yes.

Q How old are these children?

A I have a son 21.

Q Do you know that in Athens even though it was not German sovereign territory, children were fed by the army.

A I don't know of any such thing. All I know is that the children were receiving something from the Red Cross.

Page 2,039

Q Do you really want to say under oath that you, as a man who was always active in Athens, that you never heard of the fact that German troops continually fed children?

A I know of no such thing. But I do know that Greek children would go near German messes and try to get some food, whereupon the food would be refused them. And, as a matter of fact, the big containers with the food would be emptied on the ground and gasoline poured on to that remaining food so that nobody could eat it.

Q Do you really want to testify to that under oath?

A Yes, I'm stating that under oath and I saw it with my own eyes.

Q You saw that with your own eyes?

A Yes, with my two eyes.

Q When and where?

AAAt the station called Peloponessum -- Peloponnes in Athens.

Q Witness, don't you know anything about the fact other than the stocks captured by the German troops were made available to the Greek troops and to the Greek population?

A This is the first time I have heard about that.

Q You said yesterday that heavy penalties of imprisonment were ordered for a Greek having more food than was necessary for two or three days. How would you explain these threats of penalties?

A I don't understand the question.

Q How would you explain -- what reason would you assume for the fact that the German administration ordered imprisonment for Greeks who had food in possession for more than two or three days?

A I'm just giving my opinion on that. I imagine that they didn't want to have all the people going to the shops and buying all the foodstuffs that they could get a hold of. I believe that was the only reason. In order to stop that they threatened them with heavy penalties.

Q Then there was food to be brought, after all.

A There were very few things -- a very few things -- most of it in the blackmarket.

Page 2,040

Q Wasn't this threat of punishment made in order to secure a just distribution of the foodstuffs?

A The entire approach of the Germans toward the Greeks makes me believe exactly the contrary -- the entire attitude and the entire policy.

Q And why was it prohibited to the population to get food from the country?

A I couldn't understand that. All I knew was that the people was going to die of starvation and was being sentenced to death by starvation.

Q But you just said that they were sentenced to a death of starvation.

A Of course.

Q Do you know anything about the fact that the German authorities combatted the blackmarket very strongly?

A No, I didn't know that.

Q In order to put another question at this point, who was responsible for the supply of foodstuffs in Athens -- German authorities or Italian authorities?

A The occupational forces.

Q I just asked you which of the occupying powers -- the Germans or the Italians?

A I would like to repeat my statement which I made before, namely that whatever was going on in Greece was done by the Germans. The Italians did not have too much importance. They were even less important than we were.

Q We want to pass to another point. Which political movements existed, at the time of the occupation, against the German and Italian occupied powers?

Page 2,041

Q. We want to pass to another point. Which political movement existed at the time of the occupation against the German and Italian power?

A. During the entire period of the occupation, the entire Greek nation and every Greek, individually, was fighting for the liberation of his country.

Q. And which movements arose in that time?

A. You have the movement of active resistance which could be found in the mountains and the movement of passive resistance which would be found in the towns and villages.

Q. In which one were you active?

A. I was in the movement of Greece.

Q. You just said that there was an active and a passive movement. To which did you belong?

A. I was the Chief of Police and I believe, Mr. Counsel can understand very well in which of the two I was. I was in the both the active and the passive resistance.

Q. Now, witness, which movement existed. We want to stress the active one. You certainly will now that, as a police chief.

A. Certain military groups had developed which military groups were led by officers and which were under the direct orders of the Commander of the Middle East. There were the men in command were men like Zervas, like Psaros, and Sarafis and others.

Q. What other active movements were existing who resisted the German occupation?

A. Those are the only ones I know.

Q. Witness, haven't you ever heard anything? We heard very much of the EAM and the ELAS.

A. The EAM is a political group. The ELAS was a military unit which was being led by one of those officers.

Q. Did the EAM and the ELAS--did they fight the Zervas groups?

MR. DENNEY: If your Honor pleases, I don't see that his has any place in the cross examination all the inner ramifications there at that time.

Page 2,042

MR. LATERNSEER: May I say something to this? I would like to find out by asking these questions what the conditions at that time were in Greece, and it is absolutely necessary to find out what they were in order to be able to judge, in order to be able to understand the military measures which were taken by the occupying power. This is absolute, probative evidence matter. I ask that the question be admitted.

PRESIDING JUDGE CARTER: I think that Dr. Laternser is going quite far afield in the matter of cross-examination. If you are trying to prove something affirmative for your own case, I don't think this is the proper time to do it.

DR. LATERNSEER: Yes, your Honor, but this is it. The witness has testified to several measures by the military authorities. For example, he has spoken of shootings. The basis for these shootings are the conditions at that time and the conditions at that time under which the occupying power undertook these measures. Therefore, it was special importance.

PRESIDING JUDGE CARTER: We will let you proceed with that to a limited extent.

BY DR. LATERNSEER:

Q. I asked you whether these groups fought each other?

A. I don't know what the relationship was between those two groups but I do know that these were organizations of resistance or resistance movements against the Germans for the liberation of their country.

Q. What was the relationship between these two groups to each other? I mean the national resistance movement--Zervas and the other resistance movement, designated either ELAS or EAM.

MR. DENNEY: I thought the witness was testifying and said there were two kind of resistance groups those in the mountains and those in the cities and now Dr. Laternser is giving us some more advice on national groups and other kinds of the groups about which the witness has not testified. I object to the question.

Page 2,043

DR. LATERNSEER: I thought the question referred to what the witness has already said.

MR. DENNEY: He didn't characterize it that way. The witness said there were two kinds of groups. Now Dr. Laternser is trying to label the groups.

THE PRESIDING JUDGE CARTER: Will you restate the question, Dr. Laternser, in different form, please?

BY DR. LATERNSEER:

Q. Witness, you just spoke of various resistance movements.

A. I didn't speak of two resistance movements. I spoke of two groups who were fighting against the Germans under the direction of officers because the resistance movement was one single movement of Greece.

Q. Witness, which resistance movements during the occupation fought the Germans and organized against the Germans?

A. It was a resistance movement as I told you before.

Q. But this resistance movement was not uniform was it?

A. Why, of course.

Q. Do you really want to say, witness, that this movement under Zervas was united with the movement of ELAS and EAM?

A. What I want to say is that these groups were all fighting against the German invader under the direction of officers who had been sent there by the Commanders in the Middle East.

Q. Witness, I had ask you whether these two movements which you have mentioned fought each other or were they united?

MR. DENNEY: If your Honor please, I submit he is arguing with the witness. He has answered the question. He has told them what kind of resistance there was and Dr. Laternser keeps trying to label two groups.

DR. LATERNSEER: Your Honor, it is very important what condition existed during the German occupation. I must be entitled to ask such questions.

PRESIDING JUDGE CARTER: I think the objection should be sustained. Let me say, Dr. Laternser, that I think this cross-examination is getting very far afield from what he testified on direct examination.

Page 2,044

I wish you would consider during the noon recess this fact that if you want develop facts concerning the situation in Greece that was not brought out on direct examination, you should make him your own witness and interrogate him. I think the Tribunal would permit you to do that but to allow you to continue to the extent you have on cross examination violates all the rules that I know anything about.

DR. LATERNSEER: I shall give the Tribunal my opinion after the recess.

PRESIDING JUDGE CARTER: We will recess until one-thirty.

(A recess was taken until 1330 hours.)

Page 2,045

AFTERNOON SESSION

THE MARSHAL: The persons in the courtroom will be seated.

The Tribunal is again in session.

PRESIDING JUDGE CARTER: You may proceed, Dr. Laternser.

BY DR. LATERNSEER:

Q Witness, shortly before the recess we were talking about the various resistance movements. In what way did these resistance movements act against the German Occupation force?

A The resistance movements were fighting the occupational German forces by doing all the things which any resistance movement would do in order to stop the enemy from its occupation.

Q You said in order to keep them for occupying the country? Greek was occupied.

A They were fighting for the liberation of Greece.

Q In doing this did they commit cruelties against the German troops?

A Not that I know of. All I know is that they were fighting against the German troops.

Q You don't know anything about cruelties or atrocities?

MR. DENNEY: Your Honor, I submit he is going pretty far in cross-examination here and he has testified, the witness on his question, he says he doesn't know anything about it and I submit he is bound by his answer.

PRESIDING JUDGE CARTER: Objection sustained.

BY DR. LATERNER:

Q Yesterday you mentioned the execution Kalavrita. What had been done previously to that against the German troops?

A All I know is that a result of the guerilla operations. Three German columns started marching towards Kalavrita, they segregated men, women and children. All the men were executed while the women, and children were locked into a school house.

Q Witness, did not the partisans prior to that murder and main 78 German soldiers?

Page 2,046

A I personally don't know that, but there is another witness here who will testify about Kalavrita and he undoubtedly should know more about it.

Q You only know then that in Kalavrita Greeks were shot?

A Yes indeed, and I personally visited both Kalavrita and (Self) and the cemetery there and I saw first of all the ruins of Kalavrita and in the cemetery I saw the crosses for the people who had been killed.

Q On the occasion of your visit to Kalavrita, did you also talk to inhabitants or former inhabitants of Kalavrita?

A All those I used to know, because I had visited Kalavrita on forty occasions, had been killed.

Q And did you not later talk to an inhabitant of Kalavrita?

A I spoke with women from Kalavrita.

Q Surely, you asked these women who came from Kalavrita what the reason for these shootings was.

A That was not the only town where Greek men had been killed

Q But, witness, if you talked with inhabitants of Kalavrita, about the happenings which occurred there, you surely asked them why these things had happened?

A The reason for the execution of these Greek citizens, men namely, was stated to be by the women of Kalavrita that Kalavrita was sheltering Greek guerillas. That is, they had been accused by the Germans of sheltering Greek guerillas.

Q And nothing was said by those women about the fact that the troops had been shot at in Kalavrita so that 78 German soldiers had been killed.

MR. DENNEY: He asked him that before and he told him he didn't hear anything about it. Now I think he has exhausted the subject.

PRESIDING JUDGE CARTER: Objection sustained.

Page 2,047

DR. LATERNSE: Your Honor, may I say something quite briefly to what the prosecution has just objected to? I am of course justified in cross-examination to change the statement of a witness and I have been successful in some cases, and if he said previously that the reasons which he has just given that they could not find out about these reasons, that the women told him that shootings took place because the inhabitants had supported the bands and now I am trying to ascertain whether the women did not tell him the troop marching through the village had been shot at by inhabitants. That is an important circumstance. I therefore ask if this question is admitted?

PRESIDING JUDGE CARTER: All right, we will let you ask that question.

BY DR. LATERNSE: Witness, did these women of Kalavrita tell you that the troops marching through the villages were shot at the villages so that 78 German soldiers were killed?

A You are asking me about shots as fired from the inside of Kalavrita?

Q I ask you about the German soldiers shot, which had been murdered by the population of Kalavrita.

Page 2,048

A I don't know that; I have heard for the first time that German soldiers were fired at from Kalavrita, the reason being that if this had been the case the people that fired, at Kalavrita, on German soldiers, the German soldiers would have fired back, and there would have been no necessity to destroy the village.

Q You are a lawyer, aren't you?

A Yes.

Q And you know sufficiently about international law that if a troop is fired at from a village one may burn the village.

MR. DENNEY: If he is going to qualify the witness as an expert on international law I submit that he should take him over as his own and lay the proper foundation. I certainly object to this line of testimony.

PRESIDING JUDGE CARTER: Objection sustained.

BY DR. LATERNSE:

Q Witness, who, among the various resistance movements, fought most strongly against the German occupational force?

A I don't know.

Q Most attacks against the German occupational forces were they not caused by Communists in force?

MR. DENNEY: He is now going so far beyond the scope of direct examination that I submit that he should be limited. There has been absolutely no testimony at all about Communists.

DR. LATERNSEER: In every report that has been mentioned the Prosecution has assumed that the reason so many Communists have been shot is because of attacks against the German armed forces and for this reason I am justified in asking if he knew anything about that and knew anything about the Communists.

PRESIDING JUDGE CARTER: Sustained.

BY DR. LATERNSEER:

Q Witness, you said yesterday that the German troops had confiscated most of the hospitals and limited the Greek population to a very small part only?

Page 2,049

MR. DENNEY: Dr. Laternser continues to expand the scope of this witness' testimony through all of Greece. I think it was very clearly brought out on direct examination that the man was in Athens all of the time and was only testifying with reference to Athens and I respectfully request the court that they direct him to limit himself to that and not to try to enlarge this to the whole Greek picture.

PRESIDING: I think that is quite true. I also think this witness is capable of drawing those distinctions. He is evidently an intelligent individual and we will permit him to answer the question.

BY DR. LATERNSEER:

Q I repeat. Witness, when you said yesterday German troops had confiscated most of the hospitals and that the Greek population was limited to a small part, is that correct?

A Yes, that is correct.

Q Do you know the head of the Greek Ministry of Health, that is, Ministerial Director, Dr. Kopamarris?

A Kopamarris is the name. Yes, I know him very well.

Q Did you ever talk to him about what the German troops did in the field of sanitation and health for Athens and Greece?

A No, I didn't.

Q But you said just now that you knew him very well and it would be quite natural one would talk about these matters.

MR. DENNEY: Now Dr. Laternser says he knew him well and then he asked if he talked to the man on the subject and he said no. Objection.

PRESIDING JUDGE CARTER: Objection sustained.

BY DR. LATERNSEER:

Q Don't you know that the entire rural population suffered because the doctors had fled into the cities, and were kept without cost by the German doctors whom they consulted and they were operated on by them. Did you ever hear that?

Page 2,050

A I don't know that because I was living in Athens.

Q Now regarding Athens, don't you know that in Athens the civilian hospitals received their food and supplies from German stocks?

A No, I don't know that.

Q And you also don't know that the German Army gave medicines and bandages to the civilian hospitals?

A All I know is that the Red Cross was doing those things. Unfortunately I know of no case where Germans had done such a thing because if they had I would have been very happy to tell the defense counsel about it.

Q Don't you know regarding the efforts of the German authorities to criticize malaria among the large populations?

A That is a question which is unknown to me. I was in Athens all the time and I didn't learn anything about it.

Q Have you heard anything about extensive drainage of swamps?

A No, I didn't hear anything about it.

Q You said yesterday also that the German authorities had cut off electric current at Athens. Why did that happen?

A The only reason was that they wanted to save electricity and simply use it for the purposes of the German occupational forces. They didn't care about the Greek people.

Q Witness, how long was Athens without electric current?

A The electricity would be on sometimes and then again it would be shut off, particularly during winter we didn't have any light at all.

Q And what was it like after the withdrawal of the German troops? Did you have light right away then?

A Yes, we did until shortly before they left but when they left they blew up all the electrical plants so of course we didn't have any light at all.

Q And for how long were you without light?

A I couldn't tell you exactly how long but it was for a long period of time.

Q You further said yesterday regarding this blocking off of various districts in Athens.

Whom were the authorities looking for in these actions?

A They weren't looking for anybody in particular when they carried out that blocking off of the roads and streets because if they were looking for somebody in particular they would either go and find him in his home or they would look for him where ever they thought he might be hiding; where they carried out this blocking off of the roads they would capture mostly civilians.

Q And in this connection you talked of a mysterious man wearing a black mask. Who was this man? What kind of man?

Page Unlabeled

A I personally believe that the man wearing that black mask was a German soldier who pointed out civilians at random, you know, to find an excuse.

Q Why should he wear a black mask; I am telling you that it was probably a Greek.

A I am certain that it was not a Greek. Why should he be a Greek?

Q You are quite sure that he wasn't a Greek. Were you at the time Deputy President of Police in Athens?

A Yes, of course. I was staying in Athens.

Q Were you at that time Deputy Chief of Police?

A No, at the time I was the Chief of the Air Raid Precaution Service.

Q You then talked about concentration camps yesterday.

A Yes.

Q What do you understand by concentration camp?

A By that I mean a large space which contains large buildings and which has barbed wire fence around it. The people would be taken into that barbed wire enclosure and kept there for as long a period of time as the Germans desired.

Q In what kind of building was this so-called concentration camp?

A It was in Chaldari.

Q You said yesterday that it was a barracks?

A Yes, that is correct; they were barracks and I am saying the same thing today.

Q Which units were stationed in these barracks before the outbreak of war?

A It was a new barracks that had not been used as barracks as yet until six months before the beginning of the war, at which time Greek soldiers were billeted there, the Greek soldiers that were fighting Albania. 2052

Q Did you inspect those barracks closely at that time?

A No, I did not inspect the barracks. I had no reason whatsoever to do so. I had no right to do so.

Q Did you in the mean time have a good look at the court house here in Nurnberg?

A No, I didn't. I could have done it but I didn't.

Q You still want to say that the barracks there, in Athens, are the same size as this building here?

A All I can say is, and I shall remain with my testimony, that the barracks, as I know the barracks, were almost as long according to their size and they could be compared to this court house building. In any case I didn't know Nurnberg before and those buildings could accommodate a whole brigade as barracks.

Q Witness, during the whole time of the occupation by the Germans you occupied office?

A Yes, I held those offices before the invasion and I remained at my post of course.

Q You must have collaborated quite well with the German Ministry Department?

MR. DENNEY: I submit that I object to Dr. Laternser suggesting to the witness that he collaborated with anybody. He certainly knows better than that.

PRESIDING JUDGE CARTER Sustained.

A I collaborated with those German officers so well to a certain extent that I don't know one single defendant and I would like to know if anyone of them knows me.

DR. LATERNSE: I have not further questions.

PRESIDING JUDGE CARTER: Any further questions by defense counsel.

BY DR. HINDEMITH (As deputy of Dr. Rauschenbach, attorney for the defendant Foertsch):

CROSS EXAMINATION

Q You said the German troops shortly after the entry confiscated all stocks and robbed warehouses. Is that correct?

A Yes, that is correct.

Q Would you explain that in detail? And how far the German Ministry Departments carried out this robbery as you call it?

MR. DENNEY: I certainly think this witness has covered that in his testimony all morning, and unless Dr. Hindemith has something new that he wants to bring out I object to his question on this line. I suggest he pass to something else.

PRESIDING JUDGE CARTER: We permitted Dr. Laternser to go into detail on all these matters and unless there is something new there is no occasion for going into it again. We don't want to repeat this over and over. The objection is sustained.

BY DR. HINDEMITH:

Q Another question. You said that the situation as regards food for the Greek population was more and more difficult immediately after the entry of the German troops by reason of the confiscations. In the summer months it had been tolerable; from September 1941 onwards the situation had become tragic, and the situation had become especially difficult by the fact that an order had been issued according to which every kind of imports into Athens were forbidden. When was this order issued?

A The order was issued immediately after the Germans had entered Athens. The same applied to the order according to which not more food should be kept at home than was absolutely necessary.

DR. HINDEMITH: I have no further questions.

Page 2,055

THE PRESIDENT: Any further questions by defense counsel?

DR. MUELLER-TORGOW for General Felmy:

Q Witness, may I recall to you that the subject matter about which you were to testify and for which you have been called here is the activities of the German Occupation Forces in Greece, not in Athens from 1941 to 1945.

A I offered to testify about anything I know. I shall also testify, if you want me to, about things I heard and which things I ascertained personally about.

Q Witness, is it known to you that in Athens after the withdrawal the German troops, an American Embassy was opened?

A You mean after the liberation?

Q After the withdrawal of the German troops?

AAfter the liberation all legations were reinstated. We had the American legation, the British Legation, the French Legation and others.

Q From your official position which you occupied did you have any official connections with the American Legation?

A None whatsoever.

Q Is Mr. William Hardy McNeil known to you?

A You are talking about this Englishman? Yes, I heard his name but I don't know him personally.

Q Mr. Hardy McNeil is not an Englishman but he is an American. From November 1944 until June 1946 he was the deputy Military attache of the United States in Athens. Do you know this gentlemen?

A No, I don't know him because I had no dealings whatsoever with the American Legation, nor with any of the other Legations.

Q This Mr. McNeil has recently published a book with the title "The Greek Dilemma". May I ask the interpreter to read part of the book?

MR. DENNY: May your Honors please, I don't what we have to do with a book written by McNeil with the title of "The Greek Dilemma". He has asked the witness if he knows him, the witness says he doesn't knew him.

Page 2,056

I object to this kind of questioning.

THE PRESIDENT: That's improper cross examination. Objection sustained.

Q The fact that the witness does not know this Mr. McNeil cannot be reason for not allowing me to submit part of this book to him on which I ask his opinion. In this circumstance the whether he knows him or not is quite irrelevant.

THE PRESIDENT: I don't think his opinion is relevant on this subject. Objection sustained.

Q Witness, you said yesterday the members of the Greek Police were shortly deprived of their arms shortly after the entry of the Germans.

A I didn't speak about weapons at all yesterday. When I was asked, however, if the policemen had any weapons, I answered "At the beginning of the occupation they did not, but later on they did have weapons, at the end of the occupation."

Q Did you not say yesterday that the weapons had been taken from them and they only had wooden sticks and at the time of the occupation were issued some weapons.

A No, I didn't say that. I was asked if the police had any weapons whereupon I said at the beginning of the occupation they did not have, and towards the end they did.

Q The end? Then may I draw your attention to Document Book 17, document [NOKW -044](#), Exhibit 418. It says on page 62 of the German Document Book in a teletype message of a daily report of Military commanders of the 19 September 1943, under Greece it says:

"Greek police Pyraeus was armed with pistols in order to be able to combat Communistic terror groups." Do you maintain your statement, witness?

AAbsolutely. I said it quite clearly - that toward the end of occupation they received a few weapons.

Page 2,057

Q Witness, the date this was issued is 19 September 1943. As far as I know the end of the occupation took place about 2 years later, 1 year later.

A The occupation lasted for 3½ years.

Q You call that the end of the time of occupation?

Witness, I have some further questions regarding what you told us about the food situation. First of all, you frequently talked about the black market in Athens. Was this extensive, this black market?

A Yes.

Q As Deputy Chief of Police of Athens what did you do against the black market in order to provide Greek population with food stuffs?

A Whatever measure a slave himself can take, a slave who is hungry. In order to fight the black market activities, I had to have something to eat myself, and I didn't.

Q Would you not rather have resigned from your office as Deputy Chief of Police, witness? Or was that what you previously termed passive resistance?

A. No, but in any case an order had been issued according to which we had no right to resign from our positions in the Police.

Q Who issued this order?

A That was an order issued by the Government of Tsolakoglou. I will spell the name. T S O L G L O U.

Q That was the official Greek government at that time?

A For me that was not the official Greek government. The official Greek government as far as I was concerned was that of the king, the king himself.

Q But you said just now that you had received orders from this government and that you had to carry these orders out and for this reason you had to remain at your Post?

A Yes, that's correct.

Page 2,058

Q Witness, from this same Government did you also receive this order? Not to supply the civilian population of Athens with food?

A What was I supposed to do about this food? Where was I to find the food? We didn't have any food. The Army of Occupation should have been the one to see to it that the Greek population should have food. If it pleases the Court, the International Law.

Q Witness, I didn't ask you for that. Something else. You said yesterday that the German so-called hostage cars were placed in front of trains, open cars with wires.

A Would you be more precise about the question please?

Page 2,059

Q Witness, you said yesterday that the Germans put in front of railroad trains between Saloniki and Athens, that they put in front of these trains two hostage cars, after that came the engine, then the German cars, and then the remaining cars. Is that right?

A Yes, that's correct with one little mistake which I would like to correct. I didn't say two cars, but I said one or two.

Q Did you at that time and today do you now consider this measure to be right?

A No, I didn't consider it correct. I consider it inhumane.

Q Why did you think it was inhumane?

MR. DENNEY: May your Honor please, I don't think we have to probe the witness' mind about what he thinks about this, whether he was there and what he thinks about it.

THE PRESIDENT: Objection sustained. It is not cross examination.

Q Witness, don't you think perhaps also that with these hostage care, it was, in any case, prevented that these trains were attacked and I assume that, and I expect you will agree with me, that in the Greek population generally the existence of these hostage cars was known?

A I believe that an Army should fight an Army and not the innocent.

Q May I now ask the Interpreter to read something here? This is a New York Herald Tribune, Paris Edition, for August 13, 1947.

MR. DENNEY: I certainly don't think we are concerned with what the New York Herald Tribune, Paris Edition, for August 13, 1947, has to say about anything.

Q It belongs to the context.

THE PRESIDENT: Objection sustained. Improper cross examination.

Q Witness, you said yesterday that the German, after their entry into Athens, released the Greek soldiers wounded on the Albanian.

Page 2,060

front. That is, threw them into the streets?

A Yes, that is correct.

Q That was in the year of 1941?

A Yes.

Q Is it now known to you, witness, that sufficient hospitals for the Greek wounded remained completely untouched?

A I know personally that wounded soldiers with missing arms and legs and thighs found themselves on the sidewalks of the Kifisia Avenue, spelled K-i-f-i-s-i-a.

Q Witness, you didn't answer my question. I will put it more concretely. Into the hospitals into Vofuliagminis/Evangelismnos and of these university hospitals in the center of Athens - do they mean anything to you?

A I don't know anything about Vofuliagminis. I don't even know it. I do know about Evangelismnos, and I know as I stated yesterday that they were left to Greece, a section of it.

Vofuliagminis is spelled V-o-f-u-l-i-a-g-m-i-n-i-s and Evangelismnos is spelled E-v-a-n-g-e-l-i-s-m-n-o-s.

Q You didn't know anything about Vofuliagminis.

A No, I didn't. I don't even believe such a hospital exists.

Q And do you think it possible, witness, that as you are talking about the fact that wounded soldiers had been lying on the streets or been sitting in the streets, Greek wounded, that this was merely a case of transfer from one military hospital to another hospital for organizational reasons?

A No, and I will tell you why because this is not the whole idea and if you want me to I will repeat it to you, Mr. Defense Counsel.

Q I am just being informed that Vofuliagminis is a suburb of Athens on the coast of Glifada.

Page 2,061

Witness, you said yesterday that a German soldier spit into the face of the Greek wounded soldiers lying in the street. Did you see that yourself?

MR. DENNEY: Your Honors, he did not testify to any such thing yesterday. He testified that a Greek soldier spit into his face and I certainly object to Dr. Mueller-Torgow insinuating that the witness said that.

PRESIDING JUDGE CARTER: I think the defense counsel misunderstood it, as I recall. Defense counsel, you might ask him what was said.

Q What did you say yesterday, witness? May I ask you to repeat it?

A That is not what I said. I said that a Greek soldier spat into my face, because the Germans had ordered the evacuation of that hospital. The civilian manager in charge of the hospital simply didn't know where to put those wounded soldiers. That was the reason he called up the office, my office, namely, in order to receive help from us. When I went to the hospital myself I saw how these wounded Greek soldiers were sitting on the laps of the male or female nurses of the hospital.

When I can closer to one of the wounded, in order to calm him down -- of course, I was wearing my uniform at the time -- he spit in my face while saying that the Greek did not, or was not in a position and did not support all those heroes who had fought at the Albanian front and lost their limbs.

After this I met the manager of the hospital, and immediately I hurried to find some space where to put those poor souls. I finally found the school of Marazlion.

Q Witness, that is sufficient.

A I carried these people or had them carried by hand with the help of wheelbarrows.

Q Witness, is it known to you that the German Military Commander in 1941, procured remedies for the benefit of the Greek wounded soldiers, in order to meet an emergency-

Page 2,062

MR. DENNEY: Which military commander? There were a lot of them, your Honors -- which of the German Military Commanders?

DR. MUELLER-TORGOW: The military commander of Southeastern Greece.

PRESIDING JUDGE CARTER: Let him answer if he knows.

A I don't know that.

Q Witness, Is it known to you that in October 1941 in Athens a collection for German Greek victims who came under the protectorate of the Archbishop Damaskinos of Athens and Greece took place and that the result was given to the Greek Red Cross for the benefit of the Greek soldiers wounded during this war.

A No, I didn't know anything about it.

Q Witness, I am now returning to the question of the electric supply of Athens. How was Athens supplied with electricity?

A What period of time are you talking about, Mr. Defense Counsel?

Q I am talking about the time from 1941 onwards when the Germans had occupied Greece.

A I don't know.

Q Did the electricity supply of Athens -- was it based on coal or water power?

A You mean -- about the electrical plant of Piraeus?

Q Yes, the electricity plant in the Piraeus.

A In any case, it wasn't water.

Q Then I expect it must have been coal.

MR. DENNEY: I object to what Dr. Mueller-Torgow thinks it is and I don't think the witness had been qualified as an engineer. He has gone over the railway problem with him and now we are trying to go over electric power sources. I think there are other ways of testing it.

DR. MUELLER-TORGOW: Your Honors, this question is immediately connected with what the witness said yesterday about the electricity supply in Athens and especially regarding the treatment of the Greek population.

Page 2,063

I just want to get to the bottom of things.

PRESIDING JUDGE CARTER: You may answer the question. He may answer the question.

A I know that the electric plant of the Pyraeus did not work with water. It is possible that either coal or oil was used. In case, I am not an engineer nor am I a mechanic.

Q Witness, please describe to me the general situation in Athens in the summer of 1944, covering the month of July, August and September, from the Police point of view; that is, regarding law and order and security.

A That was a period of time during which the Germans were not in a position to keep order in Athens. Prior to that they permitted that certain discrepancies and troubles amongst the people be eliminated.

Q Would you kindly repeat that? I haven't understood it.

A Because after the Germans had been chased out of Greece every one of those groups wanted to get the honor of having thrown the Germans out.

Q Pardon me, if I interrupt you. I did not ask regarding that period of time. I asked concerning the summer months of 1944 when the Germans were still there. Was it quiet in Athens then or not and, if not, why not?

A I already answered about that. I have told you that immediately after the Germans left; the Germans, of course, were no longer interested in keeping order in Greece there and, as the departure was imminent, of course, they were glad to have trouble which trouble they permitted to happen with pleasure because that would help their withdrawal without too many losses.

Q First of all, you tell me there was unrest there. I didn't know that until now. Now tell me please what Athens looked like at that time.

Page 2,064

What those unrests there and who was responsible for this unrest?

A The conditions during all those months were not anything in particular. I mean the situation was not normal in any case.

Q What do you mean by "not normal"? May I ask you to be a little bit more concrete?

A Due to the carelessness on the part of the German occupational forces, the passive resistance movements turned into active resistance and, as I stated before, they wanted to possibly throw the Germans out and received all the honor for doing that work, that job.

PRESIDING JUDGE CARTER: We will take our afternoon recess at this time.

(A recess was taken)

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PRESIDING JUDGE CARTER: You may proceed.

DR. MUELLER-TORGOW: Witness, as you told us yesterday, you were for some time director of the Civilian Air Defense for Athens?

A Yes, that is correct.

Q Would you please tell me once again when that was exactly.

PRESIDING JUDGE CARTER: I think this witness has told us that at least three or four times.

BY DR. MUELLER-TORGOW:

Q Is Athens- was Athens ever bombed?

A The main name of the bombardment was the Pyraeus, but a few bombs did fall on Athens. Exactly what period of time are you talking about, Mr. Defense Counsel?

In general, in the latter part of '44. Athens was bombed toward the end of the occupation, and it was in the Platea, which is the square of Atikis.

Q Was it ever bombed after the German occupation?

A No. After the occupation by the German forces, it was not bombed after that.

MR. DENNEY: If your Honors please, I object to this line of questioning about the bombing of Athens after the German forces departed I cannot see it is relevant.

PRESIDING JUDGE CARTER: I think the objection comes a little late. I think we are getting out of the scopes of this witness' examination.

BY DR. MUELLER-TORGOW:

Q Witness, how was Athens supplied with water?

MR. DENNEY: Your Honors, I do not think we have to go into the Athens water supply either. I object to that. It is irrelevant.

Page 2,066

PRESIDING JUDGE CARTER: Objection sustained.

DR. MUELLER-TORGOW: Your Honor, this question belongs to the complexity of the relationship of the German Military authority to the Greek civilian population, which as been frequently the subject of the witness' testimony. The witness has testified several times that the military authorities did not take care of the civilian population of Athens.

PRESIDING JUSTICE CARTER: He was not asked in direct about the water system. If you want to show it in defense you can do that, but it is improper to ask this witness about it.

DR. MUELLER-TORGOW: Then I have no further questions.

PRESIDING JUSTICE CARTER: Are there any further questions by the defense?

... All counsel indicated they had no further questions ...

PRESIDING JUSTICE CARTER: Are there any redirect questions?

REDIRECT EXAMINATION BY MR. DENNEY:

Q When did the Germans come to Athens?

A On the 27th of April 1941.

Q And when did they leave?

A On the 12th of October 1944.

Q During that entire time were there German troops in Athens? That is, between April, 1941 and 12th of October, 1944?

A Yes, there were.

Q Can you give the Tribunal -- withdrawn.

How many German troops, if you know, approximately were there during that period?

Page 2,067

A It was absolutely impossible for me to know that, because a very strict secrecy was kept on that number.

Q Did you see Italian troops in Athens during that period?

A Yes, there were Italian troops in Athens during the occupation.

Q Can you tell the Tribunal which troops were there in greater numbers, - the Italians or the Germans.

DR. LATERNSEER: As the witness has just said that he does not know how many German troops there were, he also would not know whether there were more Germans or more Italians there. I object to the question.

MR. DENNEY: I have not asked him. He has said he did not know how many Germans, but he can certainly give whether, so far as he saw, there were more Germans, more Italians, or the same number. It is exactly the same question Dr. Laternser asked.

PRESIDING JUDGE CARTER: We will permit him to answer the question.

A The number of the Italian soldiers there is absolutely unimportant. The important thing is that Greece was mostly occupied by the Germans, and ruled by Germans. As a matter of fact, three times as many Italians as a small German unit didn't mean very much in Greece. The Germans were even stronger and worse.

Q Dr. Laternser has asked you, at least the English translation came over that way, - whether or not you ever collaborated with the Germans, and in order that there may be no doubt in the record, the term "collaboration" as I understand it means one who works hand-in-glove, or works right along with someone.

Did you ever collaborate with the Germans?

PRESIDENT WENNERSTURM: May I interrupt just a minute. The Tribunal will be in recess at this time until reconvened, because of the fact that the recording is not functioning, and it will be necessary to repair it before we can proceed. With the consent of Judge Carter, who is presiding, the Tribunal will be in recess until reconvened.

... The Court recessed until 1540 hours ...

Page Unlabeled

MR. DENNEY: If it please your Honors, I withdraw the last question. Dr. Laternser has spoken with me during the recess and has said that the term that he used, which was translated to the English as "collaborator" merely was one which was meant to indicate that he kept on working and that he did not imply any collaboration in the question.

PRESIDING JUSTICE CARTER: Very well.

MR. DENNEY: I have no further questions, your Honor.

PRESIDING JUSTICE CARTER: Are there any further questions by the defense?

... Defense counsel indicated they had no further questions ...

MR. DENNEY: We request that the witness be excused, if your Honors please. I am sorry, I thought the Tribunal had no questions.

PRESIDING JUSTICE CARTER: The witness will be excused, subject however, to the possibility that he might be recalled. He will be excused for the time being.

... Witness excused ...

MR. FENSTERMACHER: If your Honors please, I ask that the Marshal be directed to call the witness Costas Triandaphylidis.

PRESIDING JUSTICE CARTER: The Marshal will produce the witness.

MR. FENSTERMACHER: If your Honors please, this witness will testify to the regular military organization of one of the two major partisan organizations in Greece. I think it might be helpful if your Honors had this map of Greece before you, since there are many place names on it, and the witness will have occasion to refer to it.

PRESIDING JUSTICE CARTER: The witness will stand and be sworn. The interpreter will stand and interpret for him, please. -2069

Page 2,070

COSTAS TRIANDAPHYLIDIS, a witness, took the stand and testified as follows:

BY THE PRESIDENT: Repeat after me: I swear to speak the truth and only the truth, in reply to whatever I am asked without fear and without prejudice.

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DIRECT EXAMINATION BY MR. FENSTERMACHER:

Q. What is your name?

A. Constantinos Triandifilidis.

Q. How old are you?

A. I am 40.

Q. And where were you born?

A. In Constantinople.

Q. Are you married?

A. Yes, I am.

Q. Have you any children?

A. No, no children.

Q. What is your educational background?

A. I finished the French College and I stayed in the University of Athens for a period of three years.

Q. Have you travelled very much?

A. Not very much but officially anyway.

Q. What is your present profession?

A. I'm a newspaper man.

Q. For what newspaper?

A. I am the manager of Ethnikifloge, and I am also cooperating with other newspapers, namely, the Ellinikonema and Estia.

Q. Where is that newspaper published?

A. In Athens.

Q. What's its circulation today?

A. Approximately 20,000 for the Ethnikifloge.

Q. Do you live in Athens?

A. Yes.

Q. What was your occupation prior to the war between Greece and Italy?

A. I was a newspaperman at the time also. I was a newspaperman since 1933.

Page 2,072

Q. Did you cover the Greek-Italian war in the course of your business as a newspaperman?

A. I was working on the Albanian Front from the very first day of the battle against the Italians until the 20th of April 1941.

Q. And what did you do on the 20th of April 1941?

A. I returned to Athens when it was quite apparent that the Greek armies would capitulate.

Q. Did you continue to work on your newspaper after the German occupation of Athens?

A. From the second day of the German occupation on, namely the 28th of April 1941, the Germans closed the newspaper where I used to work. Then that newspaper was Asyrmatos. And from that day on I didn't work with any other legal paper which was circulating regularly.

Q. Did you have any other job during the German occupation?

A. No, I didn't.

Q. And how were you able to live? What money did you get?

A. As the staff of newspapermen was out of a job from that time on, the building where those newspapers were published, the organization of the Greek journalists sold the building and it was from that money that we received certain allowances.

Q. Witness, will you tell the Tribunal very briefly what you did during the period April 1941 until May 1943?

A. It was the summer of 1941 that I was informed that a former Greek officer, Colonel Zervas, intended to organize a certain Greek organization which would fight the German invaders by sabotaging.

Q. Did you talk to Colonel Zervas? Did you talk to Colonel Zervas who was forming a different organization to fight the Germans?

A. I tried to speak to him, but it was rather difficult because he had been arrested by both the Germans and the Italians on several occasions. That is, they had nothing definite that they could prove. He was again released. It was towards August 1941 that I finally succeeded in seeing him.

Page 2,073

Q. And did you, talk over the plans of Zervas' organization with him at that time?

A. They did have the intention of--- I finally succeeded in talking to him and he told me that the staff needed a staff of correspondents who could possibly convey messages and information to secret papers

and other publications. That is, to publish that information. And what I was mainly interested in was to know whether they would form an organization which would fight against the invaders. I wanted to know if the organizations which were to be set up were going to be military and not fighting organizations.

Q. Did you join Colonel Zervas' organization at that time?

A. Colonel Zervas assured me that he intended to set up such military guerilla units and that he would proceed to establish them, and I joined him and his organization.

Q. What did you do for the organization during the period April 1941 until May 1943?

A. I saw to the printing and circulation of leaflets – flypapers and later on I also helped with publishing a secret paper.

Q. Was there great personal risk involved to you in doing that for the organization?

A. There was an order which had been issued by the German authorities according to which the circulation and printing of such leaflets would result in death. The Italians had issued a similar order.

Q. What did you do, witness, during the period May 1943 until March 1944?

A. That is, of course, I agreed to do the printing of those newspapers. I had to go up to the mountains to go with the other units. As a result of this I met several military commanders, and finally Zervas himself.

Q. Were you up in the mountains the whole time during this period May 1943 until March 1944?

A. No, I wasn't. I only stayed there for a short while, and then I would return to Athens in order to continue the publication of those leaflets.

Page 2,074

Q. From what sources did you get the information which you used in your leaflets?

Page 2,075

A I gathered my information from the general information which we were receiving in Athens. As far as the information was concerned with reference to the fighting which was going on in the mountains, I received that either from detachments which would come down towards Athens, or either on the spot examination from troops commanded in Athens, and those detachments which were receiving the information from messengers who were coming down from the mountains.

Q While you were in the mountains during this period May 1943 until March 1944, did you see any battles yourself between the Germans and the Zervas' units?

A Personally I only heard about it in October 1943. I was present also in the fighting during the first phase of the struggle which took place near Tsoumerka. And that was during the first phase of the struggle between the Germans and our guerrilla, forces, and the Zervas forces.

Q. Did you talk to Zervas?

A Yes, I did.

Q Did you see the report which came in to him from his units in the field?

A Yes. It was natural because I had to see that in order to go down to Athens and print it.

Q Did you talk to members of Zervas' organization?

A Yes, I did. I spoke to many of them.

Q Did you circulate among the villages and talk to the population in the areas, in the areas in which the Zervas units were operating?

A Yes, I did repeatedly and in many villages during the period May 1943 until March 1944.

Q Were the Zervas forces subordinated to any higher headquarters?

A Yes, they were under or subordinated to the Chief Command of the Middle East.

Page 2,076

Q Did you see the reports which Zervas sent to these Middle East headquarters?

A Yes, repeatedly. Those messages were being sent by radio, by wireless, and I also watched the transmission of such a message.

Q Where were you, Witness, during the period March 1944 until October 1944?

A I was together with the forces of Colonel Zervas in the mountains.

Q During that whole period?

A No, only with the exception of one week during which time I had to return to Athens, but I returned to the mountains immediately after that.

Q Where were you during the period October 1944 until February 1945?

A I was following the operation of Colonel Zervas' troops as the chief of the printing department of his forces.

Q And where were you from the period February 1945 until the present time?

A I was in Athens, where I was carrying on my profession.

Q Is it correct, Witness, to say then that during the period April 1941 until May 1943 you were largely in Athens publishing underground leaflets and pamphlets?

A Yes, that's correct.

Q And that during the period May 1943 until March 1944 you were up in the mountains, and back in Athens at various periods?

A Yes, that's correct.

Q And from March 1944 until February 1945 you were in the mountains with Colonel Zervas' units publishing propaganda on behalf of his organization?

A Yes, that's correct.

Q And from February 1945 until the present time you have been publishing a newspaper in Athens?

A Yes, that's correct.

Page 2,077

Q What was the name of Zervas's organization?

A The name of that organization - the political name was National Democratic Hero Organization, or EDES.

Q How long have you been associated with that EDES Organization?

A I was there since the establishment of the organization until the end of the conflict, from the day when I visited the Colonel until the end of the conflict.

Q That is to say, from the summer of 1941 until the Germans withdrew from Greece in October 1944?

A Yes, that's correct.

Q Were you a friend of the head of the organization, Colonel Zervas, himself?

A Yes, undoubtedly. I'm one of his closest collaborators.

Q Now, Witness, I want to ask you some questions about this EDES organization, of which you were a member from the summer of 1941 until the German withdrawal in October 1944. When would you say this organization first began?

A In the summer of 1941 the first preparations were made for the establishment of the organization and on the 9th of September the official establishment took place.

Q Where was Colonel Zervas at that time, on the 9th of September 1941?

A In Athens.

Q Did the occupying forces know that he was forming a resistance movement?

A They knew that he was one of the strongest and most active Greek elements; however, they did not know exactly what they were going to do.

Q Was he ever arrested by the occupying police authorities?

A In the month of July 1942 he was arrested four or five times.

Q Was he released on each occasion?

A Yes, he was released on every occasion, but after he was arrested four or five times he was compelled to go and report to the occupying authorities every day.

Page 2,078

Q Did Colonel Zervas ever leave Athens?

A You mean during this period of time of the summer 1941 and July 1942?

Q Yes.

A No, during that period of time he didn't.

Q When did he leave Athens?

A He left Athens on the 23rd of July secretly while being chased by both the Germans and the Italians.

Q On the 23rd of July of what year?

A 1942.

Q And where did he go on the 23rd of July 1942 when he left Athens?

Page 2,079

A He went to the region of Valto southeast of Epirus, at least at the northern borders of Epirus.

Q Where is the Epirus section of Greece?

A Epirus comprises the entire northwestern section of Greece.

Q Why did Colonel Zervas choose Epirus as the German territory to which he would go when he left Athens?

A The main occupying force at the time were the Italians and their line of communication to Italy ran along through the Epirus, then through Albania, then to Pavlon which was the port there and across to Bari.

Q What did Colonel Zervas intend to do in that territory?

A Col. Zervas wanted to organize a force which would be in a position during the critical period of the campaign, which he expected would come soon, to interrupt that line of communication.

Q Witness, have you ever seen all the records and reports and orders which were issued by the EDES organization?

A The records and whatever else might be of interest are in my hands. They were given me by the Colonel, Colonel Zervas, in March 1944 to enable me to write the story of the organization.

Q Are you writing this story of the organization now?

A Yes, the first part was already published in the paper which I am printing and it will also be printed in a book.

Q What period of time would you say constituted the first period of the EDES organization?

A You mean of the organization EDES as a military organization?

Q Yes.

A It comprised the period of time between the end of July 1942 and the 10th of November 1942.

Q You say it occupied the period beginning with July 1942 because that is the day when Zervas left Athens for the mountains?

A Yes, that is correct.

Q During that first period, July 1942 until November 1942, how many men were there in the EDES organization?

A You mean of the guerilla forces?

Q Yes.

A As of the 23rd of October, 1942, which was where the first fight took place between the Greeks and the Italians, that unit included together with Col. Zervas 98 persons.

Q And what was the military strength of the organization during that first period July 1942 to November 1942?

A The military structure consisted of the following. First of all there was one commander who was Zervas himself. Then there were several smaller units which were led either by officers who had come and joined the group up in the mountains or then farmers who had shown their ability to lead men in battle.

Q Did the officers wear a uniform.

A Yes, they had brought along with them secretly the uniforms which they still had from the war against the Italians.

Q You mean the regular Greek army uniform that they used in the war against the Italians?

A Yes, that is correct, the normal Greek officer's uniforms.

Q What did the men who were not officers wear?

A Some of them were wearing civilian clothes. Others again were wearing policemen's uniforms or they were policemen who had joined us, and others again were wearing the normal Greek soldier uniform which they had kept from the end of the war against the Italians.

Q Was there any particular insignia worn by those men?

A Yes, the officers were wearing the regular Greek insignia. The policemen were wearing their uniforms and the civilians weren't wearing anything at all of course, just their civilian clothes.

Q You are now talking about the first period July 1942 until November 1942?

A Yes.

Q Did Zervas ever change his rank from a colonel to another rank?

A We used to call him the commander of an army of a military group, a general anyway, but in 1944 the Greek government, in cooperation with the Middle East forces, finally promoted him to Brigadier General.

Q Did the occupying forces do anything when Zervas left Athens in July 1942?

A All the units were organized and all the police units were alarmed in order to catch him and roads were blocked off but they didn't succeed in catching him.

Q Did they offer a reward for information concerning his whereabouts?

A It was the end of November at which time -- after November 1942, at which time the bridge of Neopotamios had been blown up, namely on the 25th of November 1942, they offered 100 million drachmas in food or money for whoever would give information to lead to his arrest.

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Q Did you see posters to that effect?

A Yes, thousands of those leaflets had been distributed all over Greece, Athens, and the streets of Athens.

Q Witness, when was the first battle fought by the Zervas organization?

A From the 23rd of October until the 10th of November, in the region of Skoulikarias, 1941.

Q And against whom was that battle fought?

A Against four Italian battalions.

Q How many men did the Zervas organization have during that battle?

A 98 men.

Q Witness, when would you say the next period in the history of the EDES organization comprised?

A That is approximately for the period of the 10th of November, at which time they left to blow up the bridge of Neopotamios until December 1942.

THE PRESIDENT: The Tribunal will recess until ninethirty to-morrow morning.

(The Tribunal adjourned until 16 August 1947 at 0930 hours.)

Page 2,083

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 16 August 1947, 0930, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V. Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, have you ascertained whether all the defendants are present in the Courtroom?

THE MARSHAL: May it please your Honors, all the defendants are present in the Court.

THE PRESIDENT: You may proceed on behalf of the prosecution.

CONSTANTINOS TRIANDAPHYLIDIS - Resumed DIRECT EXAMINATION (Continued)
BY MR. FENSTERMACHER:

Q Witness -

THE PRESIDENT: Pardon me just a moment. I wonder if the lady could move back a little bit. I like to see the face of the witness.

GREEK INTERPRETER ANAGNOSTOPOULOS: Excuse me, sir.

THE PRESIDENT: That is all right. Maybe you can move over a little closer. That is better. Just move over a little bit. Personally, I like to see the witness. It's very agreeable to look at you but I also like to look at the witness.

Q Witness, yesterday afternoon you testified about your personal participation in the EDES movement in the summer of 1941 until the end of 1944. You testified that you were in effect the historian of the EDES movement. Is that correct?

A Yes, that is correct.

Q You also testified that in the beginning you published in Athens underground leaflets and pamphlets in favor of the EDES movement during the organization period.

Page 2,084

A Yes, that is correct.

Q That you made trips back and forth between Athens and the mountains in order to gain information to put into the pamphlets and leaflets.

A Yes.

Q And that on those trips you talked with the leader of the movement, General Zervas, with his troops, and as a trained professional newspaper man, you also talked with the inhabitants on the villages in the Epiros area of Greece in which the EDES forces operated.

A. Yes, that is correct.

Q. And am I correct that you also said that the reports which General Zervas issued to his men, the reports which he received from his subordinates and the bulletins or reports on EDES activities which he in turn sent on to British Middle East Headquarters in Cairo. Is that correct?

A. That is correct.

Q. At the close of yesterday's session we talked briefly about the history of the EDES organization and you testified that the first period of the movement covered the period from July 1942 when General Zervas first went into the mountains of the Epires until November 1942 when he and his men fought their first battles against the Italian occupations forces?

A Yes, that is correct.

THE PRESIDENT: Pardon me just a moment. I am making the inquiry for purposes of the record and wondering as to whether or not the Greek that is being spoken by the lady interpreter will be picked up by the sound recording system. She is not speaking very loud. Is it the desire or the purpose or is it necessary that the Greek be carried on the sound recording system?

GREEK INTERPRETER ANAGNOSTOPOLOS: If you wish I can speak louder. I have not because I thought it would disturb and I thought it was not necessary, but if you wish I can speak louder.

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THE PRESIDENT: Just a minute. We will find out.

MONITOR: Your Honor, the English questions and the English answers are on the sound track.

MR. FENSTERMACHER: Your Honor, I think all we need on the sound track is the English question and the English answer and the Greek need not be put on the sound track.

THE PRESIDENT: Very well.

GREEK INTERPRETER ANAGNOSTOPOULOS: Do you want me to speak louder?

THE PRESIDENT: Not necessarily.

BY MR. FENSTERMACHER:

Q Witness, who was this man, Zervas, the head of the EDES organization? What was his military background?

A During the war, between 1912 and 1913 Zervas went into the army and was wounded twice while fighting the Turks and later on he became a sergeant of the Evzones which is our elite troop in Greece, by graduating from the military school of Epision, and he left as a second lieutenant of the school. He entered the school as sergeant and he left as a second lieutenant.

During the first World War he joined a French company. With his company he joined the French Army and he received the Legion d'honneur and the Soldiers' Cross, the Military Cross. At the end of the war he became a Regiment Commander, a Major, and he fought as a Major in Asia Minor against

the Turks whereupon later on he was promoted to Lieutenant Colonel, from Major to Lieutenant Colonel, and he was dismissed as a Colonel.

He was known for his democratic ideas in Greece and he was also known as being a friend of France and England.

Q Was he in the Greek Army at the time of the Italian war?

A No, he didn't serve in the Greek Army during the war, although he had desired to serve.

Q Now, witness, turning again to the first period in the movement which covered the period of time, July 1942 until November 1942, will you tell us again how many men Zervas had in the EDES organization?

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A In the political organization in the Athens area alone, they had 15,000 men whereas on the 23rd of October -- and I am talking now about the Guerillas when they fought the Germans -- they were 98 men including Zervas.

Q Into what kind of units were these 98 men divided?

A Due to the small number of men in that group, it consisted of only one group which was separated into smaller units, due to the circumstances.

Q Were there officers among those 98 men?

A On the 23rd of October they had 7 officers with them.

Page 2,087

Q. There were Zervas' headquarters in the mountains at this time?

A. Zervas' headquarters were in the village of Megalochari, which is also called Botsi.

Q. Is that near the Tannina, the Epiros section?

A. It is in the most southern area. If you want to, you may call it Canton Artd.

Q. Now, witness, what was the next period in the EDES organization?

A. That is the period of time in which they got in contact with the British officers, between the 10th of November 1942 and December 1942.

Q. How many men were in Zervas' organization during that period of time?

A. After the period of time of the 25th of November, at which they had blown up the Bridge of Gorgapotamos, they had receive more men from the villages and the whole number towards December numbered between 500 and 600 men.

Q. Into what kind of units were they divided?

A. At that time they started compiling the men and organizing them into commands, who commanded smaller groups.

Q. How many men were in a command?

A. Every command had from between 150 to 200 men.

Q. And how were these, between 500 and 600 men organized? Were there officers?

A. Most of the groups were led by officers but there were also smaller members who were also in charge of groups -- younger members, farmers who had distinguished themselves in leadership and who also became commanders of the groups.

Q. Did the officers wear uniforms?

A. All officers were wearing their old Greek uniforms.

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Q. Did they wear insignia of rank?

A. Yes, at all times.

Q. Was the rank of a lieutenant, for example, different from that of a colonel? Was the insignia of rank of the lieutenant different from that of a colonel?

A. Yes, absolutely.

Q. Now, the rest of the men in the EDES organization at that time, did they wear uniforms?

A. In December the British started throwing supplies by parachute, amongst which you could also find uniforms; thus, a large number, or quite a few of those guerrilla forces, could wear British uniforms.

Q. Can you estimate what percentage of the men wore uniforms at that time?

A. Approximately 30 percent.

Q. Did these men wear insignia?

A. At that time, during that period, they were wearing the initials of the EDES, E D E S.

Q. Where did they wear those initials?

A. Either on their hat or on their arm -- on their cap or on their arm.

Q. What color were they?

A. Usually they were white letters on black background.

Q. From about what distance away could these letters be seen?

A. From between 20 to 25 yards.

Q. And the uniforms of the officers, from about what distance away could they be seen?

A. From quite some distance, I would say about 150 yards.

Q. Now, turning again to the ordinary soldiers in the EDES movement, did they make their own insignia or was it manufactured and produced and given to them by someone else?

A. During the first period of their activity, there was no way of having those insignias manufactured.

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Therefore, they made them themselves.

Q. Now, during this second period in the EDES organization, witness, the period from 10 November 1942 until December 1942, what significant military events took place.

A. On the 10th of November, while battle against Italians was still going on, the British Major Christopher Woodhouse, arrived in Argiri, and he asked the commander of that army, Zervas, to help, together with his men, by going to Lemea to blow up the Bridge of Gorgapotamos. On the 25th of November the bridge was blown up. After That Zervas, together with those British officers, returned to the Epiros area where, during the entire period of December, the battle against the Italians was carried on.

Q. Were the British impressed by your blowing up the Gorgapptamos Bridge?

A. Immediately after the blowing up of the bridge, we were to receive both supplies --- we received supplies and arms -- and at the same time the order of the British Empire was to be given to General Zervas.

Q. Did the British also send you uniforms following the blowing up of the bridge?

A. Yes, immediately they sent us also uniforms.

Q. When was the next period in the EDES organization, witness?

A. It's approximately from the end of December or early in January until July or March, to be sure, July 1943.

Q. How many men did you have in your organization during that period?

A. In March we had approximately from 3,000 to 4,000 men and in July that number had increased to between 6,000 to 7,000 men.

Q. What was the military organization or structure during that period.

Page 2,090

How were you organized?

A. Until March the same structure with commands was kept and later on, between the period between March and July, although the commands were kept, also regiments, battalions and companies were organized.

Q Were there also independent groups in your organizations?

A Yes, we had left a few smaller groups with the farmers because they had become tired; they had distinguished themselves in the battle with the enemy.

Q Did you officers wear uniforms during that period?

A Yes, all of the officers were wearing uniforms.

Q What color was the uniform?

A It was a regular khaki as used by the British army.

Q Did the officers wear their insignia of rank on their uniform?

A Yes, at all times.

Q The ordinary soldiers, during that period of time, did they wear a uniform?

A By July all of the soldiers were wearing British uniforms, with the exception of perhaps 15 to 20 per cent; they remained and were joining the group, and the new ones who were not wearing any uniforms.

Q What color was the uniform, that the ordinary soldier wore?

A They were also khaki British uniforms.

Q Did you wear the EDES insignia on those uniforms?

A Yes.

Q Was the EDES movement confined to the entire section of Greece during this period, witness?

A The main force and the headquarters were in Epiros. There were also smaller groups which were in West Thessalia, and also in Etoloakarnania.

Q Witness, tell us about those 15 to 20 percent of the men who you say were not in uniforms during that period. Did they wear insignia?

A Yes, at that period of time they were all wearing insignia.

Q What insignia did they wear?

Q Quite a few of them, as they did not have any uniforms at all, were wearing an arm band, a blue and white arm band with the letter EDES on it.

Q During the period from March, 1943, until July 1943, how many men did you have in the EDES organization?

A From 3 to 4 thousand at first, and they increased to between 6 and 7 thousand later on.

Q Where were General Zervas headquarters at this time?

A As Zervas and his groups were in repeated operations against the Italians, they moved their headquarters about in various villages of west Epiros, and also around the area of -- east of Epiros, and also in the area of Etoloakarnania, and West Thessalia.

Q Were you in the mountains yourself during this period of March to July 1943 at any time?

A Yes, on two occasions, in May and July.

Q Did you speak to Zervas on those occasions?

A No, I did not meet him.

Q Did you talk to the inhabitants of the villages through which you passed?

A Yes. I also spoke with the commanders of the small groups of Zervas army.

Q Did you see any battles?

A In May I saw an attack against the Italian column on the road between Jannina and Arta, and in July I saw another one in the area between Anfanifilothia and Arta.

Q Was there a time, witness, when the EDES insignia no longer continued to be used?

A On the 23rd of July, 1943, an order was issued, according to which the letters, or initials rather, of EDES, were changed in to EOEA.

Q What did those letters, EOEA stand for?

A They stood for, "Greek National Guerilla Band."

Q How many commands did you have during this period?

A In July we had approximately between 8 and 10 commands.

Q How many regiments?

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A Between 20 and 22 regiments.

Q How many battalions?

A Between 40 and 45 battalions.

Q How many companies?

A Between 80 and 90 companies.

Q Did you also have platoons?

A Yes, there were also platoons.

Q Witness, what significant military event took place during this period from the end of December, 1942, until about July 1943?

A During all that period of time the struggle against Italian forces, which were still holding the Epiros, was increased. Between May and June there was no doubt any more left, that the Italians could not hold the Epiros. During the period of time of the 20th of June and the first of July, certain German units started moving from Albania through Lesgoviki, and entered Green territory, or were on Greek territory in Komitsa. On the 10th of July, those German units attacked our command in West Epiros -- of Western Epiros.

That is how at the same time, the battle against the Germans started. In the meantime, the Italian divisions were trying to withdraw their troops on the roads between Arta and into Albania. They were trying to leave Greece by going into Albania.

Between the 10th and the 20th of July, Zervas' command of Valtos, finally smashed up the Italian division called, "Brenner" and pushed them back into the region of Makrinoros. The 23rd of July is a historical date. It was on that date that an agreement was signed between all Guerilla bands.

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The common headquarters for all Guerilla bands was established, and that was in Pertouli in Thessalia.

Q What was the next period in the history of the EDES organization witness?

A From the end of July until early in October.

Q Were you yourself in the mountains of Epiros during that period?

A Yes, I went to the mountains between the middle of September until the 20th of October.

Q Did you see Zervas at that time?

A Yes, I did.

Q Did you see any of the reports which came to him from his units in the field?

A Yes, he showed me all the reports, and he also showed me the telegrams which had been passed on between his headquarters, - him and the headquarters in the Middle East.

Q Did you see any battles during that period?

A I followed the first phase of the battle of Teowmieka.

Q How many men were in your organization during that period from July 1943 until October 1943?

AAccording to the reports, and on the 7th of October, 1943, the total of Zervas forces in Greece amounted to between 15 and 16 thousand men.

Q How were those men organized? What was the military structure of the organization?

A According to the agreement of the 23rd of July, under the tutorship of British officers, they had decided that all of the Guerilla forces were to be combined into a Military Organization, according to which agreement this Guerilla band was to be organized according to Greek army principles, namely, it should consist of army corps, divisions, regiments, battalions, companies and platoons.

Q What were the various ranks of officers during that period?

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A The ranks varied from between Brigadier General to 2nd Lieut. namely, Brigadier General, Colonel, Lt. Colonel, Major, Captain, 1st Lt. and 2nd Lt.

Q Did the officers wear uniforms?

A Yes, all officers were wearing uniforms.

Q What kind of uniforms?

A Most of the officers were wearing British uniforms. Other officers, again, out of sentimental reasons, were offered on the old Green uniform.

Q The non-officers, ordinary soldiers did they wear uniforms?

A All of them were now wearing the British battle dress.

Q Who was your enemy during the period, July 1943 until October 1943?

A Mainly, first, the Italians. Later on the Germans were added, and from the end of July on we only had the Germans to take care of.

Q Do you know which particular German units you fought against during that period?

A Mainly and fundamentally we were fighting against the 1st German Mountain Division.

Q Did you know which corps that first Mountain Division belonged to?

A I didn't know at the beginning when those first mountain divisions entered the Greek area, which army corps it belonged to, but in August and onward it belonged to the 22nd German Army Corps.

Q Do you know who commanded that corps?

A General Hubert Lanz.

Q Witness, you said that in July, 1943, there was an agreement between the Guerilla organization?

A Yes. Yes, that's correct.

Q Did the Allied forces recognize the Guerilla forces operating in Greece at that time?

A Only EDES units as of December, 1942 were considered and recognized by the Headquarters and the Command of the Middle East to be regular units of the Middle East Forces.

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As of 23 July 1943, all the Guerilla bands were recognized as part of the Middle East forces. At least those that had signed the agreement.

Q Do you know whether that recognition was broadcast over the London radio?

A Yes, as this incident was of great importance for Greece, the message, or the broadcast took place by radio Cairo which is closer to Greece and the Balkans and can be heard better, and also through the broadcasting station of BBC London.

Q From July 1943 on you were recognized as a regular army. Did your organization have supply services?

A Yes, there was a supply service already as far back as September, 1942. As of July, 1943, it became a regular army supply line.

Q Did you have communication services?

A Yes, we had installed telephone connections at all of the villages of our area.

Q Were there engineering units attached to the regular army?

A Yes indeed, we had our own engineering office.

Q Did you have intelligence services and medical services?

A Yes indeed, we did. Not only did we have those two services for ourselves, for the Guerilla bands, but also for the villages and their inhabitants.

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Q Did you set up certain schools in the villages in whose areas you were operating?

A From 1941 and onwards all the schools had been closed, I mean the mountain schools in the mountain villages, because the teachers were not getting paid. We opened up all our schools compulsorily, and in these certain areas where we were, in the villages which we were occupying.

Q Did you have artillery units in your organization?

A In July 1943 we did have artillery. We had artillery even prior to that time. But in July 1943 we had those Italian guns which we had captured in the Battle of Makrinoros. But prior to that we didn't have any guns and finally when we had exhausted our supplied of guns which we had captured there and our shells, we received American guns in May 1944.

Q Did you have any airplanes?

A No, we didn't.

Q Witness, what was the next period in the EDES organization?

A October 1943 to March 1944 was the following period.

Q How many men did you have during that period?

A Several battles were taking place in all those areas which we were occupying, and the result was heavy losses for us. After the long battle which lasted between October and March was exhausted, the Epiros forces in that area amounted to between three and four thousand men.

Q Did you have the same military structure as you had in the earlier period?

A Yes, we did. We kept the same military structure during the period of time during which this battle lasted.

Q Did you have officers?

A Yes, of course. We had the same officers.

Q Were they in uniform?

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A Yes, at all times.

Q Were your men in uniform?

A Yes, at all times also.

Q What was the next period in the EDES organization's history, Witness?

A The next period was between early March and the 25th of May.

Q Did your military structure change during that period?

A No, the same structure was kept up. But an effort was made to possibly fill the ranks or fill the gaps which had been caused by the long and tedious battles with new forces and also it was expected that we would receive more arms and better arms for those new forces.

Q How many men did you have during that period from March until May 1944?

A On the 25th of May we had approximately 7,000 men.

Q And from May 1944 until October 1944? Witness, how many men did you have?

A In July our forces amounted to 11,000 men. Towards the end of August we had approximately 15,000 in the Epiros area only.

Q How many men did you have at the end of October 1944?

A On the 15th of October we finally captured Jannina and thus towards the end of October and early in November 1944 our forces amounted to approximately 8 or 9 thousand men, and the Germans had already left the area by that time, and we had started to demobilize our forces.

Q Was your military structure during that period the same as it had been during July 1943?

A Yes.

Q Were both your men and your officers in uniform?

A Yes, that's correct. And the proof of that is the moment that demobilization was ordered by the Greek Government - the Middle East of course - those units formed themselves into military units out of the guerrilla bands, or rather they were incorporated into the regular Greek Army bringing their uniforms and their weapons.

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Q Witness, I believe you testified that you yourself were in the mountains during the period May to October 1944. Is that correct?

A Yes, that's correct.

Q What was your job there?

A I was the chief of the press office of the national units. Three newspapers were published under my direction. At the same time I was the advisor of General Zervas.

Q Did you travel about among the Zervas units in the area?

A Yes, I was traveling constantly in that area without interruption.

Q Did you see the orders which Zervas issued to his units and the reports which came to him from the units?

A All the secret reports, or the top-secret reports, were given me and I could read them.

Q Did you see the reports which Zervas sent to allied Middle East Headquarters in Cairo?

A Yes, at all times.

Q Did you yourself wear a uniform during that period?

A Absolutely.

Q Witness, I now want to ask you some questions about the training and the methods of warfare of your EDES organization. When a recruit joined your organization how much training was he given before he was assigned to a unit?

A Of course they were to receive military training according to the Greek Military Code. Of course, the way in which this training was carried out depended entirely on the circumstances and the incidents and the happenings. Whenever a man was already in a position to carry a weapon and to handle a gun and it was necessary to quickly set up military units, his training was discontinued and he went into the battle.

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Q About how many days' training did a man receive before he was assigned to a unit?

A If he was a man who had already had previous Army experience, who had possibly already fought in the Army, he was given a training which lasted between four and five days. If he was an absolute layman in military matters, his training possibly lasted, and depending on the circumstances, between 15 days, 30 days, or 45 days. They had also smaller units which were being trained by British officers according

to their own rules and principles so that they could use them themselves in their own situations, and, of course, the training periods lasted for a much longer period of time.

Q Were your men instructed regarding the rules of International Warfare?

A Undoubtedly, yes.

Q When did they receive that instruction?

AAAt the same time, along with the military training.

Q Did your EDES organization have a field manual?

A Yes, that was the field manual of the Greek Army, which is mostly and fundamentally based on the French field manual.

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Q.- Well, how were prisoners of war who were captured by the EDES organization treated?

A.- According to International Law and regulations.

Q.- Is the mentality of the Greek people significant in this regard?

A.- According to International Law and according to Greek Law, also, the prisoners must be treated correctly. According to the mentality of the Greek people. Apart from the laws which existed, let us not forget and let us consider the Greek attitude -- the Greek mentality -- for the Greek, a prisoner is no longer a fighting enemy, and he, therefore, must not be killed. On the contrary he is a human being that has to be taken care of in a good manner. That is the unwritten law of the Greek nation.

A.- Yes, we did and those camps were receiving exactly the same food as our men were receiving, and their officers were receiving exactly the same food as our officers. The officers were also receiving their pay.

Q.- Were there prisoner of war camps for captured prisoners?

Q.- Were representatives of the International Red Cross permitted to inspect your prisoner of war camps?

A.- Yes, repeatedly.

Q.- Did they, in fact, inspect your camps?

A.- Yes.

Q.- Did General Zervas issue any orders to his men regarding the treatment of captured prisoners?

A.- Yes, undoubtedly. Every maltreatment from the part of any of the guerilla men toward a PW was punished severely according to orders issued by General Zervas.

Q.- Do you know of any examples of members of EDES organization being punished for mistreatment of captured prisoners?

A.- Yes. Personally I know very well of two death sentences and executions, for the maltreatment of PW's.Q.- Was plundering and looting by members of EDES organization punished?

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A.- Yes. As a matter of fact I recall one occasion where a man was severely punished for stealing a sheep and he was one of the better men of the organization, and he was executed for that.

Q.- Were officers of the EDES organization held responsible for the actions of the men subordinate to their commands?

A.- The officers were absolutely responsible for every action on their part.

Q.- Can you give an example of that?

A.- Yes. It was one of the customs, for instance, in Greece, to celebrate while firing shots into the air and even when such a thing happened officers were held responsible for that and punished.

Q.- Did General Zervas issue any orders regarding the treatment of the civilian population in those areas in which EDES troops were operating?

A.- Yes, he issued orders repeatedly, but in any case in the entire area the normal Code of the Greek State prevailed. The Greek law, therefore, protected the population.

Q.- Did the EDES Troops pay for any food which they got from the village population?

A.- All foodstuffs had to be paid for, even the fodder for the animals was taken without payment.

Q.- Witness, did your EDES troops ever defend villages in the Epiros area of Greece?

A.- The unit commanders had strict orders to avoid fighting in the villages. And the villages usually are not located in such places as would be well fitted for guerilla warfare. As a result of this, of course there was plenty of open space where the battles could be waged without destroying the villages. And thus it could also be avoided to have retaliations on the part of the Germans.

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Q.- Why were orders issued that EDES troops should not fight within a village?

A.- Will you please repeat the question?

Q.- Why were orders issued to the EDES organization not to fight within a village?

A.- Both the Italians and the Germans, but mainly the Germans, always looked for the slightest reason or justification to destroy a village and burn a village and kill all the inhabitants thereof. That is the reason why the order had come out that no battles should take place in the village in order not to provide the Germans with a justification for destruction. And also we didn't want to give them the opportunity to say -- the Germans -- that the villages were destroyed while a battle was going on, and it happened as a result of attacks.

Q.- Were certain members of your organization former inhabitants of the villages near which you fought?

A.- Yes, undoubtedly.

Q.- Was that of any significance with respect to the orders not to fight within a village?

A.- Of course, undoubtedly it had some sort of a connection because it is difficult for a man or a soldier to fight on his won native soil or in his own native village.

Q.- Did it have anything to do with anticipated reprisal measures?

A.- Undoubtedly.

Q.- In what way?

A.- As the battle was carried out in some field we did not give them a justification or a reason to destroy the village.

Q.- Did your EDES organization set up any services for refugees from destroyed villages?

A.- Of course, we did, including August 1944, we had approximately 9,000 farmer refugees and also 190,000 persons who had been bombed out, or their houses had been burned down.

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THE PRESIDENT (Judge WENNERSTRUM): The Tribunal will take its morning recess at this time.

(The Tribunal recessed at 1100.)

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THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

BY MR. FENSTERMACHER:

Q. Witness, prior to the recess, we were talking about the methods of warfare of the EDES organization. Did the EDES troops ever take hostages?

A. No, at no time.

Q. Did they ever burn villages?

A. No, at no time.

Q. Witness, did the EDES troops carry their arms openly at all times?

A. Of course, openly of course.

Q. Did you ever throw your arms away when you were surrounded?

A. To answer this question, you have to differentiate between the various phases of the struggle.

Q. Will you do that differentiating for us?

A. During the first period of the struggle, it was only natural for the guerillas to hide their weapons in case they should be surrounded. However, as from March, 1943, most of the guerillas, and later on all of them were wearing uniforms it was natural that in case they should be surrounded they would act accordingly. They did not have the right to throw away their weapons because this would be considered desertion.

Q. In other words, you carried your arms openly from the period March 1943 until the end?

A. Yes, undoubtedly. Of course, we carried them openly prior to March, 1943, but as of March, 1943, if anybody did not carry his weapon, it was considered punishable.

Q. When did you first begin to fight the German troops?

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A. As of the 10th of July, 1943.

Q. During the period prior to March, 1943, you say you threw your arms away on occasion when you were surrounded?

A. Some of us did not just throw them away but they tried to hide them in order to find them again later on.

Q. Did you also throw your insignia away during that period prior to March, 1943, in case you were surrounded?

A. Yes, we hid them, that is.

Q. Did you hide your insignia or throw away your arms after March, 1943?

A. No, as of March, 1943, at which time we had been comprising military units, and were wearing regular uniforms and regular insignias, nobody did that because they were wearing the uniforms. It wasn't necessary. It wouldn't have been of any use to do so anyway.

Q. During the period prior to March, 1943, what kind of military operations did the EDES organization carry out?

A. Apart from the fact that we fought the Germans and the Italians, for instance the blowing up of a bridge which also served as fortification for the Germans, we were mainly fighting the Italians who intended to clean up the area where General Zervas had his headquarters.

Q. Did you try to disrupt supply and communication lines? Did you try to interrupt supply and communication lines of the occupying forces?

A. Undoubtedly yes, but during that period of time we were trained to damage the road between Amphiloikia and Jannina. During the period of time, however, it was more of a defensive struggle on the part of the small units because the Italians employed larger units trying to annihilate them.

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Q. What was the nature of your military action during from March, 1943, until October, 1944? The period when you were opposed to the German forces for the most part?

A. First of all, our principal aim was to disrupt and destroy German motor vehicle columns, blow up bridges, and certain signs at roads at important junctions. But of course the main part of our struggle was carried out against the Germans who were much stronger than we were and who were definitely better fighters than the Italians and their purpose was to annihilate or at least disperse our guerilla units.

Q. Would you say that the military operations after March, 1943, were guerilla operations or regular war operations?

A. I would call it a tactical battle or struggle because there is not much difference between what we were doing and what the British were doing in the Middle East and in the Cyrenaika. Of course we saw that, for instance, in Africa, also, the struggle was being carried out with raids and ambushes and also with larger clashes.

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Q. You would describe these military operations then as regular war?

A. Yes, indeed.

Q. May I ask you a few questions about recognition accorded the EDES organization by the Allies. Was there a British Mission attached to your organization at any time?

A. As of December 1942 an officially attached British Mission existed which in 1944 joined us as an allied mission.

Q. How many men were in the British Mission when attached in December 1942?

A. It consisted of approximately 12 officers.

Q. Did Zervas send reports to the British Middle East authorities at any time?

A. Yes, at all times as it was a detachment of the Middle East forces, it had the duty to report the daily occurrences of the Middle East forces.

Q. From what period of time did you send daily reports to the British Middle East Headquarters?

A. Between December and April 1943, our wireless communications were not very good as yet and we could not possible send daily messages to our headquarters. Therefore, we limited ourselves to between two and three messages a week. Approximately from April 1943 onwards the reports were made daily with a few exceptions until the end.

Q. Did you say that the EDES organization was recognized as a unit of the Allied Middle East Army?

A. Yes, indeed.

Q. What was the earliest period of time?

THE PRESIDENT: Mr. Fenstermacher, it seems to me that in some of your questions you are very definitely asking for conclusions and my suggestion is that you ask for statements of facts so that the court may pass upon the facts, and not ask for conclusions of the witness. It has been very much abused during all the morning.

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MR. FENSTERMACHER: I will keep that in mind your Honor.

Q. When was a mission of any other Government or Army ever attached to the EDES organization?

A. An American Mission also joined us.

Q. At what time?

A. In the spring of 1944.

Q. Were any negotiations ever conducted between German forces and the EDES forces?

A. First of all let's distinguish between two phases here. In October 1943 certain effects on the part of the Germans could be noticed in order to reach an agreement. In July 1944 other efforts on the part of the Germans could be noticed in order to reach an agreement, and then apart from that there was a third phase where the surrender of the Germans was negotiated between the two parties of Zervas and the British on the one hand, and the Germans on the other hand. That was in September 1944. Those were negotiations. The first two points mentioned were attempts on the part of the Germans to reach an agreement.

Q. When was the first approach of the Germans to your organization?

A. On October 5th, 1943, Greeks, who had been delegated by the Germans, arrived at Zervas' headquarters.

Q. What was the German proposal to your organization?

A. It was not a proposal but more a blackmail.

Q. Would you tell the Tribunal about that?

A. The Greek delegates sent by the Germans told Zervas, as the Germans' message, that should those attacks on the part of the Gorillas not stop, the whole area of Epirus would be burned down.

Q. What did Zervas do when this proposal reached him?

A. As Zervas was speaking to Greeks, who were the German delegates he told them that he personally could not reach a decision, as he said he was a unit of the Middle East forces and he would contact the Middle East forces through the British Mission.

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Q. Did the British Mission respond to Zervas' enquiry?

A. The British Mission immediately sent a telegram on behalf of Zervas to the Middle East Headquarters.

Q. What was the reply, if any, that was received from the Middle East Headquarters?

A. The answer from the Middle East Headquarters was that no agreement, nor contact should be reached with the Germans or effected with the Germans respectively.

Q. Witness, how do you know these things about which you testify?

A. The only reason why I know that is because at that time I met Zervas for the first time and the second reason is that I have all the telegrams which were communicated between Zervas through the British Mission and the Headquarters in the Middle East, and vice versa.

Q. You said at that time you met Zervas for the first time. Hadn't you met Zervas before this?

A. I meant by that the first time in the mountains.

Q. Were there any other approaches by the Germans to your organization?

A. On the 9th or 10th of October, 1943, Dr. Komborosos and the Metropolit, Arch Bishop of Arta, went up to General Zervas's headquarters in Skiadades and they gave him the same sort of message on the part of the Germans who were in the Area of Arta. Zervas answered them that his answer had already been given.

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Q. Were there any other approaches by the Germans to the EDES organization?

A. Two days later another delegate arrived. I don't know what his name is; I don't know who he was but anyway he came to Zervas' Headquarters with another proposal on the part of the Germans which, however, contained more complete statements. According to that delegate the message was that Zervas was to meet the following two people, namely: Colonel Biel, if I remember correctly, and Captain Rundstock, if I remember that name correctly, at a given point which was on the road between Arta and Janninano. Zervas was the one to indicate the place where they were to meet and they wanted to discuss the cease fire order and to stop hostilities. There were certain indications at the time which pointed to three different possibilities. Either that the Germans wanted to withdraw entirely or reach an agreement with Zervas or with the Middle East Forces or the Allies. Whereupon, Zervas was again obliged to inform the Middle East Headquarters of that incident and offer. The reply which came from the Middle East Headquarters was the following:

It was their opinion that this was another usual German trick in order to annihilate Zervas and, according to the orders, the answer which was given by the British Mission and by Zervas to the Germans, was that they were to be informed of two things, namely: First of all no agreement would be reached with the Germans unless the Germans were ready to sign unconditional surrender and the second point, which is a more important point, was that these people should be informed that the Commanders of all the German forces in that area were to be held personally responsible for whatever crimes their soldiers had committed or would commit against the civilian population and that they would be held responsible by the Middle East Headquarters.

Q Were prisoners exchanged between the EDES troops and the German troops, witness? Do you know that?

A No, at no time.

Q Do you know how the Germans treated captured members of the EDES organization?

A The policy as carried out by the Germans was characteristic of the way they treated the population in any occupied country

DR. LATERNER: I object. Your Honor, I have to say that it is difficult for me to keep calm because of the manner in which the witness is testifying. I request that the last sentence that the witness testified be stricken from the record, as a mere conclusion and not pertaining to facts.

THE PRESIDENT: Sustained. I think the witness should be cautioned that he should testify only to such facts as he has personal knowledge of.

A Those are facts which I know very, very well because I witnessed those things for four years.

There are not only certain incidents and conclusions on my part; they are facts.

BY MR. FENSTERMACHER:

Q Did you ever see any burned villages in the Epirus section of Greece.

A Did you say a burned village?

Q A burned or destroyed village.

A There were very, very few villages in Epirus that were not destroyed or burned, if any at all.

Q How many destroyed villages did you yourself see?

A Of all those villages of which I can remember the names I can state between 20 and 25 but I do know of 100 or more which I saw myself.

Q Would you describe what you saw when you walked through a destroyed village?

A All I saw was either burned out buildings or buildings that had been blown up.

Q Did you see any people?

A The villages which had only been burned down recently were of course empty because we had taken care of the people but in the villages that had already been burned quite a while back certain reconstructions were carried out by our own services.

Q Did you gain recruits from the destroyed villages?

A Yes indeed, we did recruit quite a few. Firstly, because they didn't have any place to go, and secondly because they wanted to get revenge for what had been done to them and for the unjust thing that had happened to them.

Q Did you take any photographs while you were in the mountains, witness?

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A Yes, quite often.

Q Do you have those photographs with you?

A I have a few photographs here.

MR. FENSTERMACHER: Your Honor, I just learned yesterday about the photographs in the witness' possession; I believe we can have extra sets of those made by Monday or Tuesday if I may be allowed to reserve my rights to put them to the witness and have him identify them on direct after I have turned him over for cross-examination in a very few minutes. Would that be agreeable to your Honors?

DR. LATERNSEER: The witness also happens to have some incriminating material with him. I want to point out that the Prosecution has to bring the incriminating material and not the witness.

THE PRESIDENT: As far as the photographs are concerned, that right will be given to the Prosecution. I am not certain as to what Dr. Laternser has in mind as to other documentary evidence that he has referred to.

DR. LATERNSEER: Your Honor, evidently I have been misunderstood. I wanted to say the following: The witness who evidently has incriminating material with him cannot, of course, submit it himself. In the proceedings the material will be submitted either by the defense or by the Prosecution. If the Prosecution has the intention of exploiting this material nobody will object to that but we have to see it 24 hours before it is submitted.

THE PRESIDENT: That rule will necessarily have to be followed and of course if you wish to cross examine him on any matters which you wish to have access to, why that will be your privilege under the rules of the Tribunal BY MR. FENSTERMACHER:

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Q Witness, was there another resistance organization in Greece during the occupation besides the organization of EDES to which you belonged?

A Yes, there were quite a few others.

Q What was the largest of the other resistance organizations in Greece?

A The EAM which was called the National Liberation Front which had its military organization called ELAS.

Q Witness, when you were a member of the EDES organization, did you consider yourself a bandit?

Q Were you ever a member of either EAM or ELAS?

A No, never.

DR. LATERNER: I object to that question.

THE PRESIDENT: Sustained.

BY MR. FENSTERMACHER:

Q Do you know the name of the German Commander that commanded the troops against whom the EDES organization was fighting during the period of July 1943 until October 1944?

AAAt the beginning we thought it was the 1st Mountain Division; the commander of which was General Stettner. It was the end of August 1943 when we learned that it was the XXII Army Corps that was to occupy that area and it was lead by General Hubert Lanz.

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MR. FENSTERMACHER: Except for the right to examine the witness with respect to the photographs which he himself took during his stay in the Epirus section of Greece, I have no further questions at this time.

CROSS EXAMINATION BY DR. SAUTER (Counsel for the defendant Lanz):

Q. Witness, one of your last remarks said approximately that after the withdrawal of the Germans from Epirus there were practically no undestroyed villages left.

A. Yes, that is correct.

Q. Witness, a few days ago there appeared an item in the papers saying that communist bandits in Epirus had burned 36 villages.

A. The subject at the present moment is not how many villages were burned down by the communist bands but, rather, how many villages were burned down by the Germans. That is what I am going to describe if you want me to, and I will also give you the names.

Q. Witness, I please ask you to answer the questions which I ask you. I don't need to hear any legal instruction from you. I ask you, therefore, is it known to you that only recently again many villages in Epirus had been burned down by communist bands.

A. I am here in order to testify about the crimes which were committed by the Germans while they were occupying Greece and if I am asked anything else I refuse to answer it.

Q. You refuse to answer this question?

THE PRESIDENT: The witness is directed to answer the question as given by the cross examiner.

A. If those things are going on today in Greece, that villages are burned down, then it is only a result of the German occupation of Greece.

Q. Witness, is it your impression that from the years 1943 and 1944 on the fight of the German troops against the Greek Zervas troops was conducted with too great a severity?

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A. Yes, undoubtedly.

Q. You're a journalist?

A. Yes.

Q. You, therefore, are probably very well informed about this matter. Is it known to you that the Greek government, a few days ago, handed the American ambassador in Athens a note—

DR. SAUTER: One moment. I must first ask the question and then you can object.

Q. Is it known to you, witness, that the Greek government in this memorandum says the following: "Forcible measures are the best methods of becoming master over the guerillas."

MR. FENSTERMACHER: Your Honors, please, I object to this. I don't see what a note delivered to the American government a few days ago has to do with this proceeding.

THE PRESIDENT: The objection is sustained as not being proper cross examination.

DR. SAUTER: Your Honors, but I must immediately request that the witness, after the completion of the cross examination, may not return to Greece but that he has to remain here as a witness until he is examined as a direct witness by the defense.

Mr. President, I would like to say the following, too. The witness has been examined here in direct examination about the type of warfare in Greece during the German occupation. If the Tribunal wants to hear about this matter, it must be permitted to tell the Tribunal and to prove by means of witnesses how at other times warfare was conducted in the Balkans and, especially, in Greece; and I claim, and I want to prove by means of this witness, that the present Greek government, a few days ago, sent an official note to the American ambassador in Athens in which it describes the use of political methods in this case now in Greece is just as important, is the same thing, as the loss of valuable time. Therefore, the government says it is dangerous for Greece to use political methods at all against these communist troops. The Greek government of today, therefore, demands immediate deliveries of war material, increase of the Greek army, etc.

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, etc., evidently in order to fight the same bands who already fought the Germans a few years ago.

MR. FENSTERMACHER: Your Honors, if I recall Dr. Sauter correctly, he has asked this witness to remain in Nuernberg to make him his own witness. The prosecution strenuously objects that Dr. Sauter may ask him any questions if he wishes to cross examine him. This witness is here to testify only regarding the EDES organization, one of the Greek resistance movements during the occupation, and it is within the scope of that direct examination that Dr. Sauter may cross-examine him.

THE PRESIDENT: The Tribunal still adheres to its prior ruling that the question asked of the witness should be sustained in that it is not cross examination.

As to the request that the witness be held here so that the defense may make use of this witness as its own witness, that is a privilege which it has. However, it seems to the Tribunal that the witness can be called out of order and the Tribunal will accept such a procedure during these proceedings and, while it is convenient for the witness to be here and to be accepted as a defense witness, and if the counsel for the defense wishes to follow that procedure the Tribunal will entertain such a motion and such an application.

The Tribunal will be in recess at this time until one-thirty this afternoon.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours, 16 August 1947)

THE MARSHAL: Persons in the Courtroom will please find their seats. The Tribunal is again in session.

THE PRESIDENT: You may proceed, Dr. Sauter.

CONSTANTIONS TRIANDAPHYLIDIS-Resumed CROSS EXAMINATION (Continued) BY DR. SAUTER:

Q. I want to put some further questions to you and I would like to ask you this afternoon still under oath. Witness, you have told us that your soldiers had the order to keep strictly to the provisions of International Law.

A. Yes, that is correct.

Q. Do you know the name of the Swiss delegate of the International Red Cross in Epiros at the time that General Lanz was commander there?

A. Yes.

Q. What is the name?

A. Hanz Bickel was his name.

Q. Bickel, the Swiss Bickle. Witness, is it known to you that in February 1944 a column of the International Red Cross under the leadership of Mr. Bickle, a Swiss citizen, was attacked by troops of the partisans and that his column was completely plundered?

A. No.

Q. Is it known to you from what General Zervas has told you -- or did it become known to you in any other way that this Swiss Citizen Bickel, as well as General Lanz, reported this matter to General Zervas?

A. No.

Q. Witness, you said this morning the officers of the Zervas army had been held responsible to a very large extent for every action of their subordinates.

A. Absolutely.

Q. In this connection you told us about two soldiers who were sentenced to death for the maltreatment of prisoners of war and who were executed.

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A. Yes, that is correct.

Q. I would like you to tell me now what happened to the superior officers of these soldiers who were sentenced to death in order to make them responsible for the actions of their subordinates.

A. In spite the fact that these officers had given orders to their soldiers and instructions as how to conduct themselves, these soldiers had committed those mistakes and it was due to them that these officers were severely punished for not fulfilling their duty with respect to instructing their soldiers correctly.

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Q. How many officers were punished for this case of the two soldiers who mistreated these prisoners of war?

A. I am pointing out that this applies to the officers; those officers, namely two officers, were punished, and these two officers were in charge of these men, and they were responsible for their actions directly responsible for their actions.

Q. What punishment did these officers receive?

A. They were tried; they were put in jail and the rank was taken away from them. They lost their rank and command.

Q. And what was the actual reason why these officers were sentenced? Did these officers participate in the mistreatment of the prisoners of war, or did they look on while these prisoners of war were being mistreated? Or in what constituted the mismanagement on the part of the officers?

A. If they had seen the incident, and if they had participated in the incident, both officers would have been placed before a firing squad. As a result of the fact, however, that they did not see this incident happen, and that they were not present in order to stop these men from doing so, -- due to the fact that they were not present and they could not enforce that order, -- these men received the punishment which I mentioned before, and not the death sentence, because the men were not in a position to see to it that their orders were followed.

Q. Witness, do you know when General Hubert Lanz came to Epiros?

A. According to the information we had at the time, he came in August 1943.

Q. How large were your national forces at that time, -- the armed forces of that organization?

A. At that time there were approximately 10,000 men in Epiros.

Q. Approximately 10,000 men in Epiros. Could you tell us approximately the size of the area of the Epiros? Just approximately.

A. I would say approximately 10,000; 10,000 or 12,000 square kilometers. It depends; the borders of Italy are not well drawn.

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Q. Can you give us an estimate how large in your view were the forces which were at that time available to General Lanz?

A. During the first period when the German army first showed up, we estimated their strength to be between 4 to 5 thousand men. Later on, we figured that their total strength was approximately 10,000 men. That was a little bit later.

Q. What is your opinion today if I am telling you that at that time, namely in August and September, when General Lanz arrived in Epiros, his troops had an average strength of between 30,000 and 40,000 men?

A. Where was that?

Q. In Epiros, because we are not talking of America; we are talking of Epiros.

A. That is quite correct, but do you want to know the figures of what we estimated was being used against us in our sector? That period of time was a time when the struggle was going on for the occupation of the Ionian Islands by the Germans, and our operations were also going on near the border of Albania where we did not have any troops.

Q. Witness, I am not quite clear what you mean by your answer. I asked you whether, on the basis of the reliable and accurate information which you received from your sources of information, in your opinion at present, you think it probable that General Lanz had 30 to 40 thousand troops at his disposal in the Epiros at that time? That is my question, and this is the question I would like you to answer.

A. What we were interested in mainly was the number of troops used, or were to be used against us directly. Our spies wanted to find out those facts and that is the information they gave us.

Q. Witness, I don't want to deal any further, as apparently one cannot get a clear answer from you on this point. I want to ask you another question.

A. I gave you a very clear answer. I told you that we figured that approximately 10,000 men were moving against us. We, of course, undoubtedly knew that more troops were being used by the Germans at our two occupied Jannina Islands, and they were General Lanz' troops.

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Q. I am not interested in the Jannina Islands here. We are still talking of the Epiros.

May I put another question to you? Witness, you told us today that General Lanz had repeated negotiations with General Zervas.

A. I didn't say exactly "repeated conferences or discussions". I gave you the exact date. I stated my point, namely that the first few times they had conferences, it was not from his part, but rather they were trying to reach an agreement, the Germans I mean; and it is only in the month of September 1944, at which time the Germans were leaving Greece that conferences took place, which conferences we can really call conferences where agreements were reached.

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Q. Witness, I am telling you now that this information you have just given us is untrue, and I would like to ask you to tell us whether it is not known to you that General Lanz from September 1943 onwards, until the fall of 1944, was engaged in constant conferences and negotiations with General Zervas through his officers. Please answer this question under oath.

A. I repeat under oath that they are lied.

Q. Do you know by whom these negotiations were initiated?

A. All I can repeat is that in October, 1943, General Lanz sent a delegation to Skiadales; and that in October 1943 the Germans sent a delegation to Skiadales which consisted of the Arch Bishop of the deputy of the Arch Bishop of Jannina, and of some representatives of the Red Cross, and also of the Mayor of Jannina. On the second occasion, the Germans sent the Arch Bishop of Arta, and the physician Konvorossos.

Q. Witness, according to your knowledge was the task, - according to your knowledge of these delegates of General Lanz, what did these delegates say about their orders?

A. They said that in case the attacks on the part of General Zervas' troops should not cease against the Germans, they would resort to drastic measures against the population, - civilian population.

Q. Witness, is it correct that these delegates proffered something quite different to General Zervas, namely, mutual trust. That is an agreement that both parties were to cease fighting, and I may mention it here, in order to spare the civilian population?

MR. FENSTERMACHER: I object to the question. He is bound by the answer of the witness.

PRESIDENT WENNERSTRUM: Overruled.

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A. That is the way Mr. Defense counsel puts it. In reality, however, it is exactly so as I said, namely that if the attacks on the part of General Zervas' forces would not stop, then the civilian population would have to suffer under it. But I shall give you additional information, now Mr. Defense counsel, which you possibly did not think about.

Q. First of all, I would like you to answer this question more clearly. I maintain that General Lanz proposed to General Zervas that the troops of both parties should not fight against each other, because only the civilian population would suffer from this, and I am asking the witness whether that was the proposal of General Lanz?

A. Yes, he did, and that was followed by the operations against Ligiar where everybody was killed, on the 3rd of October, 1943.

Q. Witness, I am still concerned with the negotiations, and I am asking you is it correct that General Zervas declared to be in agreement in principle with what General Lanz proposed? I would like to add something else. Is it also correct that General Zervas also declared that he demanded as a counter-service from General Lanz, supplies of German arms and ammunition, because he, General Zervas, needed it for the national Greek resistance movement or insurgent movement against the Communists?

A. No.

Q. This condition was not advanced by General Zervas then?

A. No, that's not correct, because when this proposal was made, British mission officers were also present. Colonel Barnes was one of them, and Thomas Marinos. In any case, this was not the way it was put and they immediately sent the report to headquarters in the Middle East.

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Q. Witness, I am putting it to you that these negotiations to which I am talking to you, - that British officers were not present at these conferences. Do you maintain your assertion, that the British officers also attended these negotiations?

MR. FENSTERMACHER: Your Honors, I object to the question. I think Dr. Sauter is arguing with the witness.

PRESIDENT WENNERSTRUM: Overruled.

A. We have the numbers of the telegrams at our headquarters files in the Middle East.

Q. Witness, we are not talking about figures now, and telegrams. Rather you maintained that at that time, British officers attended those negotiations, and I asked you--

A. The British officers who were present were the ones who had sent and signed those telegrams I am talking about.

Q. Witness is it known to you that at the beginning of October 1943, at the request of General Zervas, a discussion took place at ten o'clock in the morning about 15 kilometers to the southwest of Jannina, in a village called Hellenikon? What do you know about these conferences?

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A Who was present there?

Q General Zervas was supposed to come, who had promised his personal attendance.

A Well, let's make a difference now between the two, was he supposed to come or what? Was the General supposed to come? I didn't quite understand your question. I don't know whether you meant the person was to come or had come or what.

Q I said that General Zervas had promised to come to this conference in person. Instead he sent an officer, a captain and sent apologies through this Captain, and he conveyed through this captain that this captain was empowered to conduct the negotiations. Just a moment. And in lieu of General Lanz, Colonel Dietl appeared as the Chief of Staff of General Lanz.

A I believe when I gave you that testimony before, I was referring to the third attempt which was made by the Germans and which took place around the 13th of October 1943, at which time they had made a proposal that General Zervas should designate a place where they were to meet.

Q Yes, and General Zervas designated a place.

A The General communicated that information to General Headquarters of the Middle East, and we have as evidence the telegram which was sent there by Tom Barnes, and the Headquarters of the Middle East stated that this was probably an old German trick. And that is probably what the defense counsel is referring to, namely, that this officer went and told them that there would be no such thing.

Q Do you know anything about this, Witness--that this officer drove to Jannina and received a letter from Colonel Dietl in Jannina, and that this officer personally handed this letter from Dietl to Zervas?

A You're referring to a letter by General Lanz, aren't you?

A Yes, I mean a letter from General Lanz to General Zervas.

A I know of no such thing.

Q Witness, do you know anything of this--that vice versa General Zervas also wrote personally to General Lanz regarding these discussions?

Page Unlabeled

A No, I know nothing about that either.

Q And how many attempts according to your assertions did General Lanz make in order to arrive at a truce with the National Partisans?

A Apart from those three that I mentioned before, I also know of a fourth approach that General Lanz made in July 1944, at which time an agreement was reached according to which the Germans were going to surrender. And then there was another occasion, namely, in August or September, at which time negotiations were carried out for the surrender of the Germans.

Q Witness, is it known to you that Captain Sarantis and a Captain Michanaki, during the whole year between the autumn of 1943 till the autumn of 1944, were discussing quite a number of matters with the staff of General Lanz?

A Both of these people were spies. Both of them were wellknown spies, and they had orders to act in a deteriorating manner in order to harm the Germans.

Q If I have understood you correctly, you're saying that these delegates sent by General Zervas in order to negotiate with General Lanz were in reality merely spies who had been sent for this purpose by General Zervas. Have I understood you rightly?

A General Zervas did not send them.

Q Well, who sent them then if they were spies?

A General Zervas did not tell them to go to see General Lanz. These people were just doing their duty. They were going down there in order to possibly disturb the Germans and to communicate information obtained from them, to us.

Q Witness, you want to state on oath that General Zervas did not know of this? Do you want to tell us that under oath?

MR. FENSTERMACHER: If Your Honor pleases, I object to the insinuations that Dr. Sauter has continually made about the witness's testifying under oath. 2128

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THE PRESIDENT (JUDGE WENNERSTRUM): I think that possibly the counsel might deter from making that statement. I think the witness is conscious of the fact that he is under oath, and if you will deter from that phase of your examination, Doctor, it will be appreciated.

BY DR. SAUTER:

Q Witness, please answer my last question. You really want to maintain that General Zervas had no knowledge of the activity of these two officers mentioned, and that he did not order them to foim this action?

.A As I have stated clearly, these two people were doing a special job. And it was left to them to decide and make up their minds how to take care of their job. If I would turn around, Mr. Defense Counsel, and tell you how much information we received from your own soldiers you would hardly believe it.

Q Witness, please answer the questions which I have put to you. I asked you whether you really want to maintain that General Zervas did not give this order to these officers to negotiate as spies with the staff of General Lanz, that General Zervas did not know nothing of this. This is my clear question which I ask you to answer clearly.

A Well, naturally General Zervas knew that these people were spies and that they were giving us information from the headquarters of the enemy.

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Q.- Did General Zervas also know that these two officers has entered into negotiations with the staff of General Lanz about a truce in order to be able to spy while doing this?

A.- They couldn't carry out any negotiations. First, let me point out the following: As I was personally up in the mountains together with Zervas' forces, I couldn't tell you what these people exactly were doing. You, Mr. Defense counsel, are telling me all about it. If they had carried out some sort of negotiations with the Germans, we would have caught them, and they would have been dealt with as if they had been traitors.

Q.- Did these two officers belong to the Staff of General Zervas?

A.- Which two officers are you referring to? Michalai was not an officer, he was simply a civilian, and as far as Sarantis is concerned he was an officer of the Army who had been assigned even prior to the beginning of the war to tasks of espionage and counter-espionage.

Q.- He was an expert in this sphere? Did Machalaki wear an uniform?

A.- No, he didn't. I told you he wasn't an officer.

Q.- Witness, A.- Excuse me for interrupting you, Mr. Defense Counsel, but I would like to stress the following point.

During the last negotiation for the surrender of the Germans, General Lanz' forces to the Allies -that was in September 1944 -- and if Michalaki hadn't performed his duties correctly, we would have found out about it, and he would have been in jail. And as a matter of fact he was in jail; he got out of jail in the meantime.

JUDGE BURKE: Is he in jail now?

WITNESS: No, Your Honor, he got out.

BY DR. SAUTER:

Q.- Why was he put in jail? He was an officer of your band.

A.- He was charged with having fallen for the foul play as given by the Germans, without his wanting it perhaps.

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Q.- What do you want to say about this?

A.- We believe that he played along with the Germans without actually wanting it.

Q.- Witness, you said today that we are only dealing with efforts of General Lanz to arrive at an understanding with Zervas.

MR. FENSTERMACHER: If Your Honor please, I don't believe the witness testified about such a thing.

THE PRESIDENT (JUDGE WENNERSTRUM): The witness can protect himself in any situation in connection with any of his quotations, I am quite certain. The objection will be over-ruled.

BY DR. SAUTER:

A.- Will you repeat your question, Mr. Defense Counsel?

Q.- Were agreements really arrived at between General Zervas and General Lanz, or between the two staffs of these generals?

A.- I told you before that the three or four attempts as made by General Lanz were made in order to get together and to discuss this matter because you couldn't reach an agreement without having a discussion in advance. As I stated before the attempts were made by General Lanz because two parties had to be present before any negotiations could be carried out. If an agreement should be reached it necessitates the presence of both parties in order to reach an agreement, which agreement did not exist on the part of Zervas.

Q.- Did not exist? Witness, don't you know anything about the fact that a staff of Lanz's came to a repeated agreement with the delegates of General Zervas that the troops of General Zervas were to be supported by the German troops in their fight against Communist Partisans?

A.- The Germans at all times tried to get some of the groups against the Communists and sometimes again they supported the Communists in the fight against our groups. Those were the wishes on the part of the Germans.

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Those were their wishes at least and what turned out to be was entirely different.

Q.- Witness, if you, as a Greek Nationalist, know all so accurately what the Germans wanted than you will be even much better able to tell us what your friend, Zervas, wanted, and for this reason, I am asking you, don't you know that General Zervas repeatedly asked General Lanz for armed assistance against the Communists and that he had so received this armed assistance from General Lanz?

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A That is an absolute lie because whoever at any time accepted weapons from the Germans was a traitor, an absolute traitor.

Q And you maintain that General Zervas and his officers did not receive German arms?

A No, General Zervas did not receive any weapons and every Greek citizen with a sound heart at no time accepted anything from the Germans - with sound heart and mind.

Q And I am asking you about the following incident: In the beginning of 1944, the units of General Zervas found themselves in an unfavorable position at the Arachtos front. Does the witness know anything about whether General Zervas at that time wrote a letter in his own handwriting to General Lanz, a sealed letter asking General Lanz for armed assistance?

A No, I don't know of any such thing.

Q May I continue? On the basis of the consent of General Lanz, Capt. Serrantis whom you talked of recently, an operational plan was worked out with the officers of General Lanz, on the basis of this mutual operational plan at the Arachtos front, the troops of General Zervas and the German troops attacked simultaneously. General Zervas from the West, Lanz with his troops from North and South, and through this General Zervas gained a big victory over the Communists with the help of General Lanz. Does the witness know anything of all this?

A I believe, Mr. Defense Counsel is repeating a well known piece of German propaganda here which the Germans were using both in Greece and Yugoslavia. In any case, as things are, if this incident really would have been correct and it would have come to the knowledge Court V Case VII Anagnostopoulos) of General Zervas that this Serrantis participated in this, he would have been caught and shot, and I would like to add the following.

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It is very funny, Mr. Defense Counsel. You see, it so happened that at that time, namely in March, I happened to be in the mountains and in order to reach General Zervas's forces, I had to make a great detour through an area where the Germans were attacking our groups. It would be a good thing, Mr. Defense Counsel, if you could take a trip to Greece and go up to the mountains and see the graves along the road of both German soldiers and guerilla forces on the distance between Artis, Jannina, and Tzoumerka, and Lakka-Souli.

Q Witness, I am not going to Greece. I am asking you repeatedly, is it right what I just said about the incident in the spring of 1944 at the Arachtos front?

A That is a lie.

Q Witness, I believe I said before, beginning of 1944, that seems to be a mistake. It should not be beginning of 1944; it should be August of 1944.

AAugust 1944?

Q August 1944 at the Arachtos front.

AAre you correcting yourself, Mr. Defense Counsel?

Q I have corrected myself. That is a mistake in writing. Perhaps you will correct yourself also.

A I shall refer you, Mr. Defense Counsel, and again come back to the telegrams which went to our headquarters and the Middle East headquarters. First of all, let me tell you the following. Between the 5th of August and the 14th of August, I would like to tell you, that the 10th Regiment of Zervas National Forces, in cooperation with U.S. Rangers, were fighting the Germans in the area of Kalama; and now secondly, between the 5th and the 10th of August 1944, the Zervas Regiment called Xyrovouni was advancing towards Prestan and they stopped the German forces which were advancing towards Pesta, which is near Arachi and smashed up their columns.

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On the 17th of August, which is the third occasion, the 10th Division of Zervas and his 40th Regiment led by Major Rogers of the U.S. Army, advanced towards Menina which is on the roads Igoumenitza and Jannina. During that time, those groups captured the German position of Menina, captured 120 prisoners, killed 100 Germans and captured along with the 100 prisoners 50 wounded and also all the equipment which belonged to the Germans; that is, vehicles, guns, horses, and all the other equipment that is both foodstuff and ammunition. Those, Mr. Defense Counsel, are only three incidents which occurred during the period of time which you mentioned in connection with Arachto.

THE PRESIDENT: We will take our afternoon recess at this time.

(A recess was taken).

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DR. SAUTER: Mr. President, I have only a few more questions.

Q Witness, I'd like to get a few answers from you about certain incidents in the last weeks of the occupation. Witness, do you know anything about the fact that General Zervas in the fall of 1944 requested General Lanz, through his spies, to tell him when the troops of General Lanz would evacuate the various parts of Epiros?

AAll I know personally, because I personally participated in this, is that General Lanz ordered to me either General Zervas in July or Tom Barnes. All I know is that at least as far as we knew, General Lanz believed that something serious was going to happen in Germany and therefore it was Lanz's idea, as we heard, to contact either General Zervas or the Chief of the Allied Mission in Greece. General Zervas refused to participate in this, and this approach and the whole thing was carried out by Tom Barnes. Tom Barnes reported to his headquarters, mainly to Marshal Wilson, and the result was that in case the Germans should make serious efforts to surrender unconditionally he should contact and carry on negotiations with General Lanz. Later the agent returned to Jannina and when he finally arrived he reported that General Lanz had personally told him that it was not possible for General Lanz personally

to go and see Tom Barnes because, as he said, of the serious incident which he was expecting to happen in Germany had happened, namely: the attempt on Hitler's life.

Q Witness, as far as I can understand your testimony I take it that you did not answer my question. So, in order that we might get ahead a little more quickly I would suggest to you that you confine yourself to my questions. I repeat, do you know that in the fall of 1944. General Zervas requested General Lanz to tell him when he would evacuate the various parts in order that the troops of General Zervas would move before the Communists would come. Perhaps you can give a brief answer to this.

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A That is not correct. The only thing I know is that General Zervas sent to General Lanz the terms according to which he was to surrender unconditionally and I personally wrote those terms.

Q Therefore, you don't know anything about this. This will have to be proven by means of other witnesses. One further question: Is it known to you, witness, that General Lanz actually had General Zervas informed of the fact, informed him about what regions of Epiros would be evacuated within the next few days so that Zervas might be able to march into these regions before the Communists would come.

A The whole thing seems very funny to me because I was present when all those things were happening and between the 1st of September and 15th of October 1944 the guns and the rifles were blazing away night and day and I personally entered the area of Jannina together with the Regiment which was called Xyrovouni and they were fighting at Verina and we had nine killed in our unit the last hour.

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Q Witness, I didn't ask you how many dead you had in the last hour but I asked you, do you actually know anything about the fact that General Zervas informed General Lanz as to what regions would be evacuated by the German troops within the next few days. The witness can answer the question with either a yes or no.

A No, of course.

Q Do you know that during those negotiations General Zervas proposed to General Lanz that Lanz, together with his troops, should desert to Zervas, that he, Lanz, and his troops would be decently treated and that they would then be committed as police troops?

A The things as quoted by Mr. Defense Counsel are exactly a distortion of the terms as written by me on the 9th of September in the evening in the office of General Zervas and presented to them.

Q Therefore, you know nothing about such a proposal. Answer this question yes or no?

A There was no such proposal.

Q Another question, do you know that General Lanz, before his withdrawal from Jannina gave considerable amount of food and other stocks to the population and International Red Cross?

A Yes, that is known to me.

Q Do you also know that during the withdrawal of the German troops from Jannina the Mayor of that town, a Bishop, expressed the gratitude of the population to General Lanz for the good will with which General Lanz treated the population of the town?

A Both the Mayor and the Bishop were trembling with fear thinking that the Germans might actually put their threats into effect whereby they would blow up all the city and they may have thanked them for not blowing it up.

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Q How does the witness know that?

A The way I know about it was that when I asked them how they dared to thank their invaders they told us they had witnesses to prove what had happened. The witnesses were, at least the name of one, was Konstantopoulos.

Q Witness, don't you know that the Mayor of Jannina in front of a large crowd of people told General Lanz when he left if General Lanz would ever return to the Balkans he would at any time be able to enjoy the hospitality of Jannina, and at this very same occasion the Mayor told General Lanz that the town of Jannina was very grateful to General Lanz for his solicitude?

A I don't know if he used those words but I know he spoke and I know why he spoke.

Q Well, what did he say?

A I don't know exactly what he said but when we entered the city we heard that the mayor had spoken to Lanz and we wanted to know what he had said and the reason for doing so.

A Witness, is it correct that in leaflets and in newspapers frequent approaches were made to General Zervas that he had collaborated with the Germans and is it correct that because of this charge General Zervas even at that time was very severely attacked from various leaflets?

Q The fact as is shown by those attacks and it seems from the sources those attacks came from, it is definite proof that General Zervas was the only and real opponent of the Germans in Greece.

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BY JUDGE BURKE:

Q I think the question was somewhat differently framed. The question in the first instance: Were such attacks in truth and in fact made on General Zervas by the leftist organizations?

A Yes, I said they did happen, yes.

BY DR. SAUTER: I have no further questions, your Honor.

Thank you.

BY DR. LATERNSE:

Q Your Honor I just have a very few questions. Witness, at the beginning of the war between Germany and Greece, were you a soldier at that time?

A I was a war correspondent at the Front.

Q And were you in May, June and July 1941, in Athens?

A What year?

Q 1941.

A Yes, I was.

Q Who executed the occupation of Athens, the Germans or the Italians?

A During the entire first period of May it was the Germans; later on came the Italians, with the only difference that the Germans had seen to it that they were able to keep whatever was tangible and essential.

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Q. I didn't ask you about that, witness. I just wanted to know approximately when the Italians took over the supreme military command administration in Athens.

A. It was the end of May or early in June, if I am not mistaken.

Q. You mean the year 1941?

A. Yes.

Q. Do you know whether, in the conditions of capitulation there was a provision according to which the Greeks obligated themselves officially not to fight the German any more?

A. No, I know of no such thing.

Q. You told us yesterday about the development of the Zervas movement and you said that in the first period, July 1942 to November 1942, there were 98 members.

A. I said that most of the gorilla forces, the number on the 23rd of October amounted to 98 men, including Zervas.

Q. And in the next period, from November 1942 to December, you mentioned the number 500 to 600.

A. Yes, that is correct.

Q. Now, we are speaking of the 98. Did they all remain with that movement?

A. All those that were left and hadn't gotten killed.

Q. Killed by whom?

A. By the Italians and the Germans in the battles fought against the two.

Q. Witness, how strong is a batallion?

A. The battalions in the gorilla forces did not have the personnel strength that normal military organizations have. In any case, the personnel strength was anything from between 120 men to 250 and that was at the time when the total number of gorillas was approximately 10,000 men.

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Q. Now, I would like to know, because you have already testified about military matters, how strong a normal battalion is?

A. According to the structure of the French army, which applied to our army also, a battalion had a personnel strength of 800 to 1000 men. However, today, as our army is based on British principles, the personnel strength in a Greek battalion in a Greek army today ranges between 50 and 300: therefore, practically the same as that of the gorilla forces in the mountains.

Q. Now, you said yesterday that the battles were fought against four Italian battalions.

A. Yes, that is correct.

Q. How strong approximately was one of these Italian battalions?

A. According to the information which we had at the time of the battle of Skoulikaria, they must have had from between 350 to 500 men in one battalion plus their transportation, whatever it was -- vehicles, mules or horses.

Q. Did I understand you correctly, that you said that the Italian battalions had about 350 to 500 men?

A. Yes, that is correct -- 350 to 500 men.

Q. Then these 98 men would have opposed 1500 to 1800 Italians?

A. Absolutely.

Q. And how did these battles turn out?

A. I believe that Mr. Defense Counsel doesn't know very well what gorilla warfare means. I would like to tell you that within 17 days, which was between the 23rd of October and the 10th of November and during the battle of Gorgopotamus, after the battle of Gorgopotamus, after exactly one month after this battle, we carried out, for one month after that battle, we carried out continuous harassing of the enemy, attacking them from mountain to mountain, from ridge to ridge, and from valley to valley.

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We killed a lot of them. We captured lots of them and we even captured their means of transportation.

Q. But, witness, did I understand you correctly to say that you with your 98 men even attacked these Italians?

A. Absolutely. Why is it so funny to you, Mr. Defense Counsel? After all, Greece did win the war over Italy, although Greece only had 7 million in it's population number and the Italians had 14 millions.

Q. I summarized that these 98 men attacked 1500 to 1800 Italians and even chased them away.

A. These 98 men for a period of two months and a half bothered the Italians to such an extent that they forced them to leave. Yes, even more than that, the Italian colonel in charge of those Italians gave the order, made the proposal to General Zervas to give him permission to leave, promising him he would never return and he issued such orders, but his proposals were not accepted.

Q. Witness, were those hard fights?

A. Absolutely, yes.

Q. How many losses did you have?

A. One lieutenant colonel was killed. His name was Avgerinos, and we also had fourteen dead during the first phase of the struggle. Later on our losses became more severe, forcefully, because we used more men.

Q. But you had only 98 men at that time?

A. Mr. Defense Counsel is not following very much the proceedings here. In any case, the prosecution asked me about those things and I said that on the 23rd of October, during the first phase of the struggle, we had 98 men whereupon the Bridge of Gorgopotamus was blown up; and in December and after that many more things happened.

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The British started throwing supplies down by parachutes, and uniforms and arms.

Q. Witness, I believe you have answered my question. We can leave this point.

A. And the battle continued.

Q. Witness, have you ever participated yourself in battle?

A. Personally, I watched the battle between the two parties by being in between the two. It was not my task to fight. It was my task to watch and I was right in the front line together with the other gorillas who were fighting. This does not necessarily mean that I did not make use of the weapon I had.

Q. Witness, would you please be more brief in answering my questions? Did you personally have a weapon?

A. Absolutely.

Q. But you just said that you were an observer and didn't shoot.

A. I said that the one does not stop the other. In the first place I was a gorilla and in the secondary station came my job as a war correspondent but the first did not stop the second.

Q. I asked you, did you personally participate in any battle?

A. Yes, I did.

Q. When and where?

A. (N.I.)

Q. If you answer my questions very briefly, I will be very happy. I just want to know when and where you fought.

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A. I participated, for instance, in the battle in the Prebissiva on the 5th and 6th of July 1944. I also participated in the attack against the German column near the Bridge of Zita. I also participated in the battle of Menina.

Q. Did you shoot personally in those battles?

A. Yes and yes and yes.

Q. You said yesterday something about the conduct of the Zervas troops when they were surrounded. Were you ever surrounded?

A. No, not personally, no.

Q. How do you know, then, how the Zervas troops conducted themselves when they were surrounded?

A. The same way I knew about it in the same manner in which the defense counsel knows about quite a few facts in which possibly he was not involved. For instance, we know that the French were encircled in the Sedan.

Q. What is the difference, witness, between you and me? That means you don't know how the troops conducted themselves as you were not there personally. Witness please answer my question briefly. Do you know?

A. Personally, of course, I don't know anything because I wasn't there.

Q. Why didn't you say that yesterday?

A. I wasn't asked anything in that connection.

Q. You mean that you can tell the Tribunal anything you have ever heard you can tell the Tribunal as a fact?

A. I did not Commit anything in particular to the Tribunal. I was asked what I knew. I want asked what I had seen. Whenever I was asked if I had seen it, I said I had seen it or hadn't seen it; and if they asked me how I know about it I explained how I did.

Q. But were you used differently that way from other witnesses, I would have to ask you every time whether you had seen it or whether you had heard about it.

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A. That's up to you.

Q. Well, can I assume that everything you have said here you either heard or saw or were told by somebody and perhaps saw something of it yourself?

A. The moment I receive an official report from a unit, according to which they are encircled and the report contains exactly where and how they were encircled that, of course, is according to the logic which prevails all over the world, with the exception of here, I believe it would mean that it is an official report and I can state it.

Q. Therefore, you are or a journalist than a witness? Give me a brief answer.

Q. In Greece the term "correspondent," "journalist" is an honorary term. It is not as it used to be in Goebbels's time that this was propagandistic, and a man who would tell lies. In any case, in Greece whoever is a correspondent or a newspaper man would always tell the truth and they consider that an honor.

Q. But I didn't mean this in a derogatory sense. I just mean that whatever you have described here you didn't see personally, did you?

MR. FENSTERMACHER: Your Honors, the witness has testified here on many occasions that he has gone back and forth to the mountains and he has seen battle and on March 1944, until the end, he has actually been in the mountains with Zervas' troops. I think if Dr. Laternser wants to quote the witness's testimony, he ought to quote it correctly.

THE PRESIDENT: I have this thought in connection with this examination, that possibly Dr. Laternser is endeavoring to attack the credibility of the witness and his questions are directed along that line. However, although I do not want to limit the cross examination, I suggest that we spend considerable time along this line, Dr. Laternser, and perhaps you made your point along that phase of the questioning and we might proceed to something else.

DR. LATERNSE: Yes your Honor, but I just have a few questions.

Q. Witness, were you one of those 98 people who fought against the the Italians?

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A. No.

DR. LATERNSE: I have no further questions.

DR. WEISGERBER (Counsel for the defendant Speidel)

Q. Witness, you are well informed about all the undertakings of the Zervas organization?

A Yes.

Q. You said yesterday that the Zervas organization in the first month of the year 1944 had about 3,000 to 4,000 men.

A. That is in the Epiros area.

Q. Were there any further EDES units an Euboea?

A. Now unit which had any connection with Zervas' forces ever existed on Euboea.

Q. Witness, can you briefly tell us what the Evzones were in that organization?

MR. FENSTERMACHER: I object to the question. It is not within the scope of the direct examination.

DR WEISGERBER: I would like to make the following statement in this connection, Your Honor. I will quote part of a document in which Evzones are mentioned in this connection, and therefore I consider this question not only as admissible, but as necessary.

MR. FENSTERMACHER: I do not believe the witness testified on direct of any knowledge of any Evzones Organization, Your Honor.

PRESIDENT WENNERSTRUM: Sustained.

BY DR. WEISGERBER:

Q. Witness, did members of the EDES organization, together with Communists, pardon me, together with EVzones, ever fight communists?

A. No, at no time, and whoever was a member of the Evzones organization and said that he fought, - who in any case said he was a member of the EDES organization, and said he fought together with the Evzones is a traitor.

Q. Then I want the witness to see the document [NOKW 717](#), Prosecution's Exhibit 435, in the Document Book 18, page 27 of the German Text, and if I have noted this correctly, page 24 of the English text, there it says its [NOKW 717](#)-- and this is a daily report of the military Commander Southeast, to Army Group F, of the 4th of March 1944. There it reads:

"16 kilometers southeast from Chalkis, Evzones Regiment No. 1, together with EDES civilian guards repulsed band attacks."

Is this report correct?

MR. FENSTERMACHER: I object to the question. I do not believe the witness is competent to testify about that.

PRESIDENT: Sustained.

MR. SIMHA: Your Honor, I believe the witness wants to answer that question.

MR. FENSTERMACHER: If your Honors please, I do not believe the witness is competent, and therefore should not be permitted to answer.

DR. WEISBERGER: I cannot permit-

PRESIDENT WENNERSTRUM: The Court will reverse its ruling, and permit him to answer.

A. I do not want to have any such dirty statements made against the greatest fighting organization in Greece. Those statements are statements of propaganda and nothing else.

DR. WEISGERBER: This is a matter of a document which the prosecution has submitted in order to prove its claim. If I understand the witness correctly, he wishes to say that this document is wrong at the place.

MR. FENSTERMACHER: I object to Dr. Weisgerber's remarks. This document, especially the part which he quotes, "was submitted to sustain the prosecution's claim," and therefore I ask it be stricken from the record.

PRESIDENT WENNERSTRUM: Objection overruled.

BY DR. WEISGERBER:

Q. Witness, is the name General Liakos known to you?

A. I have heard the name.

Q. Was he a follower to EDES?

A. No, he was not, and it was in the interests of the Germans to put several dirty subjects into the EDES; at least to say that they were in the EDES; that is what I mean.

Q. Did General Liakos ever lead or command an EDES unit?

A. No, at no time did he do such a thing.

Q. I want to submit to the witness, the Prosecution Document NOKW 692, Prosecution's Exhibit 422, it is contained in Document Book 8, page 114 and page 115 of the English text, there it says:

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"EDES Company Euboea, 100 FDES members under command of General Liakos together with German armed units were committed from Chalkis; only small successes against communists so far."

Will you still maintain that no EDES members fought together with Germans or with the agreement of the Germans against communists?

MR. FENSTERMACHER: Your Honor, the witness may be confused. I ask that he be instructed that this document submitted by the prosecution is a captured German document.

DR. WEISGERBER: Your Honor, I ask you to permit me the following statement. This is a document which doubtless comes from German origin, but the prosecution has submitted this document, as well as a hundred others, in order to support their own claims; whatever it wants to prove, among other things, it wants to support by means of these very documents. There I see no reason.

PRESIDENT WENNERSTRUM: I think the objection which the prosecution has made, and which is not really in the nature of an objection but a request for an admonition to the witness, needs no comment on the part of the examiner. I might say to the witness that this, the document to which he refers, is a captured German War document, and in connection with the question, the witness will keep that fact in mind in answering the question.

You may answer the question.

A. Now whoever said that he was a member of the Evzones and that he fought together with the Germans, is a traitor. All those people were traitors, those who were fighting with units which possibly had German weapons, and General *ervas, by sending reports and telegrams to the Middle East headquarters, was reporting those incidents and he disclosed the German tricks.

PRESIDENT WENNERSTRUM: The Tribunal will adjourn at this time until Monday morning at nine-thirty.

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...Tribunal adjourned at 1630 hours until 0930 hours Monday August 16, 1947.....

Page Unlabeled

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 18 August 1947, 0930-1630, Justice Burke, presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

May it please Your Honors, all defendants are present in the Courtroom.

The Courtroom will be seated.

PRESIDING JUSTICE BURKE: You may proceed.

CROSS EXAMINATION (continued) WITNESS COSTAS TRIANDAPHYLIDIS

BY DR. MUELER TORGOW:

Q Witness, for what reason before the coalitions which you talked about of all resistance on 23 July 1943, was, if that there were different movements founded in Greece, especially the EAM and the EDES?

MR. FENSTIRMACHER: I object to the question. I do not think it is within the scope of the direct examination.

PRESIDING JUSTICE BURKE: If the witness knows he may answer.

A Yes, I do have an answer to your question, Mr. Defense Counsel. The reason was that various persons formed various groups. These various people amongst each other might have had different political idea. However, one point has to be stressed. That is all of the Greeks who took to the mountains, and all of the Greeks who joined the resistance movements only had one thought, to fight the invader.

Q Witness, why did these various movements hold various political views? You know something about it, I am sure.

MR. FENSTERMACHER: We are getting pretty far afield from the 2152 direct examination.

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As I understand the direct examination, the witness only testified to the EDES organization, its military structure, the uniforms they wore, and the manner of warfare.

PRESIDING JUSTICE BURKE: The objection will be sustained.

DR. MUELLER-TORGOW: The subject is the activity of the German Occupation Forces in Greece in 1941 to 1943. Apart from this, the witness on Friday and Saturday made general explanations not only pertaining to the question of military organization of the EDES, but also of the AEM generally, and the relation of AEM to EDES. Within the frame work I put this, my question.

PRESIDING JUSTICE BURKE: Your question seems to indicate that you call for his conclusion as to what they thought, and as to his ideas. I think that it is incompetent.

DR. MUELLER-TORGOW: You want to know facts, your Honor.

PRESIDING JUSTICE BURKE: Then I suggest that you ask them.

BY DR. MUELLER-TORGOW:

Q Witness, what political parties had the attention of the EDES party and those of the AEM?

A The EDES organization of the groups had contact relationships with those political groups that wanted to fight the invader, with all of them without exception. I was not a member of the AEM and therefore I could not testify as to that, and I was not interested in it.

Q Witness, if you didn't know that, then I put it to you, that in a Greek newspaper, 5 April, 1947, that the constituents of these two groups was the following. I should like this to refresh your memory to this effect:

"The EDES have liberal, monarchistic and socialistic ideas* the AEM is the left, -- has the leftist tendencies," and this was written by a Greek journalist.

MR. FENSTERMACHER: Your Honor, I object to the question. I do not think it is proper cross-examination.

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PRESIDING JUSTICE BURKE: The objection is sustained.

Q Witness, you said on the 23rd of August, 1943, the old organization in Greece had come to agreement and had been unified. Was that in writing or orally, and who were the members, -- who were the participants of the EDES and the AEM?

MR. FENSTERMACHER: Your Honor, I object to the question. The defendant has testified that he was not a member of the AEM or ALES and he can therefore not know who any representative of AIM or ELAs were.

DR. MUELLER-TORGOW: Your Honor, the witness expressly told us about this agreement, and its uniformity. My question is in connection with that he has stated here. If he does not know it, he should say he doesn't know it. The question must be admissible, however.

PRESIDING JUSTICE BURKE: If the witness has personal knowledge of the question he may answer.

A Yes, I do know something about it, and I shall give you a detailed answer. The National units of the theatre were recognized, they were recognized groups from the headquarters of the Middle East. They were regular units of the army commanded by the Middle East, and therefore the agreement which took place on the 23rd of July, 1943, was under the auspices of representatives of headquarters of the Middle East. This agreement was made in writing.

The main terms contained in this agreement provided that the national units of General Zervas, the units of the ELAS, and the units of Colonel Psaros would receive military orders from the Middle East, and act according to those orders while performing military operations. It was drawn up by the United headquarters and all of those units.

This common headquarters which had been set up was competent for these organizations, and also it consisted of the mission of the British. If you are interested in names of the people who were in that common headquarters, I can give you names, and in any case I could tell you they were all Greek officers of the regular army.

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For instance for the unit of the ELAS, Colonel Petjopoulakas and -

Q That is sufficient witness. Who was Psaros?

A Colonel Psaros was a regular colonel of the Greek Army, as the man in charge of the Guerilla forces of the organization EKKA.

Q What kind of any organization was this EKKA?

A It was an organization of national resistance.

Q Exactly like the others in Greece?

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A Yes, that is correct.

Q Witness, this unification of the 23rd of April, 1943; how long did that remain in 1943?

A Until the month of October, 1943.

Q Why only until October, 1943? What happened then?

A This is an internal Greek matter and that has nothing to do with the crimes committed by the Germans before that incident, during and after that incident.

Q I didn't ask you that, witness. I asked you why the unification of the 23rd of August 1943, was only observed until October 1943.

MR. FENSTERMACHER: If your Honors please, I object to the question. I think it is without the scope of the direct examination.

DR. MUELLER-TORGOW: Your Honor, this is in connection with the statement of the witness on Friday.

PRESIDING JUSTICE BURKE: The witness is assumed to be able to answer the question. I suggest that he answer it.

A In order to stop the idea on the part of the German Defense Counsel, according to which you are trying to say that Greece during those years were fighting Communists, I would like to correct that, and say that the reason why this thing stopped in October 1943, was that the Germans were throwing one against another, and it is with this policy that they succeeded in throwing one group against the other. If you want some more, I could even give you dates and details of all of those things.

Q I would like to ask you witness, the Germans according to the old Roman principle did divide the resistance groups "divide et impera" in October, 1943. Is that correct?

A What I wanted to say is this, that the Germans were not fighting the communist organization because they were communists; they were fighting every Greek, they were fighting every patriot, also the national organizations.

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In any case, whatever they found in those organizations, certain people in those communist organizations, certain people who would help them, they would not step; they would not hesitate in employing their aid and use it against the other organizations and groups. Just to give you an example, I can state this; that they did not stop on that occasion to take communists and employ their aid, and have the communists show them where ELAS organization was, namely in Zagoria, and that was on the 15th of October, 1943. They encircled the unit of Zagoria, in Arachovitsa and they destroyed it. The delegation that went to Zervas on the 5th of October, also had the task, the order, to go to the 8th ELAS division also, and they told these people there that in case they should be ready to sign an agreement with the Germans, they would use them also in order to fight the others, and would help

them, rather, in order to even go back behind or before that period of time, and there are certain photographs to prove that, that is, official photographs, in Athens, and ---

Q Were you in Zagoria and Arachovirsa when this happened? Were you present when this happened?

MR. FENSTERMACHER: I wonder if we can have the witness' answer before the defense counsel interrupts.

A We have documents--

PRESIDING JUSTICE BURKE: May I suggest for the convenience of the interpreter, and for the intelligent reception on the part of the Tribunal, that the answer to broken down in segments rather than given as a long discourse. It makes it very difficult for the interpreters and sometimes somewhat difficult for the Tribunal to keep the continuity of the answer, to may I suggest that in the future, a brief statement be given and interpreted, so far as competent, and in that fashion we will be able to understand a little better the context of the testimony.

MR. DENNEY: I cannot hear anything on the second channel over her, your Honor. I never can hear the question in English, and I cannot hear anything your Honor is saying.

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PRESIDING JUSTICE BURKE: It may be well to have the system checked.

(A short recess was taken at 2156 hours.)

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PRESIDING JUDGE BURKE: You may proceed.

BY DR. MUELLER-Torgaw:

A.- We have documents in Greece to prove that the Germans were releasing Communist leaders from their prisons in order to employ them against us. For instance, there was a man by the name of Tzimas, one of the Communist leaders. And I also know of another case where 35 Communist leaders were released from the Concentration Camp of Chaidari. The Germans would kill every Greek citizen, without differentiating between them, the moment they fought against them. Regardless if they were Royalists, Communists, or Democrats. The Germans would tend and would be ready to use every Greek citizen who did not have enough brains to know-better. They would use every criminal means and every criminal element, regardless whether he acted like a Communist, like a Royalist, or like a Democrat.

Q.- Was this the rule, Witness, that the Germans collaborated with the Communists, that is the EAM? And was it....

PRESIDING JUDGE BURKE: Will you speak a little louder, Interpreter, please?

INTERPRETER (Dr. Hildesheimer): Was it usual, witness, that the Germans collaborated with the Communists, that is the EAH?

MR. FENSTERMACHER: If Your Honor please, I submit that we're getting very very far afield.

PRESIDING JUDGE BURKE: That objection is sustained.

BY DR. MUELLER-TORGOW:

Q.- Witness, you haven't answered my question whether the Germans in October 1943 divided the two organization EDES and EAM. Will you please explain this very shortly.

MR. FENSTERMACHER: If Your Honors please, I object to the question for the same reason that I objected to the previous question.

PRESIDING JUDGE BURKE: If the witness knows he may answer it.

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BY DR. MUELLER-TORGOW:

A.- I answered. I said that the German policy was to start the EAM to fight against the EDES; and they succeeded in doing so. Therefore, the patriots who were in the EDES and in the ELAS are not guilty because they were ready to fight against the Germans. What I meant to say was that for the attack of the EAM against the EDES the patriots are not responsible. It's not their fault. These people wanted to fight against the Germans. I would, like to stress the following point; that tho attack of the EAM against the ZERVAS group coincided with the attack of the German Edelweiss Division against Dzoumerka.

Q.- That'll do, witness.

A.- I would like to continue, Your Honor. The proof for all of this is contained in the telegrams between the British Mission in Greece and tho Middle East Headquarters, and also by the testimony and report given by Brigadier General Eddy, and by the radio broadcast by Field Marshal Wilson.

Q.- Now, witness; do you admit, therefore, that between ELAS and EAM there were differences?

PRESIDING JUDGE BURKE: For him to admit it is a question of admission. He presumably has stated the fact. Shouldn't that conclude it?

DR. MUELLER-TORGOW: I only wanted to clarify it; Your Honor; because the witness on Friday and Saturday said the contrary.

PRESIDING JUDGE BURKE: Very well; proceed.

BY DR. MUELLER-TORGOW:

Q.- Witness, you were personal adviser of General Zervas, and you wore a uniform. What military rank did you holt?

A.- I was a simple guerilla.

Q.- What rank? There must have been rank in the military organization of Zervas?

A.- I told the Prosecution during the examination that in the organization of Zervas I was the man in charge of the press department.

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Q.- Witness, you said on Saturday -- you answered a question by the defense counsel that you wore a uniform. You must, therefore, have held a military rank. Which was it?

A.- I was a soldier.

Q.- That was the lowest rank then?

A.- Yes, quite so; absolutely.

Q.- Witness, in what matters did you advise General Zervas generally?

A.- I advised General Zervas on whatever matters had any relation with national politics and also with regard to the press part.

Q.- Then you can probably inform me of the following: What was the strength of the EDES in autumn 1943 on the Peloponnes?

A.- We had a personnel strength of between 300 and 400 men.

Q.- Who was the leader?

A.- That I don't remember, but they were subordinated to the British Missions orders.

Q.- Do you know, witness, that the EDES units on the Peloponnes, under Major Bretakos during fall 1943, were eliminated by the EAM?

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A. What the defense counsel said could not be correct because Rittmeister Bretakos never did belong to the organization of the EDES.

Q. Do you know anything, apart from the personality of Bretakos that the units were eliminated on the Peloponnes?

A. The EDES group had received an order from the British Mission to go into the mainland in order to avoid having clashes on the Peloponnes with the EAM. The order was executed and most of these men succeeded in getting into the Epiros area.

Q. You haven't answered my question, Witness.

A. You asked me if they had been destroyed, and I told you they were not destroyed because they received the order to withdraw.

Q. That doesn't exclude each of these two things, but I shall now come to something else. Witness, on Friday you said that General Zervas had in February 1945 returned from the Mountains to Athens.

Why only in February 1945? When the only enemy, that is the Germans, had already left Greece in October.

MR. FENSTERMACHER: I object to the question. The Witness testified that in February 1945 he, the witness, returned from the mountains to Athens, and he said nothing about General Zervas' returning to Athens.

DR. MUELLER - TORGOW: Your Honor, he said he together with General Zervas had returned from the mountains to Athens on that date, as far as I remember

PRESIDING JUDGE BURKE: The Witness will recall himself when that was his answer. The answer, in all probability, may be brief.

BY DR. MUELLER-TORGOW:

A. In February 1945 I returned to Athens together with General Zervas because the national guerrilla groups had been demobilized according to a general order of the Greek Government. Those Guerrillas who were of age to serve in the Army remained, and they formed the Epiros Division.

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That's all I have to say, and whatever else Mr. Defense Counsel is trying to implicate has nothing to do with my being here.

PRESIDING JUDGE BURKE: The question of his implication has no bearing upon the duties of the Tribunal. We will determine that matter. The Witness will answer if he has knowledge of the facts; otherwise without comment. Proceed.

BY DR. MUELLER-TORGOW:

Q. Witness, the EAM units did not prevent the General to return from the mountains to Athens did they?

A. MR. FENSTERMACHER: If Your Honors please, I don't see how this is at all relevant to either the direct examination or to any attempts to impeach the credibility of the Witness.

PRESIDING JUDGE BURKE : The Objection is sustained.

BY DR. MUELLER-TORGOW:

Q. Witness, is it true that General Zervas is now Minister for Public Security in the present Greek Government of Maximos?

A. Yes, that is correct.

Q. Witness, why was a Minister for Public Security erected in Greece?

MR. FENSTERMACHER: I object to the question, Your Honor. I don't think it is within the scope of direct examination.

DR. MUELLER-TORGOW: Your Honor , this question is in immediate connection with the scope of the EDES and the EAM.

PRESIDING JUDGE BURKE: Very well, We'll take the answer briefly.

BY DR. MUELLER TORGOW:

A. This was not the first time it was established. It has existed since 1936.

Q. Could it not have been dissolved after the Germans had left, or was this situation insecure? If it was insecure, why?

MR. FENSTERMACHER: If Your Honors please, I object to the question.

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PRESIDING JUDGE BURKE: The objection is sustained.

BY DR. MUELLER TORGOW:

Q. Witness, the EAM simultaneously with the departure of the Germans---were they eliminated?

MR. FENSTERMACHER: If Your Honors please, I don't see the relevance of questions of this nature.

PRESIDING JUDGE BURKE: We'll take the answer for what it may be worth.

BY DR. MUELLER TORGOW:

A. No, it was not dissolved.

Q. Why not?

A. The EAM had certain political aims which it wanted to attain.

Q. And ELAS?

A. The same thing.

Q. Witness, the ELAS is a military organization. It had certain political aims, as it was said before, and it was extremely left.

PRESIDING JUDGE BURKE: I think the conclusion of counsel is perhaps not appropriate at this place. If you have a direct question, or cross-examination question, please frame it accordingly.

BY DR. MUELLER TORGOW:

Q. Witness, why, after the Germans left Greece, was the EAM not dissolved? That was the question which I put and which has not been answered yet.

MR. FENSTERMACHER: If Your Honors please, we are now beginning to get into the matters after the Germans left Greece, and the defense counsel is obviously trying to inject into this trial matters which are now going on in Greece. And I submit that they are not at all relevant, and they have nothing to do with the cross examination and the credibility of the Witness.

PRESIDING JUDGE BURKE: The objection is sustained.

DR. MUELLER TORGOW: In that case I have no further questions.

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PRESIDING JUDGE BURKE: Is there further cross-examination? You may proceed, Mr. Fenstermacher .

RE-DIRECT EXAMINATION BY MR. FENSTERMACHER:

Q. Witness, you testified on Saturday that you knew that General Lanz's groups furnished food to the Red Cross for the relief of the Greek people. Is that true?

A. Yes, there were such incidents.

Q. When?

A. That was around that period of time when the Germans were about ready to withdraw.

Q. And what date was that ?

A. That was around September 1944.)

Q. When did General Lanz ' troops come to the Epiros section of Greece?

A. Towards the end of June 1943 and General Lanz himself came in August 1943.

Q. Between August 1943 and September or October 1944, do you know of any other cases in which General Lanz' troops furnished food to the Red Cross for the relief of the Greek people?

A. No, I don't; but I can also explain why they did give food in September 1944.

4. Do you know why, Witness?

A. That was the time during which the Germans were about ready to withdraw, and at that time they tried to most anything to oblige the Greeks kindly and to stop them from making more attacks against them.

Q. Witness, I believe you also testified on Saturday that you knew that when General Lanz left Jannina, the capital of Epiros, that the mayor of Jannina. thanked General Lanz . Did you testify to that?

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A Yes, that is correct.

Q The man who was mayor of Jannina at that time, where is he now?

A He is in Greece.

Q Is he a free citizen of Greece?

A Yes, he is.

Q. Is he mayor of Jannina today?

A That I don't know. I don't think so. But I could explain it to you why he thanked the Germans.

Q If you know, you may explain.

PRESIDING JUDGE BURKE: I think he explained it in some detail on Friday or Saturday.

MR. FENSTERMACHER: Very well, your Honor, we may omit it.

BY MR. FENSTERMACHER:

Q Witness, during what period of time from the information which you had at your disposal were most of the villages in the Epiros section of Greece burned?

A All the villages of the Epiros were burned during the period of time during which the Germans were in that area.

Q What period of time was that?

A From the 20th of June 1933 until the month of October 1944.

Q Did you ever see any villages while they were actually burning, witness?

A Yes, I did, on three occasions.

Q They were villages which had been defended by EDES units?

A No, at no time.

Q Did the EDES troops ever execute retaliation measures?

A No.

Q Witness, did the burning of villages by German troops discontinue at any time as a result of differences which existed between EDES and ELAS units?

A I don't quite understand what you mean.

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Q You testified that there were certain differences between EDES and ELAS units. My question is, were those differences at all relevant with respect to the methods of warfare, namely the burning of villages which the German troops employed?

PRESIDING JUDGE BURKE: Wouldn't that be pretty much of a conclusion? He may state the facts. The conclusions will be drawn from the facts. I think it is the responsibility of the Tribunal.

MR. FENSTERMACHER: Very well, your Honor, I will withdraw the question.

BY MR. FENSTERMACHER:

Q Witness, when you returned to Athens in April 1941 from covering the Italian-German war, did you see German troops there?

A Yes, I did.

Q Did you also see Italian troops?

A Yes, I did.

Q From your observation, were there more German troops than Italian troops in Athens?

DR. LATERNSEER: I object. But in the this case, no facts are requested, but a judgment.

MR. FENSTERMACHER: I believe I have asked the witness to state whatever he observed, your Honor.

PRESIDING JUDGE BURKE: I am sorry. I received only a part of the objection of the defense counsel to this.

DR. LATERNSEER: I would also like the defense counsel in this case to ask for facts. The prosecution counsel should ask for facts even in this case.

PRESIDING JUDGE BURKE: I assume the question is predicated on the fact that the answer will be an answer of facts.

MR. FENSTERMACHER: That is right, your Honor, based on whatever the witness observed.

PRESIDING JUDGE BURKE: You may proceed.

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BY MR. FENSTERMACHER:

AAAt that time in April 1941, Germans prevailing in number, and that continued until the time when they invaded Crete, rather when they had completed with the invasion and the operations in Crete and they started withdrawing towards the North and they were progressing towards the Russian front where they were supposed to strike quite soon.

Q Were German troops in Athens continually from April 1941 until October 1944?

A Yes, regardless of the period of time, there were Germans in there at all times. Sometimes there were more and sometimes there were less.

Q When did the Italians troops leave Athens?

A The Italians did not leave Greece. They were disarmed by the Germans in September, 1943.

Q Witness, were you a guerilla fighter and soldier as well as a journalist during the period of time to which you have testified? That is to say, from April 1941 until October 1944?

A Yes, that was the duty of every person that went up to the mountains.

Q Now, will you state again the sources of information for the testimony which you have given?

PRESIDING JUDGE BURKE: Mr. Fenstermacher, pardon me for interrupting. My impression and that of my colleagues is that this matter has been quite fully covered.

MR. FENSTERMACHER: If your Honor pleases, Dr. Laternser, it seems to me, has some doubt upon the sources of information which the witness had at his disposal in order to testify.

PRESIDING JUDGE BURKE: Very well, you may proceed.

BY MR. FENSTERMACHER:

A First of all, it is my own experience, what I saw myself. Secondly, in my capacity as Zervas's adviser, personal adviser; and thirdly by the fact that all the documents of the guerilla forces were in my hands and still are in my hands.

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Then there was another fact, the fact that as the man in charge of the press the official information came both to me and to the headquarters, not only the official information but also the top secret information.

Q Did you also travel around in the combat areas and speak to troops of the EDES organization?

A Yes, I did at all times.

Q Did you speak to the inhabitants of the villages in the combat area as well?

A Yes, indeed. Absolutely.

Q Witness, you testified that in November 1942, 98 EDES men attacked from 18 to 2,000 Italian troops. Was it customary for the EDES organization to attack the enemy, even though greatly outnumbered?

A Absolutely. If the order was to carry out the operation, they did so. And there are certain other incidents where the difference of strength is even more drastic.

Q Did you also attack German forces even though outnumbered from 3 to 4 to 1? Or even more outnumbered than that?

A Yes, quite often, with the only exception that our losses then were much heavier.

Q Witness, you were also asked a few questions about the Evzones organization and their relationship with the EDES organization as it appeared from a document which was submitted, excerpts of which were read to you. What was the Evzones organization, witness?

DR. WEISGERBER: Objection. I object to this question. On Saturday I asked the same question and Dr. Fenstermacher objected then and he gave the reason that this was not in connection with the matter to be dealt with, and I think that this situation is still the same and therefore now I object.

MR. FENSTERMACHER: Your Honor, I recall that Dr. Weisgerber later qualified the witness to speak on the matter and we then had quite a discussion on the relation between the EDES and the EVzones organization.

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PRESIDING JUDGE BURKE: Well, with that understanding, if defense counsel wishes to question him further, he may have the opportunity to do so. This is my personal opinion. I haven't conferred with my associates but that is my personal feeling about it. You may proceed.

MR. FENSTERMACHER: With your Honor's permission then, I will refer directly to the document which was read from by defense counsel on Saturday.

BY MR. FENSTERMACHER:

Q Witness, I am reading now from Document [NOKW-692](#), which is prosecution Exhibit, in evidence, 422. This is on page 114 of the English document book, and I believe on page 83 of the German document book. I should like to have your explanation, witness, about the excerpts from this document after I have read it to you. This is a report from the Military commander in Greece dated 19 November 1943, and one section of the document is as follows:

"Evzones, Greek War. They had continued to prove themselves during raids against Communists in Athens. The organization of an Evzones regiment in Athens with three battalions and that of one regiment in Patras with two battalions on the way. Cadres emanate between the two fine battalions which were already in existence.

"EDES company, Evia. As a trial, 100 EDES followers, nationalist band, were armed in return for the furnishing of hostages and under the leadership of the Prefect General Liakos they were committed from Chalkis. As yet, only minor successes against Communists."

Witness, do you know who General Liakos was?

DR. LATERNSEER: Objection. This part of this document was not a matter of the cross-examination and it cannot be used now.

PRESIDING JUDGE BURKE: You may take the answer.

MR. FENSTERMACHER: You may answer the question, witness.

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Anagnostopoulos BY MR. FENSTERMACHER:

A General Liakos had been appointed by the Quissling government in Chalkis as Prefect. This man couldn't possibly have anything to do with the guerilla bands observers. If Mr. Fenstermacher would be kind enough to tell me the date, I would appreciate it.

Q The document from which I am reading is a report from the Military Commander in Greece dated 19 November 1943.

A That way at a period of time, that is the 19th of November, 1943, at which Zervas's forces were fighting in the Tzoumerka and at which time the battle had reached its peak. Therefore, it is absolutely impossible to believe that while Zervas personally was facing a crisis and the battle was raging, he delegated certain troops to fight with the Germans.

Q Witness, did EDES troops from Zervas organization ever fight in conjunction with Evzones units?

A General Zervas had made an announcement to the Evzone groups telling them that in case they shouldn't dissolve -- I mean demobilize their groups, they would be considered traitors and as they did not dissolve their groups they were considered traitors, at least certain units.

Q Did EDES troops ever fight with Evzone units?

A No, never.

MR. FENSTERMACHER: Now, if your Honors please, in the direct examination on Friday and Saturday, I completely neglected to ask the witness two or three questions which were not touched upon in cross-examination, and I should like your Honors' permission to go into that now. The questions and answers, together, should not take more than five minutes.

PRESIDING JUDGE BURKE: You may proceed.

BY MR. FENSTERMACHER:

Q Witness, bearing in mind the sources of information to which you had access, do you know how EDES troops were treated when captured by the Germans? 2171

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A From the moment when the Germans arrived in Epiros until May 1944, all the EDES members who were captured were executed, or most of them. Later on the Germans avoided to shoot them but there were still incidents where EDES members were shot. During the first period, the crimes which were committed against EDES member who were wounded and prisoners are horrible.

Q Witness, from the reports which you had access to during the period prior to May 1944, what percentage of EDES troops captured by the Germans were executed, if you know?

AAAt least 70 per cent.

MR. FENSTERMACHER: Your Honor, I have no further questions at this time but the photographs about which I spoke on Saturday that I should like to put to the witness, are in the process of being reproduced, and I should like -- I believe they will be ready tomorrow-- and I should like to put the witness on again simply for that purpose.

PRESIDING JUDGE BURKE: Very well.

MR. LATERNSEER: Your Honor, I should like to cross-examine the witness about some points which I have not been able to clarify yet.

PRESIDING JUDGE BURKE: Very well, you may proceed.

DR. LATERNSEER: And which only come to me now.

RECROSS EXAMINATION BY DR. LATERNSEER:

Q Witness, you said just now that members of the EDES who became German prisoners were executed.

A Yes, that is correct, and I could even give you names.

Q Did you see such executions yourself--members of the EDES executed by Germans?

A Absolutely. I saw their bodies,

Q I asked you whether you witnessed EDES members being shot by Germans?

A If I had been there, they would have shot me too.

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Q Well, who told you then?

A When we knew, for instance, that a wounded man, a man who had been wounded had been left in some home in a village and our armies withdrew from that village after the battle and the Germans moved in and we returned after a while and we went back to the house to find the wounded and we found him dead, killed in a horrible manner, then of course we knew that the Germans had done it.

Q I asked you, witness, who told you that he saw, himself, shootings of prisoners?

A Many of them did, many for instance who were present when the shooting occurred and for some strange reason or other, they escaped. Do you want any names, Mr. Defense Counsel? And dates also? All those things were reported detail by detail to the Middle East Headquarters.

Q But from your own knowledge, you don't know anything about that? I mean from your own experience?

A Personally, I have seen the body of my friend, Lt. Galiatsos who had been killed by the Germans in a most horrible manner which not even the New Guinea inhabitants would have used. That was at Tetrakommon. One of the greatest heroes of this war was First Lieutenant Ballas, he was executed in the same manner together with 18 other prisoners, also wounded on the road between Boulgarelli and Neraidos and the monastery of Agyia Kyriaki which is also near Joannina which we had transformed into a hospital and all our heavily wounded men and the nurses were burned alive by the Germans inside the monastery, and even about that there is a personal information in the headquarters in the Middle East. I saw the monastery myself with the burned bodies in it.

PRESIDING JUDGE BURKE: At this point, we will recess until 11:30.

(A recess was taken.)

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THE MARSHAL: Persons in the court room, will be seated.

THE PRESIDENT: Tribunal is again in session. You may proceed Dr. Laternser.

BY DR. LATERNER: - RECROSS EXAMINATION

Q Witness, I would like you to answer this question with yes or no. Did you, yourself, see at any time that members of the EDES who were captured by the Germans were shot by the Germans. Did you ever see that yourself. Yes or no.

A No, I said I didn't see that myself. I gave that answer before.

DR. LATERNER: I have no further questions.

INTERPRETER SIMHA: The witness informed me that he has a brief statement to make.

PRESIDING JUDGE BURKE: Mr. Fenstermacher?

MR. FENSTERMACHER: I have no idea what the witness has in mind, your Honor.

PRESIDING JUDGE BURKE: I think you should confer with the witness to find out if it has anything to do with the proceeding.

MR. FENSTERMACHER: Your Honor, I think we have covered the material already about which the witness wants to talk about.

PRESIDING JUDGE BURKE: As an American Tribunal we seek to limit the witness' answers to interrogations either by the Prosecution or defense counsel. Are there any further questions?

Judge Wennersturm or Judge Carter, do you have any further questions?

Mr. Fenstermacher, I understand you wish to recall the witness for the purpose of identifying certain Court V Case VII Anagnostopoulos) documents or photographs.

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MR. FENSTERMACHER: For certain photographs and that's all.

PRESIDING JUDGE BURKE: With that exception the witness may stand excused.

MR. DENNEY: Your Honors, please, may the Marshall be directed to summons the witness STEPHANOS PAPPAS.

PRESIDING JUDGE BURKE: The Marshall is directed to summons the witness STEPHANOS PAPPAS.

Stephanos Pappas, you may arise and be sworn.

Stephanos Pappas, I swear to speak the truth and only the truth in reply to whatever I am asked, without fear and without prejudice. (The witness repeated the oath.)

You may be seated. You may proceed Mr. Denney.

BY MR. DENNEY: - DIRECT EXAMINATION

Q What is your name?

A Stephanos Pappas.

Q Are there two or three Ps in your last name.

A Double P.

Q Then there are three Ps in your last name.

A Yes, that's correct.

Q Where were you born?

A In Kommeno of Arta.

Q In what region of Greece is that?

A In the Epiros area.

Q And is Kommeno spelled K-O-M-E-N-O?

A It is spelled K-O-M-M-E-N-O.

Q When were you born?

A I was born on the 14th of February 1903.

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Q How much education did you have?

A I finished at the University of Athens. I studied Ancient Greek, Modern Greek and History.

Q And you received a degree from the University of Athens?

A Yes.

Q What is your occupation?

A I am the second manager or deputy manager of the college of Arta.

Q Do you have other duties other than the assistant director of the school?

A I have tasks in connection with teaching at the college.

Q What subjects do you teach?

A I said before Ancient History, Modern and ancient Greek.

Q How many pupils are there in this school?

A Last year we had 768 pupils.

Q And general what is the age range of these pupils?

A The college consists of six classes, therefore the ages range from 13 to 20.

Q Are you married?

A Yes, I am.

Q Do you have any children?

A I have three children, one boy and two girls.

Q Where were you when the invasion of Greece started?

A I was in Arta.

Q Is that spelled. A-r-t-a?

A Yes, that is correct, A-r-t-a.

9 When did you leave Arta?

A I left at the end of 1942.

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Q And where did you go?

A I went to Kommeno, K-o-m-m-e-n-o in Arta which is my home town.

Q What were you doing there at that time?

A I dealt with agricultural matters in order to be able to live, to earn my living.

Q Directing your attention now to the date 16 August 1943, where were you on that date?

A On the 16 August 1943 I was in Kommeno, because my home and my family and whatever else I had were in Kommeno. I said I was there as of 1942 continually.

Q Will you tell the court what happened on 16 August 1943?

A Yes, I will. The day before, on the 15th of August was the date on which the village is celebrating the religious feast of the Virgin. On the 12th of August, that is four days before the 16th of August, a car appeared containing three Germans and a driver, and the driver was also German. And in the small square of the village there were five guerilla soldiers. They were unknown to us and we didn't know why they were there. The moment the Germans saw the Guerillas and the moment the Guerillas saw the Germans the Guerillas left, and so did part of the population, and the Germans got back to their car and drove away in an unknown direction, -that is, they returned to the place where they had come from -- correction, that is rather than "unknown direction." Nothing else happened to the village.

Q Coming back to the 16 August 1943, will you tell me what happened, or tell the Tribunal?

A Very well. I said on the 15 August was the date when the feast was going on in the village.

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According to the usage in the village the people celebrate all day long on the 15th, and also part of the following day, namely all day long, the whole night and the following day also. On the 16th of August when the stars were fading away I heard a great noise coming from the direction towards the village. I

said a large noise, which was, I believed, occasioned by vehicles. I was sleeping outside of my home about 30 or 40 meters from the house in a small shack I had. At the beginning I thought it was a noise made by planes. However, later on as the noise approached the place where I was, and by the time those vehicles reached a distance of 100 to 150 meters from my home, I realized they were vehicles, because naturally it is logical the noise increases the moment the engine is shut off. Immediately I ran up to the house. I knocked at the door and I told my wife that we should meet, in case anything should happen, in a designated spot outside the village. I left the shack just as I was, with my pajamas on and with my shoes.

Q Where did you go?

A I went to the spot where the small river of Arachtos ends in the Amvritikos Bay. Arachtos is spelled A-r-a-c-h-t-o-s, and Amvritikos is spelled A-m-v-r-i-t-i-k-o-s.

Q In which direction is that from the town of Kommeno?

A It is southwest of Kommeno.

Q What time was this?

A It was approximately 5:30. It was a time when you could just about begin to see human beings walking around.

Q After you left your house in which direction did you go?

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A I told you before that I went into a southwest direction namely towards the spot toward the River Arachtos ends up in the Amvritikos Bay.

A And what did you see as you went?

A I was the distance of between 50 and 100 meters from my home when I heard two shots. I heard one shot that came from the direction of the sea, the bay, and the second shot came from the direction of the river.

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Q. Did you see anything?

A. At the same time I saw a rocket explode in the sky, which was colored green.

Q. Did you see anything else?

A. And I also heard several shots being fired. Shots came from all around the village, from all directions around the village and also machine gun shots, the quite dry hoise of machine guns. On my right hand side at approximately 150 feet from where I was standing, in the direction of the river, on a small hill, I saw the German soldier firing away with this machine gun without interruption.

INTERPRETER ANAGNOSTOPOULOS: May I ask one of the Greek men here if machine gun is the word for Polivolo ? I may be a heavier weapon. Do I have the right to ask?

MR. DENNEY: Certainly. If they know.

INTERPRETER ANAGNOSTOPOULOS: That is right. It is correct, so it was machine gun.

Q. Was there anything between you and the German soldier firing this machine gun?

A. Yes, indeed there was. Of course, I purposely chose a road which would make me somewhat invisible from the others. There were small woods in between and also high underbrush. I will correct that, -- the woods contained small trees.

Q. Will you continue with your account?

A. Until I reached the river the shots became more and more numerous. One could gain the impression that a severe battle was going on. You could hear the noises of hand grenades being thrown. I know the noise, and you could hear automatic weapons, and you could also hear the small Bren gun like weapons, tommy-guns. I arrived at the mouth of the river. And it was naturally chance that I found a small fisherman's boat there.

Q. And then what did you do?

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A. I also met a fellow citizen of mine also a teacher whose name was Oliokotsis. With the help of this small boat we crossed, the river and gained the other side of the river, and from the bank of the river we could observe the drama of Kommeno. The distance between the point where we were standing on the other side of the river bank, to Kommeno, was approximately five hundred meters. From there we could observe the flames shoot up into the sky. First there were a few flames and then they kept increasing and engulfed the entire village. I could even see my house go up in flames, because my house was situated a little bit higher than the rest of the village. At that spot where we were standing more and more people came, those who had been lucky enough to get to the other side of the bank.

Q. How many people in all finally arrived at the other side of the river?

A. There were 208 men or people on the other side of the river, men, women and children.

Q. How many people lived in Kommeno?

A. There were 620 people in Kommeno?

Q. All right. Please continue.

A. These 208 people managed to cross the river by coming across the river 15 people in a boat or 20 people in the boat, slowly and slowly.

Q. Did the time come when you re-crossed the river to the east?

A. I didn't quite finish my testimony as yet, Mr. Denney.

Q. Just answer the questions.

A. I said that the people were crossing the river and it must have been around noon at the time they crossed. I don't remember the exact hour, because I left my watch in the house when I left.

Q. Did a time come when you returned to Kommeno, when you recrossed the river?

A. Yes, there was such a time

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Q. When was that?

A. It was the morning of 17 August 1943, the following day.

Q. What time in the morning?

A. It was a little while after the sun went down.

Q. Just a moment, what time in the morning did you return to Kommeno on the 17th? Approximately.

A. It was between 6:00 and 6:30, -- to 6:45, in the morning.

Q. I assume that the sun is rising then instead of setting?

A. I believe it was a mistake on my part, Mr. Denney. The sun was rising.

Q. What did you see?

A. When we were about ready to return to the village we heard two more vehicles coming, and out of fear we returned to the bank where we were at first.

Q. Did you recross the river?

A. Yes, we returned in the afternoon. It was between 3:00 and 3:30.

Q. Back to the side of the river opposite from the side on which Kommeno is situated?

A. Yes, indeed. We returned towards Kommeno.

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Q: Now, let's clear this up. You recrossed the river for the first time on the morning of the 17th, sometime around sunrise. Is that right?

A: Yes, that is correct. The first time we crossed the moment the sun was rising or a little bit before or after.

Q: And you went up to the village?

A: Yes, that is correct.

Q: And you heard the noise of trucks?

A: Yes, that is correct.

Q: Witness, if you will please listen to the question and not start to talk until the questions have been put to you, I am sure that we will get along much faster.

A: Very well, Mr. Denney. I will try to.

Q: Now, you went back to the edge of the river?

A: Yes, that is correct.

Q: And at that time did you recross the river to the west bank?

A: Yes, that is correct.

Q: All right, now. When did you again cross the river from the west bank to the East bank?

A : At 3:30 in the afternoon, the same day.

Q: At 5:30 in the afternoon you went back to the side of the river on which Kommeno is situated?

A: Yes, indeed.

Q: And then what did you do?

A: We were going to the village to see what the destruction was and who were the victims.

Q: Who was with you?

A: I was together with my wife, with my teacher friend whose name was Voliokotsos. I was also together with one of the priests of the village because we had to have them, whose Court V, Case VII.

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Anagnostopoulos) name was Serafin Stassinis.

Present were also my uncle who was also a priest -- a cousin of mine. My uncle was not a priest -- his name was Dionisis Pappas -- and Manthos Pappas was also present.

Q: And where did you go?

A: Of course, first of all I went to my house which is logical.

Q: What did you see?

A: My house was nothing but ruins, all burned ruins. Approximately 20 meters from my home I saw 26 bodies of the Malio family and their guests who had been invited there for a wedding.

Q: Did you walk around the rest of the village?

A: Yes, indeed. We went down the road and we arrived in front of the house of Koliokotsos.

Q: What did you see there?

A: When we got there we saw the house had been entirely burned down and in front of the house, in front of the ruins, we saw 8 bodies and also two children from between 7 to 8 months of age.

This is characteristic, what I have to say now. One of the children was laying on the ground just like all the others and his mouth was stuffed with cotton. There were no other wounds showing and there were only burning wounds around his mouth.

The other 7 had been wounded by bullets and killed.

Q: Had the whole village been burned?

A: Yes, 300 houses had been burned. Only 7 did not catch fire because I believe they kept doors and windows closed.

Q: What else did you see as you went around the village?

A: He went down the road and we finally arrived at the small square of the village in front of the community president's Court V, Case VII.

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Anagnostopoulos) house.

The man's name was Lambro Zorvos; and in his home's courtyard we saw the dead bodies of his family and on the table we saw opened cans and disorder, which cans were absolutely unknown to us and which could not be seen around the area where we were.

Q: What did the cans contain?

A: They were all empty. In this case there were also a few bottles -- wine bottles, I should think.

Q: Was there any evidence as to what the cans had contained?

A: I believe there was meat and cheese in those cans.

Q: Was there anything on the outside of the cans?

A: Yes. There was some sort of a writing on top. It wasn't Greek. I couldn't tell you what because I don't know any other language.

Q: What else did you see?

A: On the lefthand side, between 50 and 60 meters from where I was standing, I saw Leonidas Tsimboukis' wife. This woman was pregnant and I saw her lying on the ground with her stomach torn open and the unborn child looking half way out.

Q: Please continue.

A: The entire village had burned down and every house did not only have one drama but several dramas occurred in every home. There is not one single house where they didn't report the loss of between 2 and 10 dead.

Q: How many people were killed in Kommeno?

A: I would like to add something before I answer your last question. Would it be all right, your Honors?

PRESIDING JUDGE BURKE: Proceed.

A: The priest, Lambros Stamatis, was going in the direction towards the church rather early. He left the Court V, Case VII.

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Anagnostopoulos) wedding ceremony which was going on in Mallos' home rather early.

When we arrived at the village we found him lying at the steps of his church in front of the door. His body had been torn to pieces by 4 to 5 bullets and the cross he was holding in his hands also had 2 bullets -- and the Book of the Gospels. The Book of the Gospels is still in the church and it is being kept there as a historical souvenir, if you want to put it that way -- as a religious shrine also.

PRESIDING JUDGE BURKE: Mr. Denny, at this point we will adjourn until one-thirty.

(A recess was taken until 1350 hours).

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AFTERNOON SESSION (The hearing reconvened at 1330 hours, 18 August 1947)

THE MARSHAL: Persons in the courtroom will please find their seats.

The Tribunal is again in session.

PRESIDING JUDGE BURKE: You may proceed, Mr. Denney.

STEPHANOS PAPPAS - Resumed DIRECT EXAMINATION (Continued) BY MR. DENNEY:
Thank you Your Honor.

Q So we can have the geographical situation of Kommeno, how far is it from Arta?

A It is 10 kilometers south of Arta.

Q And Kommeno and Arta are north of what body of water?

A It is north of the Ambakitos Gulf or Bay.

Q And the river lies generally to the west of Kommeno?

A The river is west of Kommeno.

Q And how many people were there -- how many inhabitants did the town of Kommeno have?

A It had 620 inhabitants.

Q And how many of these were killed?

A 317 of them were killed.

Q Can you break those figures down into some rough approximation of sexes and ages?

A Yes, I could. We had 145 men and 172 women, and included in those figures there were 97 children. The ages ranged from 6 months to 15 years of age.

Q So there were 317 people killed on the 16th of August of both sexes and of these 317, 97 were children between the ages of 6 months and 15 years?

A Yes. Those figures are absolutely correct. We made detailed statistics which we sent to the May or Arta; at approximately one month after the incident we sent the testimonies down to General Zervas' headquarters who then transmitted it to the headquarters of the middle east.

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Q Is there anything that you haven't told the Tribunal with reference to what you saw in Kommeno in the days following the 16th of August which you would like to tell?

A Yes, indeed. I saw it with my own eyes. I saw the house of Dimitro Komtogeni. I saw him; he was dead. So was his wife, his four daughters and his son-in-law. Near there I also saw the house of the teacher Antonios Komtogeni. His whole family had been exterminated. He had been killed, his wife had been killed and his two children and their female servant.

I went to my sister's house and I found her lying near the entrance together with her husband, both of them burned to death. I saw those things myself with my own eyes.

Q How many of your relatives were lost on the 16 of August, 1943 in Kommeno?

A My mother-in-law was killed; her name was Maria Apostolou; furthermore, my sister-in-law, Athoula Panakoulia; furthermore, my brother-in-law, Jerassimos Panakoulia; furthermore, my mother's sister, Helene Paraskevi; also my first cousins were killed.

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A I received information from Evangelia Kontogiani who was wounded, -- that Vasilios Skouravelis, -- that she escaped to this man's house, Skouravelis house, and she stated that German soldiers had come into her home and exterminated her whole family, and besides, one more woman who was in the house, who was also killed by the Germans with a bullet. They fired a bullet into her head because they were in a hurry to leave the house, and that was before they raped her.

MR. DENNEY: I have no further questions.

CROSS EXAMINATION BY DR. SAUTER (For the defendant Lanz):

Q Witness, may I again ask you on what day Kommeno was destroyed? What day was it?

A That was on the 16th of August, 1943.

Q 16th of August 1943; Witness, is it known to you who was in charge of the Military Command in Epiros?

A I received information; I was informed by Judge Mexi, who was the Judge from Arta, and who spoke German quite well, - very well as a matter of fact, - and who also worked at the German Headquarters there, that the detachment which had destroyed Kommemo was led by a man whose name was Koviak.

Q I asked you a different question, Mr. Witness. I asked you whether it is known to you on that day - which is the 16th of August, 1943 - who was in charge of the military command in Epiros? What general, whether it was an Italian or a German who was the Military Commander of the Epiros. I would like to ask you to answer this question.

A The same person, namely Judge Mexi, informed me, that the man in charge of the 1st Division in Jannina was Von Stettner.

And that all of those units were part of the 22nd Army Corps. I do not know anything else outside of this.

Q Witness, when did this Judge tell you that, that in Epiros this First Mountain Division existed at all?

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Was it on the 16th or 17th of August, or was it later -- and if later, when?

A It was much later when I was informed about it.

Q Witness, did you find out who, on the 16th or 17th of August, was in charge of the high command in Jannina? Just a moment, I would like to add the following; whether the witness knows that the commanding officer of the whole of Epiros was in Jannina, that is a commanding general -- whether that is known to him; that was at the time of the 16th or 17th of August?

MR. DENNEY: If your Honors please -

PRESIDING JUSTICE BURKE: Just a moment. Have the question transmitted and then probably if it is competent, have it repeated in installments.

Just a moment please. Your objection, Mr. Denney.

MR. DENNEY: If Your Honors please, I think he put two questions together. I have no objection to asking him, but I do not think it fair to ask the witness two or three questions at once. We do not know what he is applying to then.

PRESIDING JUSTICE BURKE: Is the witness able to answer the question as framed?

A All I know is what I have stated so far.

BY DR. SAUTER:

Q Witness, if you were in charge of the high school, then I take it for granted that you must have been informed whether at that time the ruler of Epiros was a German or an Italian. I should like to ask you to give us some information on this subject.

A I said that as the man in charge of that College, I had left Arta toward the end of 1942, and I lived in a small shack near Kommeno where I had no contact whatsoever with Arta.

Q Did you not find out later that in Jannina there was a German General called Lanz took over the higher command?

A I heard that much later, but I do not know when he took over the command.

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Q Do you know from your own experience what troops on the 16th or 17th of August, 1943, were in Jannina at that time? Were they mainly German troops, or were they Italian Troops in Arta? Mainly Germans or Italians?

Q In Arta we had a small guard unit of Italians, within Arta - that is, inside of Arta we didn't have any Germans.

DR. SAUTER: No Germans, your Honor. I have no further questions to the witness for the mere reason that it becomes evident from the documents of the prosecution that General Lanz only arrived on the 9th of September, 1943, at Jannina.

PRESIDING JUSTICE BURKE: Very well.

Is there any further cross-examination.

CROSS EXAMINATION BY DR. WEISGERBER (For the Defendant Speidel):Q Witness, you told us that on the 12th of August, 1943, 5 partisans were in Kommeno?

A Yes, that is correct.

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Q That is correct, is it?

A Yes.

Q Did you know these peoples?

A I didn't know them. I did not approach them, nor did I know what their mission was.

Q Where does your knowledge come from that these people were partisans at all?

A They were wearing uniforms and they had weapons.

Q What kind of uniforms were they?

A They wore those uniforms which the British would parachute down to the fighting forces in the mountains.

Q How do you know that the British flew parachuted uniforms for them into the mountains?

A That became known all over Greece.

Q Now such groups of partisans -- did they come to Kommeno often?

A They were the first and the last ones that ever came there.

Q On the 12th of August, did you actually know that these were people who wore the uniforms which were flown by British airplanes into the mountains?

A May I ask you to say that again?

Q You knew on the 12th of August, when you saw these five people with uniforms -- in uniforms -- that these uniforms were delivered by the British in the mountains, by British airplanes?

A I did not know for certain, but I imagine that those uniforms originated from there.

Q Do you know anything about the fact that in the neighborhood of Kommeno, and Arta, there were partisans quite frequently.

MR. DENNEY: May we have the question in English?

Q Is it known to you that in the neighborhood of Kommeno and Arta, there were partisans quite frequently, who appeared in groups?

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A No, no guerillas ever came there because that was out in the fields and you would hardly find any guerillas in the field.

Q These five people whom you saw, on the 5th of August, in Kommeno, were they all, or partly, members of the actual community of Kommeno?

A No, they were strangers to all of us. They were just transients.

I would like to correct my last answer. Kommeno was in a plain rather than in a field.

Q Did you see, or did you hear from other inhabitants of Kommeno for what purpose these five partisans had come to Kommeno?

A No, I could not tell the reason, and I did not hear about the reason.

Q On the 16th of 17th of August, in the immediate vicinity of Kommeno were there other villages destroyed as well?

A Not that I know of.

Q What was the distance between you and the soldiers who, according to you, shot at Kommeno?

A All I said was that I saw one German soldier standing at the mouth of the river that I was walking toward, and he was blazing away with his machine gun. He was the approximate distance of 200 meters from where I was.

Q At this distance, could you readily distinguish it; could you really see whether he was a German soldier, or whether he was an Italian, or whether perhaps he was of some other troops?

A Yes, I could very easily see. The steel helmets as worn by the Italians and their uniforms, were entirely different from that of the Germans.

Q Was there only one soldier which you have seen?

A I only saw one German soldier, but according to absolutely reliable information, all of them were Germans.

Q What is this reliable information? Where does it come from?

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A There were approximately 60 villagers who were in the village while this massacre was going on. They watched them kill the people. They were also seen by the inhabitants of four villages which lie on the road between Arta and Kommeno. They saw them with their vehicles; they were Germans.

Yes, and even more than that, they stooped at the village of Loutrotopo, which is only one kilometer apart from Kommeno, and they ate oranges, and they had some water in that village, and no doubt was left that they were Germans.

Q Can you describe to us the German uniform and the Italian uniform?

A I couldn't exactly give you a very detailed description of their uniforms, but in any case I could tell you their steel helmets are different, and the entire way they carry themselves is so different that you can tell right away between the two; and also the color of their uniforms.

Q In that time that you spent in Kommeno from 1942, that is to the 16th of August, 1943. were there ever any German soldiers in Kommeno?

A On one or two occasions in Kommeno they asked for meat, or they wanted to have water for their horses, but in any case I did not go close to the vehicles because I was afraid.

Q When was that?

A I don't remember the exact date.

Q Witness, you told us that you sent a report to General Zervas.

A I said that I sent an affidavit of what I had seen of the destruction.

Q Did you bring General Zervas this description and the statistics of which you spoke yourself?

A No, somebody else – an officer who lived in Kommeno whose name was Karas took it to him.

He was from Kommeno but he lived in Xenochori.

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Q: This officer then was in contact with General Zervas?

A: No, he wasn't in contact with him. He only went in order to report this crime which had been committed in Kommeno.

Q: But if he was to submit a report to a certain authority to a certain person he must have known where this person was.

A: He probably received information or solicited information on his way out and he finally got that information I imagine.

Q: It is, therefore, your opinion that this officer submitted information to General Zervas?

A: Yes, of course. Impersonally wrote that affidavit.

Q: When you wrote this affidavit did you know then where General Zervas was?

A: No, as I said before I didn't know.

Q: How many times did you talk to this officer?

A: Perhaps once or twice.

Q: Witness, I must come back to this one soldier whom you saw at a distance of approximately 200 meters at the river. What was it exactly that made you recognize beyond doubt that he was a German soldier?

A: I said before that the entire appearance pointed to the fact that it was a German soldier. I had seen a German soldier before. And it was also his uniform and the style in which he kept himself.

Q: In that case tell the Tribunal what this uniform looked like.

A: Do you really think that I stopped and looked at the German soldier carefully in order to remember all the details. I fled as fast as I could. In any case I did see his uniform and it left a living picture in my eyes which I shall never forget again, but still I couldn't go on describing it.

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Had I stopped I wouldn't have had the pleasure of being here today.

Q: Was this soldier standing or was he lying on the ground?

A: He was a little bit bent, that is all. And I stress the "just a little bit."

Q: And you said that he was shooting with a machine gun.

A: Yes, with a machine gun. That is correct. He wasn't aiming at anything in particular -- not at any persons -- he was just firing away and aiming more or less at the exits of the village so that nobody could leave the village. With all of the machine guns, all of them did the same thing.

Q: Would you show the Tribunal how he was holding this machine gun?

A: At the time I felt so bad about it that I couldn't show you anything right now. I couldn't show you how he was holding it.

Q: But you told us that you got quite a good picture of this soldier -- that you remembered it very well.

A: Well, not exactly. I said that the first sight I gained of this soldier left the living impression on me that it was a German soldier.

Q: Can you remember exactly whether this soldier was wearing a steel helmet or just a cap?

A: He was just wearing a cap -- rather a cap.

Q: Where did he have his steel helmet then?

A: I don't remember. All I saw was what he wore on his head. I don't know where he had his steel helmet.

Q: But you told us that you recognized the man as a German on his steel helmet because it was a German's because the Italian steel helmets were different from the Germans'; therefore, you must have seen this steel helmet somewhere.

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A: What I meant to say was -- I meant to say a cap with a small visor in front.

Q: Did not the Italian soldiers have such caps as well?

A: The first impression I gained was that the soldier was a German. I didn't stop and look at him exactly.

PRESIDING JUDGE BURKE: I understood the Witness to say that one method of distinguishing was the fact that he knew the difference between the German and the Italian helmet.

Am I in error about that?

WITNESS: I did not mean steel helmet. I meant cap at the time.

BY DR. WEISGERSER:

Q: You said, Witness, that you saw the soldier shoot.

A: Yes, of course, I saw it. The whole thing was very fast. I saw how he was firing away with his machine guns.

Of course, that I saw.

Q: Then, certainly you can tell us whether he was holding the machine gun like this (Demonstrating as a bundle in the arms) of whether the machine gun was resting on the ground.

A: I was so scared that I didn't stop and look exactly how he was holding that machine gun. The only thing I remember was that he had a machine gun and that he was blasting away with it.

Q: And when you had seen the soldier you immediately turned around and ran. Is that so?

A: Yes, that's correct. Of course, the soldier did not see me because he was on a small hill and I was right below.

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But in any case when I saw him I ran away as fast as I could.

Q: And the nearest distance to him to which you came was about 200 meters? Is that it?

A: Approximately 200 meters. I didn't sit down and measure the distance because it made no difference.

DR. WEISGERBER: I have no further questions, Your Honor.

PRESIDING JUDGE BURKE: Any further cross-examination? Mr. Denney, have you further questions?

MR. DENNEY: No further question, if Your Honor pleases.

PRESIDING JUDGE BURKE: Judge Winnerstrum? Judge Carter? The Witness will be excused.

MR. DENNEY: May we inquire from Major Hatfield what the next exhibit number is please? The last exhibit was in Book 19. I believe, Major, it is four hundred and something, but that's about the best I can do.

MAJOR HATFIELD (SECRETARY GENERAL): 457.

MR. DENNEY: The last one was 457?

MAJOR HATFIELD: The last book.

MR. DENNEY: The last one in Book No. 19 was 457. If Your Honors please, we will now continue with the presentation of document book 20 by Mr. Fenstermacher.

PRESIDING JUDGE BURKE: If you will just defer the proceedings until we receive our document books.

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PRESIDING JUDGE BURKE: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: May it please the Tribunal, With the documents in Document Book No. 20 we continue with the documentation of events in Greece during the final period of August 1943 until October 1944. We shall be concerned for the most part with the activities of troops under the command of the Defendant Felmy who was Commander in Chief of the 68th Corps, and the activities of the troops under the command of the Defendant Lanz, as Commander in Chief of the 22nd Mountain Corps. Your Honors will recall that both of these corps were subordinate to Army Group E, which in turn was subordinate to Army Group [F and](#) Supreme Command Southeast, under the command and jurisdiction of the Defendant Weichs and his Chief of Staff, the Defendant Foertsch. The first document is on Page 1 of the English and Page 1 of the German, [NOKW-1551](#), which becomes Prosecution's Exhibit No. 458. This is a series of Daily Reports of Army Headquarters in Berlin. The first is Daily Report West 12th March 1944. We are concerned with those sections of the reports which deal with events in the Balkans. And "Army Group E, Mainland, 68th Army Corps," which is under the defendant Felmy at this time. "In reprisal for a surprise attack by bands on a strongly protected convoy column Southeast of Tripoli, a state of emergency for the civilian population was ordered and 200

Communist hostages were shot to death." Next, page 2 of the English, Page 1 of the German, Daily OKH Report for the 15th of March 1944. That section of the report dealing with activities of the 2nd Panzer Army, at this time, is under the command of the Defendant Rendulich. The 69th Infantry Corps which, at this time, is under the command of the Defendant Dehner. According to the service record of the Defendant Dehner, which is Exhibit No. 315, he remained in command on the 69th Infantry Corps until 1 April 1944.

"LXIX Infantry Corps: 42nd Jaeger Division: 22 own dead due to mine explosion, near Garcon. During an enemy attack at the same time radio codes fell into hands of bands.

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Investigation under way. 26 bandits hanged in reprisal. During the night of 15 March a transport train hit a mine west of Mitrovica." Next, Page 3 of the English, Page 2 of the German, the OKH report for the 22nd of March 1944, the section of the report dealing with events in the area of the "LXVIIIth Army Corps: During mopping up of Gythio, minor enemy losses. 22 prisoners. 50 Communist hostages were shot to death for renewed sabotage attempt on the railroad tract West of Mogara." Next, the OKH Report for the 3rd of April 1944, the report itself is dated the 4th of April 1944.

..... Balkans:

1.) Army Group E:

Mainland

LXVIII Infantry Corps: Between Levadia and Delphi purpose attacks on our own trucks were repelled 10 Communists shot as reprisal measure.

2.) 2nd Panzer Army:

.....

b) Serbia:

Situation Southwest Serbia: Own reconnaissance remained without important contact with the enemy up to now. 25 Kilometers South of Prokuplje during a raid of a Communist Headquarters, a Bulgarian Battalion withdrew before superior well-equipped bands.

Enemy losses in Serbia during the past week: D.M.: 128 Dead, 64 prisoners, 17 deserters. Communists: 622 Dead, 61 prisoners, 30 shot to death in reprisal, 537 arrests. Booty: 39 rifles, 4 machine guns, ammunition and equipment.

.....

This report, of course, is signed by the Ia, or Operations Officer, as are all the reports in this series. Next, on Page 5 of the English, Page 4 of the German, the OKH report of the 15th of April 1944: "Ballans, Army Group E: Corps Group Joannina," Your Honors will recall that during this period in the Joannina area in the Epiros section of Greece, the troops under the command of the Defendant Lanz were operating.

"Bands are very active of late in the area of Florina. In reprisal for a railroad attack on the line Agrinion -- Lessolongion, 120 Communists were shot or hanged. 50 suspects arrested during a raid in Agrinion."

DR. SAUTER: Dr. Sauter for the Defendant Lanz. It has just been read, under the command of the defendant Lanz. I would like the Prosecution Counsel to show me where it says that. Or at least the translation came through to the effect that it just says it is under the High Command of the defendant Lanz, but it does not say, at least my translation, that at all.

MR. FENSTERMACHER: Okay. That was just an explanatory comment of mine in order that the document will have more meaning for Your Honors.

DR. SAUTER: Your Honors, I should like to say the following to the commentary. First of all, in such a case, on the part of the Prosecution it should at least be stated that this is only a commentary and that it does not say so in the document book; and secondly I should like to make the following report as to this commentary. At this time, from which this daily report comes, which is the 15th of April 1944, the Defendant Lanz was not in the Balkans at all. But he was on a duty trip in Hungary. This becomes evident from other former documents which were submitted by the Prosecution authorities themselves and were read by them. I should like to come back to that later. But I should like to say now as to these documents which have just been read, that at the heading of this report, it says "Corps Group Joannina," this was the expression which was used when General Lanz was no longer the commander of the 22nd Corps in the Balkans.

MR. FENSTERMACHER: If Your Honors please, it seems to be an issue of fact here, which I believe Dr. Sauter can raise at the proper time.

PRESIDING JUDGE BURKE: It so appears to the Tribunal that there is some merit to Dr. Sauter's objection in the fact that when a statement is made and that Lanz or any of the other individual concerned is involved it should be stated what is your conclusion at that time, and then only in connection with the factual recital which follows later. It will save confusion and it will save the necessity of here arguing the case at this time, when either of the counsel attempt to supply their personal views in lieu of the testimony. You may proceed.

DR. SAUTER: Thank you.

MR. FENSTERMACHER: Next, on Page 6 of the English, Page 4 of the German, the Daily OKH Report for the 23rd of April 1944. Under that section of the report dealing with activities in the Balkans: "2nd Panzer Army, Croatia, XV Mountain Corps: 264th Division: In reprisal for an attack on our trucks, two villages were burned down Northeast of Tregir. 392nd Division: Stronger enemy forces in the area of Otocac were repelled after heavy battles." Next, the OKH Report for the 25th of April 1944.

..... 1.) Army Group E:

Attacks on railroad line are increasing on the mainland of late.

LXVIII Infantry Corps: A British Commando Operation took place against the Island of Santorin on 24 April. The Navy transmitter did not function.

During larger scale raids in Athens, a total of 126 persons was arrested, weapons and ammunition were captured, 15 Communists were shot to death.

On the line Athens-Thebes, a train hit a mine and was derailed. The mainline was interrupted for about 8 hours.

.....

Turning next to Page 8 of the English, Page 7 of the German, the OKH Report for the 27th of April 1944. "Balkans, Army Group E, Mainland":

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.....Corps Group Joannina: During the continuation of the mopping up of the heights Northwest of Korea, three band villages were taken during the fighting and destroyed.

A concentrated attack of well-armed bands against own combat group in the Devoli-Valley was repelled. A simultaneous attack by bands on the road bases and Nationalist villages Southwest of Korea was repelled after reinforcements had been brought up.

.....

Turning next to Page 10 of the English and Page 6 of the German Document Book, Document No. [NOKW-885](#), which is offered as Prosecution's Exhibit No. 459, starts with a series of extracts from the War Diary of Army Group E. Under the entry for the 12th of May 1944; Your Honors will note that the diary itself covers a period of time from the 1st of May to the 30th of June 1944.

..... Deportation of Jews The Commander of the Regular Police (Schupe) in Athens reports that, by order of the Reichsfuehrer SS, Jews are to be removed from the islands of Corfu and Crete at an increased speed.

He requests additional shipping space and the required escort personnel.

Approximately 1600 Jews are to be shipped from Corfu to Patras, approximately 350 from Crete to Piraeus.

This instruction "was teletyped at 1910 hours to the Commander of the Regular Police (Schupo) in Athens, Commandant of the Fortress Crete, Corps Headquarters, XXII Mountain Corps, naval, and Air Transport Athens, and for information to Admiral Agais:

The Commander of the Regular Police in Athens has requested shipping space for the speedy deportation of 350 Jews from Crete and 1600 Jews from Corfu.

The High Command of Army Group E agrees to the supply of shipping space if the supplying of shipping space does not interfere with Wehrmacht supplies and intended tactical operations.

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Details are to be agreed upon directly by the Commander of the Regular Police (Schupo) and the Naval and Air Transport Athens.

The Command of Fortress Crete and Corps Headquarters XXIIInd Mountain corps are ordered to supply Escort personnel.

.....

Next, entry in the War Diary for the 17th of May 1944:

.....LXVIII Infantry Corps:

On the road Arges-Tripoli, meter convoys III 670th Artillery Regiment - 1 Officer and 95 men -- attacked by bands. Our losses; 25 dead, 25 wounded, 6 missing. Pursuit of the bands by detachments of 737th Regiment under way.

The measures taken as a result of the Peloponesus being declared a combat zone are being retorted currently.

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Turning next the bottom of page 12 of the English, page 9 of the German Document book, the entry in the War Diary -for the 26th of May. 1944, the time of the entry 1945 hours.

"Deportation of Jews from Corfu:

At 19.50 hours a teletype sent to Admiral Agais, XXIIInd mountain Corps, Hohore SS und Polizeifuehrer, Greece.

A representative of the Reichsfuehrer SS will apply to Admiral Agai s for the Transfer of 2,000 Jews from Corfu to the Mainland. The Commanderin Chief of Army Group E is agreeable to this, provided troop transports and the supplying of the islands in not deterred and provided deportation can take place rapidly and without interruption.

The Army at this time is unable to supply guard personnel. Information on your arrangements is requested."

Next, the entry in the War Diary of Army Group E for the 1st of June 1944, the time of the entry 1135 hours.

XXIIInd Mountain Corps: Hopping up operation in the area North of Kalabaka carried out against strong enemy resistance. Several band losses. Numerous ammunition depots wiped out, three band villages destroyed. Attack by medium strength well armed band group on rood base near Leskovic repelled after heavy fighting with enemy losses. Bands are under English command."

In this connection, your Honor will recall the testimony of the witness Triandaphylidis.

Turning next to page 14 of the English, page 11 of the German Document book, [NOKW-942](#), which becomes prosecution Exhibit 460, this again is a series of daily reports from Army Group E to Army Group F. First:

"Daily Report High Command Army Group E Southeast (High Command Army Group F) of 24 July 1944.

Area 1XV111 Army:

For attack on medical convoy Northwerst Tripoli (Daily Report 22.10) 100 Hostages shot to death."

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"Area LXVIII Army:

During "Eule" in area Avlon (30 North Athenhns) 17 Bandits were shot to death 3 machine guns and other arms captured."

Next, on page 15 of the English, page 12 of the German;

Evening Report High Command Army Group E

B) Commandant East Aegean and Fortress Crete: No special events. 1XV111 Army Corps:

During search of Parness Fountains 17 bandits shot to death.

Next the daily report of the 31st of July, 1944, section of the report dealing with events in the:

This is on urge 16 of the English page 12 of the German.

" Renewed sabotage plot against subsidiary lines near Kessolongion thwarted. West of Agrinion bank attack line repair detachment, 8 dead of own, 14 wounded. As reprisal measure, 71 Communists shot to death."

The report is signed as were the others, by High Command Army Group E..

Turning now to page 17 of the English; page 13 of the German; document [NOKW-962](#) becomes prosecution Exhibit 461. This is a report of the 104th Jaeger Division, dated 22 August 1944. Your Honors will notice the receipt stamp of the XXII Mountain Corps and the date 25 August 1944 in the top right hand portion of the report. The subject of the report is:

"Final Report on the Operation "Kreuzotter"

A) Task:

The headquarters of the 22nd Mountain Artillery Corps gave me the orders to clean up the area Agrinion - Thermon -Karpenission.

B) Situation of the Enemy:

For the planning of the operation there was at my disposal the situation of the enemy to be seen from the enclosed copy (see enclosure 1), which was ascertained essentially by reports from confidential agents, statements of inhabitants and, furthermore, by findings made during former operations.

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According to this there were in the area north and northeast of Agrinion in the main, parts of the 13th Division with the 5/42 Evzone Regiment in the Area Ajos - Wlassios - Thermon - Agrinion, the 34th Infantry Regiment consisting of 2 Battalions in the sector Karpenission - Triklinos and the 1/38 Evzone Regiment in the area east and northeast of Karpenission. In addition, there were in the region north of the Agrinion Lake, as far as Meglichora (10 kilometers south southeast of Larpenission), the 1st Reserve Regiment subordinated to the 13th Division, in the area south of the Agrinion Lake, the 3rd Reserve Regiment which also belongs to the 13th Division, and in the area southeast of Thermon the 4th Elas Reserve Regiment. West of the Acheloos River, the 7th Brigade joined with the front towards the west."

"All units were under the centralized communist leadership which was situated together with the 13th Division and the political EAM leadership in Karpenission. There was also an allied military mission in the area south of Karpenission.

H) Tactical Result:

Though a lasting destruction of bands, as was foreseen, was not achieved, serious losses of men and material were inflicted upon the adversary, which at least limits his readiness with strong units.

By the surprise assault, which, however, was successful only in part, signs of rapid flight were established, thus justifies the assumption that the organization was not only disturbed, but may be considered seriously damaged. Through persistent destruction of all villages of the area traversed, especially by burning down the Communist Headquarters Karpenission.

The bands have lost numerous billeting possibilities a factor which must have affected the organization also. But the main success lies in the demonstration of power, which after a long period of time was once again put before the bandits in the area."

The report is signed von Ludwiger.

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Turning next to page 19 of the English, page 15 of the German, document [NOKW-940](#), which becomes prosecution Exhibit 462, it is again a series of daily reports of Army Group E to the Commander in-Chief Southeast, first is a daily report for the 20th of August 1944:

"Area of the LXXXI Corps for special employment:

Battle group Eberlein dispersed concentration of insurgents NO Ardea. major enemy losses, 1 locality of the insurgents burned down, booty of 300 oxen and 50 vehicles with grain."

Turning to page 20 of the English and 15 of the German, the Ic Evening Report High Command Army Group E of 21 August 1944, under the section of the report dealing with Fortification – Crete:

During mopping up operations in West and Central Crete a further 21 insurgents were shot, several arrests.

Bulgarian II. Corps: no special occurrences.

C) Surprise attack on the road Joannina-Igumenitsa (see Ic evening report of 19 August by units of Greek exile forces and units of EDES Regt 3/40 led by Agorus (according to confidential report) Crock exile troops seem to be allotted to ZERVAS units in closed formations (up to battalion strength)."

The report is signed High Command Army Group E, Ic, Counter Intelligence Officer.

JUDGE CARTER: Pardon me. Who bore the title of Commander in-Chief Southeast at this time?

MR. FENSTERMACHER: Defendant Weichs, your Honor.

Turning to page 21 of the English, page 16 of the German continuing with daily report from Army Group E to Commander in-Chief Southeast, who was also simultaneously Commander of Army Group F, the daily report for the 22nd of August, 1944, area of the Commander of the Fortress Crete.

"During renewed operations in the Ida mountains so far no contact with the enemy. 35 people suspected of owing insurgents were shot. In the area North of Aj. Uawara groups of insurgents with draw from our pursuing units towards North. In the Eastern sector of the Mossara plain large quantities of grain and cattle have been secured.

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Area of LXVIII Infantry Corps Battle group Weigelt had an engagement with strong groups of insurgents near Kalosciopi (10WNW of Grawia), 30 enemy dead counted, numerous wounded.

Kalosciopi and Inochorion (7.5 Northwest Grawia) as well as several camps of the insurgents were destroyed. Battle group Froech had contact with withdrawing insurgents in the area North and South Amphissa. Segditsa (3 SSW Amphissa) were destroyed."

Next on page 22 of the English, 17 of the German.

"Ic Evening Report High Command Army Group E dated 22 August 1944 of the report.

I Ib. Fortress Crete:

During mopping operations in Central and Western Crete a further 45 insurgents were shot, 15 tons grain and considerable quantities of cattle secured. N of the Lassithi Mountains insurgents have withdrawn towards the South on the appearance of our troops.

91st Corps (for disposition) North Northeast of Ardea clash between strong insurgent group equipped with heavy weapons (presumably components of Int.

Regt. 30) with our own battle group. 8 enemy dead, 5 captured, large quantities of explosives and ammunitions destroyed, 1 insurgent hospital destroyed, one insurgent locality burned."

This report, as all the others are, is signed High Command Army Group E, Ic Counter Intelligence Officer.

Continuing with the daily reports from Army Group E to Commander in Chief Southeast, page 23 of the English, 17 of the German, daily report for the 23rd of August 1944.

Area Fortress Crete:

Southeast of the Ida mountains no enemy resistance. 191 insurgents and people suspected of being insurgents were shot., 1 insurgent locality destroyed. 1500 civilians are being resettled.

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On page 24 of the English and 18 of the German, that report for the 23 of August 1944 continues:

"Area LXXXI Corps (for special employment): As reprisal for insurgent activity in the area Southeast of Larissa 3 localities were destroyed., near Platamon 24 hostages were shot. Renewed surprise attacks on our own motor transport on the road Larissa- Servia, North of Katerini, as well as by a strong insurgent group near Amyndeon (25 Southeast Florina).

At the bottom of page 24 in the English and 18 in the German is the: Ic Evening report High Command Army Group E of 23 Aug 1944 Commander East Aegian: No special occurrences.

Fortress Crete: During mopping up operations Northeast and Southwest of the Ida mountains and East Mossara a total of 19k people suspected of being insurgents were shot, 1 insurgent locality was destroyed, 1500 civilians are being resettled.

PRESIDING JUDGE BURKE: We will discontinue at this point until three fifteen.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

PRESIDING JUDGE BURKE: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: Prior to the recess we were examining Document NQKW-940, which is Prosecution Exhibit 462, and we were concerning ourselves with orders of Army Group E to Army Group F, to the 23rd of August 1944 which is on page 25 of the English, page 18 of the German document book. It is the section of the report dealing with activities of the XXII Mountain Corps:

"XXII Mountain Corps: During mopping up operations south of Amfilochia numerous arrests were made. North of Amfilochia a mine field has again been laid by insurgents. Along the road JoanninaIgumonitsa, north of Vrusina, insurgent concentrations, not known whether Zervas or Elas members. Successful attack by weak insurgent group on village west of Dolvine. During local

engagement north-northwest of Erseke twelve insurgents were captured. One insurgent village destroyed.

"LXXXXXI Corps (for special duty): As reprisal for mines laid southeast of Larissa three insurgent villages were destroyed. Nine attacks by ELAS members on our trucks. During mopping up in the Kozani area several suspected insurgents were arrested. Insurgent attack on a village east of Kozani was driven off by National Guards."

Next is the Army Group E report to High Command Army Group [F](#) for 24 August 1944. The section we are interested in is on page 26 of the English and page 19 of the German:

"Area of the Fortress of Crete: Operations in the area northeast of the Ida Mountains completed. In addition to insurgent losses reported one balloon transmitter has been secured. In retaliation against villages southwest of the Ida Mountains four insurgent villages have been destroyed; about 200 persons were selected for labor employment."

Continuing:

"Ic Evening Report High Command Army Group E dated 24 Aug 1944.

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"Fortress Crete: Mopping up operations Ida Mountains have been concluded. Besides enemy losses reported yesterday radio equipment has been captured. About 200 men and women have been selected from resettled civilians for labor details; four more insurgent localities have been destroyed."

Next, Army Group E report for 26 August 1944. It appears on page 27 of the English, page 20 of the German:

"Area XXII Mountain Corps: In the course of local mopping up operations in the area northeast Joannina ten enemy dead, one insurgent locality destroyed.

"Area LXXXXXI Corps for special employment: At Lake Xynia low level attack by two enemy planes on hospital train and railway station Anghie. A few losses and damages. On the road Larissa-Trikkala own convoy was attacked by insurgents; we had losses. Main railway line north of Platamon interrupted because of sabotage. Between Veria and Naussa a train was derailed as a result of railway sabotage. South of Gevgeli an attack by insurgents directed against the main railway line and against a train to the front has been frustrated. As reprisal the locality of Skiathos has been destroyed."

Next, Daily Report 25 August 1944:

"Result of the reprisal action for the kidnapping of port commander of Glossa: Town of Skiathos destroyed, almost uninhabitable; five sailing vessels destroyed."

Turning to page 29 of the English, page 21 of the German:

"Ic Evening Report High Command Army Group E of 26 Aug 44:

"b) Commandant East Aegean and Fortress Crete: No special occurrences.

"XXII Mountain Corps: During mopping up operations west-northwest Metsovon two insurgent localities have been burhed down, ten enemy dead."

Next, on page 30 of the English, pages 21 and 22 of the German, Army Group E report of 22 August 1944:

"Area XXII Mountain Corps: During local mopping up southwest of Amphilochia, Katuna was taken in the face of insurgent resistance and burned down.

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"Ic Evening Report High Command Army Group E of 29 Aug 44:

"68th Corps: During mopping up near Korinth fifteen enemy dead, During raid in Athens-Kallithea twenty communists shot."

Turning next to page 32 of the English, page 23 of the German document book:

"Ic Evening Report High Command Army Group E dated 30 Aug 44:

"XXII Mountain Corps: During reconnaissance operation southeast Minina Tsuka (see yesterday's Ic Evening Report) six enemy dead. During local mopping up east of Elea two insurgent localities destroyed, counter-attacks driven off.

"e) According to reliable report of a confidential agent there were landings near Amutia on 21, 24, 26, and 27 August. On 26 August 1500 Greeks, 700 Americans, 200 British, two 75 mm batteries, six anti-tank guns, twelve mortars of 105mm caliber were brought ashore by six ships. Gold has again been supplied to the Zervas. Headquarters American Subsidiary Mission for Thessaly and Macedonia moved to its quarters in Elefterchori (29 west-northwest Larissa).

"f) According to reliable report by confidential agent a British colonel for Polish" -- I believe that should be "police", Your Honor -- "questions landed on 27 August to take the place of Captain Wallace, who was killed in the attack on Milinina Tsuka. Exchange value of the British gold pound rose to 6000 million Drachmas."

Continuing with Army Group E report to Army Group F, page 33 of the English, page 23 of the German, Army Group E for 31 August 1944:

"Commandant East Aegian: No special occurrences.

"Fortress Crete: During mopping up in the area Kissame (west Crete) results so far: 223 insurgents and those helping insurgents shot, 175 arrests.

"XXII Mountain Corps: Insurgent locality 5 north Minina Tsuka taken against weak enemy resistance and destroyed."

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I think that is all we need to read at this time of Exhibit 462. If Your Honors please, during the recess I was informed there was a translation error made by the translator in translating a statement by the

previous witness. I have talked to Dr. Weisgerber about it and he suggests that the witness be recalled to the stand in order that the point may be clarified. I wonder if that is agreeable to Your Honors.

PRESIDING JUDGE BURKE: That may be done.

MR. FENSTERMACHER: I ask that the Marshal recall to the stand the witness Pappas.

DR. WEISGERBER (Attorney for the defendant Speidel): During the interval I was told by the interpreter that a mistake had occurred in the translation. The witness is said to have used the word "Stahlhelm" which allegedly the witness did not use. Now the word "Stahlhelm" has occurred repeatedly during the cross examination, both as said by me as well as by the witness. I believe it is very difficult to determine now at which occasion this mistake in translation occurred and I don't know how we can get any further until the transcript of the record is submitted. I am really of the view that a mistake in translation can only be ascertained when the transcript is submitted, so that we can precisely determine the questions and answers, in order to fix the mistake. Perhaps it would be appropriate if the translator told us now at what point this mistake occurred.

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PRESIDING JUDGE BURKE: Suppose we take the interpreter's interpretation as now offered and then make such application as you desire later to the record itself. Is that satisfactory with you Dr. Weisgerber?

DR. WEISGERBER: Yes, I am in complete agreement with this proposal.

MR. FENSTERMACHER: In order to keep the record straight I wonder if we might have a statement from the Translator stating exactly what error he made and the places if he can remember where he made then.

PRESIDING JUDGE BURKE: The procedure is a little unusual. I have rather definite notions about the type of testimony being submitted. I might also have been in error about it. I would be glad to have any suggestion in the nature of a correction or an explanation.

INTERPRETER SIMHA: The mistake occurred I believe, I am quite sure, as a matter of fact, when the witness testified of seeing the German soldier standing on top of that hill and firing away with that machine gun. At that time he said when he was asked by counsel for Felmy, I believe, if he recognized the man by his uniform, maybe that he was a German, the witness said, yes, his uniform and his style - and style, in Greek, is pronounced "steel", whereupon, unfortunately I was concentrating on this uniform testimony and I misunderstood that to mean "steel helmet" and unfortunately I was rather persistent on my mistake and I made the mistake over and over again and I can actually say, with certainty, that the word "steel helmet" was not used on one single occasion in this testimony and whenever I spoke of a "Stool helmet" in part I referred to "style" which I added later on, but in part, Court V Case VII Anagnostopoi I referred to the regular German visor cap, and the sound trick, which

has been taken of this testimony, will prove a hundred per cent that the witness did not say "steel helmet."

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DR. WEISGERBER: If I may say something quits briefly in this connection. In the cross examination the word "steel helmet" has been mentioned repeatedly and the witness has pointed out the difference between the shape of the German and Italian steel helmets. That confirms my view that it would be quite practicable to wait with any correction until we have got the record and in fixing the definite version of the record we can always come back to the sound track.

MR. FENSTERMACHER: I wonder if it would be feasible for Dr. Weisgerber at this time to take the witness over the testimony again in that regard.

DR. WEISGERBER: I would object to that your Honors.

PRESIDING JUDGE BURKE: Is Mr. Denney available?

MR. FENSTERMACHER: We can get him in a very few minutes, your Honor.

PRESIDING JUDGE BURKE: Mr. Denney, it has been suggested in your absence that there was a possibility of a misinterpretation with respect to some of the testimony given by the witness Pappas. I assume there are other people in the vicinity who have some familiarity with the Creek language and the thing that is amazing to me somewhere there was not some indication that there was an error being made in the translation and called to the attention of the Tribunal, before the conclusion of the statement. However, it is the judgment of the Tribunal that if you desire to re-question Court V Case VII Anagnostopoulos) the witness Pappas, to clarify the matter, you have the privilege of doing so.

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MR. DENNEY: If your Honor pleases, I was advised after the witness left the stand that one word had been mistranslated and I instructed the interpreter or translator to go up and see the court and advise the court about it. It was a matter that was brought out on cross examination and I should be very glad to question him.

PRESIDING JUDGE BURKE: You are familiar with the method of correcting a mistake in the testimony. It is a rather cumbersome procedure but there is a form of doing so. However, if you have any suggestion for simplification in the interest of justice that will serve the same purpose I'm sure the Tribunal will be glad to entertain it.

MR. DENNEY: The only thing I had in mind, your Honor, was the interpreter, or the translator, informed me that when the witness was speaking about the hat which the German soldier was wearing whom he saw when he was fleeing from Kommeno, that he used the word in Greek which was misinterpreted by the interpreter to "steel helmet" when it should have been a hat. If I have a misconception of it I would be glad for Mr. Simha to tell me.

INTERPRETER SIMHA: There is a slight difference, your Honor. The first mistake crept in when the witness spoke of "style" which as I said before is pronounced "steel-os" in Greek. At that moment I made the mistake of saying "steel helmet" whereas the witness was referring to "style". Unfortunately it persisted in my mind and when it came up for the second time and the witness spoke of the hat I again said "steel helmet" which mistake I realized, however, and I corrected it by saying, "I don't Court V Case VII Anagnostopoulos) mean steel helmet; I mean cap."

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But the way I corrected it it sounded as if the witness had said it, whereas it was my own statement.

DR. WEISGERBER: Your Honor, may I point out that in the course of the cross-examination at three different occasions I asked the witness regarding the headgear the soldier concerned was wearing and it appears somewhat unusual to me that at three different places which were not subsequent to each other that at these three occasions mistakes in translation should have occurred. For this reason I think it is right that the record now taken that we shall wait for this record, and that we clear the matter by referring to the sound track and then perhaps the time has come when we can talk perhaps about a correction of the record. But, at the present time I think it is impracticable if we are now just correcting the record out of the blue, so to speak.

PRESIDING JUDGE BURKE: The subject of the further action of the Tribunal, when the record is completed, may we consider the method of operation. I think as a gratuitous suggestion, possibly since this witness will be on, it will be of use to everyone, if the witness will restrain himself from attempting to answer the question before he hears half of it and continue to talk after the translator seeks to give his answer, we would all save time. You may proceed Hr. Fenstermacher.

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MR. FENSTERMACHER: Continuing with the presentation of documents from document Book 20, I turn to page 35 of the English and page 25 of the German, Document [NOKW 935](#), which becomes Prosecution Exhibit No. [463](#). These again are various operations and intelligence reports from Army Group E to Higher Headquarters:

"Ic Evening Report High Command Army Group E of 2.8.1944."

"D) Enemy Losses July 1944:

Prisoners 2344 Bandits 15 Deserters 10 Englishmen 1 American Dead:

2803 Bandits 2 Englishmen 380 Reprisal Shootings."

Enclosure 20:

Daily Report High Command Army Group E to Commander-in-Chief Southeast (High Command Army Group F) of 8.8. 1944.

Area LXVIII Army Corps: Unsuccessful attacks on own strong points. Southeast Kalamata and East of Korinth. With Jagskommando thrust east of Kato Achain some enemy losses.

In Athens several Communists shot to death during raids."

Page 36 of the English and page 26 of the German is an Evening Report Army Group E, 11.8.1944. Under that section of the report it deals with the activities of the 68th Army Group:

"Army Group: Well armed band (300-500) after successful attack on village North of Sparta withdrew toward Northwest and East before our own reinforcements. Rather large Scale band movement and mining of roads vicinity of Tripoli. Several Communists were shot during the raid in Athens. Dynamiting attack on Greek construction train West of Lamia, material damages numerous Greeks dead and injured

(Stamp)" Sub-paragraph f) of the report:

"One English gold pound has risen to 1.165 millions Drachmas."

Next is page 37 of the English, page 27 of the German, Army Group E, report for 14 August 1944:

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"Area Kommandant Fortress Crete: During operation in Area Southwest Iraklion and North Paleochora numerous arrests. Two band villages destroyed, 20 hostages shot to death."

Next is:

"Ic Evening Report High Command Army Group E 14 Aug. 1944 Fortress Crete:

During mopping up operation Northwest Paleochora and South west Iraklion (see yesterdays Ic evening report) 20 shootings of hostages, numerous arrests and evacuations, two band villages destroyed."

Turning to page 39 of the English, page 38 of the German, Daily Report of 15 August 1944, Army Group E to Army Group F:

"Area Fortress Crete:

In the course of increased land activity on the Island alert first grade has been proclaimed. Own operation found well constructed band positions on the South edge of the Ida mountains, particularly in the area of Kamara (12 Northeast of Tympakson). During reprisal measure in the Messara plain 50 people suspected of belonging to bands shot to death. During raid in the Western part, numerous arrests--among them considerable number of wanted bandits

Area XXII Mountain Corps: "Kreuzotter" Continued mopping up without important contact with the enemy. Destruction of Karpenission and of other band villages. Group Ludwiger in area Aspropyrgos (30 Southwest Karpenission) Chelidona (1.5 North Northeast of it) and Kondon (7 East Prusses). On the northeast bank Triohonis Sea enemy bands sailing boat secured."

And this report and all the others is signed "High Command Army Group E, by Ia, "or" Operations Officer."

Turning next to page 41 of the English, page 30 of the German, Army Group E report for 16 August 1944:

"Area Kommandant Fortress Crete: In Ida Mountains enemy withdraws from our own combat group from the area of Kamara toward North against the Idaean Grotto (16 North Northeast Thympakion). Our own forces advancing Southwest from area on Anogia (23 West Southwest Iraklion) and East of it.

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During mopping up in area Kastelli and Western part of the Island, 15 Bandits shot to death, severe arrests, one band village destroyed."

Continuing on page 43 of the English, page 31 of the German, Army Group E report for 18 August 1944:

"Area Kommandant Fortress Crete: During mopping up in the Ida Mountains, clothing, rations and 1 radio set secured. Bandit shelters destroyed. In the Eastern part of the Messara plain, one bandit village destroyed, 20 bandits shot to death."

I think that is all the excerpts we need read into the record at this time from [NOKW 935](#).

Turn next to page 46 of the English, page 33 of the German, NOKW 1119 becomes Prosecution Exhibit 464. This is an Activity Report of the Jaeger Division covering 1 September to 30 September, 1943. The enclosures are listed. We are interested in that section of the report at the bottom of page 46 of the English and at the bottom of page 33 of the German:

"1 September Enclosures:

An attempt of the shopkeepers of Megalopolis to demonstrate, - by closing their shops, - against the announced shooting to death of 50 hostages as reprisal for an act of sabotage in Athens, was suppressed the same day by energetic measures of the local Commander."

We turn now to page 47 of the English, page 34 of the German, [NOKW 1097](#), which becomes Prosecution Exhibit 465. This is Activity reports 2 Brandenburg Regiment, dated 11 Sept. 1943.

Your Honor, you will note the receipt stamp of the Brandenburg Division for 14 September 1943 on the upper lefthand portion of the document. The Regimental Activity Report for 10 August 1943 to 10 September 1943:

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"Activity Report for the period from 10 Aug 1943 to 10 Sept. 1943In the course of subsequent reconnaissance activity by the Battalion which covered all villages in the area West of Florina up to the Fresba Lake and the terrain between, no enemy contact could be established though numerous reports concerning bands in the above area had been received.

The only thing that could be done was to carry out reprisal measures in some villages in the course of which houses and other property of bandits who had fled, were liquidated. As it could be established later on, it was a question of smaller details of bandits, about 30 to 40 men strong, which however were

not under a unified command and which had at their disposal only defective armament and equipment and which were not organized according to any plan at all."

"On the basis of pertinent reports to Saloniki, the Battalion was released in order to be ready for the attack on Grevena which had been planned for some time.

.....

A unified, energetic English leadership was apparent on account of the increased enemy resistance and the well constructed organization of the individual band units. In contrast to bandit units which appeared up to now, and with which the regiment has had contact, the bandits appearing in the area around Grevena wear uniforms (old Greek and English Khaki Uniforms.)" Burning to page 50 of the English and page 36 of the German, the same document, this is the report of the 2 Brandenburg Regiment, dated September 1, 1943:

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"The Regiment took steps to correct the situation by putting up guards supplied by the civilian population along the supply road of the regiment. It was made public that a part of the road guard would be shot to death ruthlessly if mines were found to have been installed. Since then, nothing has happened on the guarded roads.

During the destruction and the burning down of the bandit villages, blasts and explosions were observed in each case. It may be deduced from this, that the bandits had a large supply of ammunition of their disposal

Reconnaissance activity in the territory mentioned above took place with minor contact with the enemy in the Vermion Mountains. Here too it is probably a matter of small bandit squads, not yet organized, which probably intend moving over gradually into the bandit territory proper West of the Aliak Mountain. However, there is no doubt that in that very territory there is a liaison from the band area to Saloniki, therefore the mopping up is still purely a Ic mission and consequently is not to be carried out by the troops."

"A national band is being organizing, which fights the Communist bands but has Anglophile tendencies

8.9.43 On 8 Sept.

1943 the Battalions advanced further South and Southwest in order to reach the line Grevena -- Kizonjes as ordered. The II and III Battalion had minor contact with the enemy.

Enemy losses:

7 Counted dead 8 Villages leveled.

During the advance of the first Battalion on Rodia, it met stubborn enemy resistance near Ssidendron. After a skirmish which lasted some time and with the commitment of heavy weapons on both sides, the town was taken and leveled.

.....

In conclusion it can be confirmed that the Regiment:

1. Occasionally had to guard an area 90 kilometers long and 50 kilometers wide, 2. Has caused the following losses to the bands:

90 counted dead (on the basis of experience two and three time more) 13 prisoners captured 5 Ammunition Depots secured 3 large sized ration depots and 1 clothing depot.

leveled 14 villages.

Own losses of 1 dead 1 badly wounded 8 slightly wounded and 2 missing are very negligible as compared with the losses of the enemy."

The regiment's report is signed "Ritter".

We now turn to page 53 of the English, page 38 of the German, [NOKW becomes](#) Prosecution Exhibit 466. This is a series of extracts from the War Diary of the 1st Panzer Division for the period June 1, 1943 to October 13, 1943:

"Neon Report 23 August 1943 1300 hours:

2.) In Argos change in attitude of population since the Divisional Staff has been transferred.

On 22 August, evening, a Corporal of the Army Anti-Aircraft Battalion 299 was disarmed and beaten up. The Mayor has been charged with finding the culprits by 23 August, 1300 hours. 10 hostages were arrested.

With the approval of the Corps Headquarters."

If Your Honor, please, the Prosecution believes the reference here is to the 58th Group.

" -- the hostages will be shot to death unless the culprits are named."

Next the entry for 25 September:

"On 25 September 1943 at 0600 hours, 26 leading communists were arrested by sudden action in Patras by the Secret Field Police and Field Gendarmerie, the broadcasting seat was secured.

"According to V.N. (confidential Reports?) the Communist Intelligencia (mainly physicians and attorneys) is entirely skimmed off.

The Mayor of Patras, happy about our measure, continues to supply additional names.

New seizure in 10 to 14 days is in preparation.

The arrested persons are in the camp of Alt-Xorinth at the disposal of the Secret Field Police.

(signed) 1 Panzer Division Ic" Next the entry for October 2, "2.10.

1 Of two groups committed by Commander Dinatru 81 against Dimena (5 kilometers northwest near Nea -- Epidaures) in strength of one to seven, one of them had been missing since 1 October 43 at 1900 hours.

According to statements of a village inhabitant of Dimena the group is alleged to have been attacked by a group of about 100 band members. Two soldiers are said to have been shot to death and the rest captured.

On 2 October 43, the Division has issued the following condition to the bands via the population of Dimena by a shock troops of the territorial commander of Kapulia; If the missing German soldiers are not turned over to a German authority by Monday, 4 October 1800 hours, the hostages seized in Dimena will be publicly hanged on 5 October 43 in the morning."

Next the entry in the 1st Panzer Division Far Diary for October 3, 1943, bottom of page 54 English, bottom of page 40 of the German:

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"The group reported as missing yesterday had been captured after a short skirmish with about 100 partisans at the edge of the village of Dimena. Two German soldiers killed in action.

The group leader had to sign a paper in which he assures, that Dimena will not be attacked in the next few days and that it had been the German soldiers who had opened fire. First, the partisans detained them in the school house of Dimena but after they, i.e. the partisans, had left Dimena they were released by the village inhabitants. In the morning hours of 3 October, the survivors 1/3 arrived at the Army AntiArtillery Battalion 299 in Argos.

Partisans well organized led by officers, uniformed. They designate themselves as member of the ELAS."

Next on page 56 of the English, page 43 of the German [NOKW 092](#), becomes Prosecution Exhibit 467. These are Daily Reports from various subordinate units to the Commander in Chief Southeast:

"Commander in Chief (High Command Army Group F) to the OKW/Wehrmacht Operations Staff of 31 August 44.

II. Area Commander in Chief Result of the mopping up operation Kissamu in all 223 bandits or bandit helpers shot to death."

"Signed:

Commander in Chief Southeast (High Command of Army Group F)" Next is page 57 of the English , page 43 of the German, Daily Report:

"Daily Report Commander in Chief Southeast of 9 October 43.

II. Area of Commander in Chief Southeast:

Administrative Area headquarters 395: Band headquarters around the upper course of the Aliakmon river mopped up. A strong wellarmed band was thrown back; the enemy suffered losses. 5 villages, and several ammunition and supply depots were destroyed. The Italians employed in the operation have held out well."

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On page 58 of the English, page 43 of the German, continuing with the Report dealing with Infantry Report of 91st Army Corps, Infantry, for Special Duty:

"LXXXXI Infantry Corps for Special Duty:

Railway line Volos-Larissa effectively blown up at numerous places. On the road Volos-Larissa there were raids on our own convoy resulting in losses of men and material.

Near Servia band attacks against strong point and Aliakmon bridge pushed back.

With regard to sabotage in the Tempi valley reported yesterday: Supply train ran onto a mine south of Platamon and was fired on by bands. Simultaneous attacks on strong-points were repelled. 24 freight cars (some loaded with ammunition) burned down. Traffic on the main line was interrupted for 28 hours. During cleaning of the area Ardea by units of Combat Group Eberlein, 1 band village and a hospital were destroyed.

The report is signed, Commander in Chief Southeast (High Command Army Group F) The Chief of the General Staff Signed Winter."

This Your Honors, please, is a report for a period of time when the defendant Poertch had been replaced as Chief of Staff, to Army Group F by Winter.

Now, we turn to page 60 of the English and page 44 of the German, NOKW 1245, which becomes Prosecution Exhibit 468. "Headquarters LXVIIIth Corps, dated 5 October 1943," "Order for the Transfer of the 1st Panzer Division.

5) On 6 October 1943, 1200 hrs 117th Light Inf. Division will assume command of all forces employed in the Peloponnes."

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The order is signed, "Felmy" Your Honors will note this date, and the unit, 117th Light Infantry Division, being assigned for Felmy.

We shall have occasion in many of the documents which will follow to be concerned with the activities of this Division of Felmy.

At the bottom of page 60 of the English there is an order of the 117th Division dated October 30, 1943. Beg your pardon, a report from the Division to the 68th Corps. The receipt stamp of the 98th Corps appears on the lower righthand portion of the document.

Turning to page 61 of the English and page 44 of the German, this portion of the report deals with the political situation.

" I. Political Situation:

. The Communist movement might have received its first set-back through the operations by the Commander in the Peloponnes on 22nd and 23rd October, Tripolis, Sparta, Kalamata, and Megalopolis. The arrest of hostages and about 3.000 persons, who will be sent to the Reich for Forced Labor, has taught the population that pacification does not mean weakness.

It is the opinion of the Division that the combatting of Communist bands can be undertaken basically only with the aid of anti-Communist bands. . .

II. Enemy Situation:

Except for the coastal areas occupied by German Forces, the northwestern Peloponnes is entirely dominated by Communist bands. The Supreme Command of the Insurgents in this area, consisting of one Greek General, several Greek Staff Officers, 5 British Officers and 31 Communist Italian Officers, according to reliable report by a confidential agent is currently located at Demasticha (19 km Southeast of Patras)."

The report is signed "Colonel and Deputy Division Commander of 117th Light Infantry Division."

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Turning now to page 63 of the English, page 46 of the German, [NOKW 1122](#), which is Prosecution Exhibit 69. This is a translation of a pamphlet which was planned by German Occupying Forces in Greece, and distributed among the population;

Translation of a German pamphlet:

"To the population of the district Phyvon and Levadia.

The localities which were once known as Kostia, Xakosi and Dombrenia exist no longer. The inhabitants are gone--the villages forsaken. far has brought on sorrow and misery.

Why?

Because the inhabitants of the aforementioned localities collaborated and sympathized with the Andartes.

The German gun is speaking. If the bandits hear the rattle of our machine guns they will surrender. Think over carefully once more. Discontinue all associations with the Andartes. Close your doors to all these people. If you have knowledge as to the whereabouts of bandits run quickly to the Germans and inform them. You should say to the bandits: "Give up your guns!".

Do this and we will be able to go on living peacefully together.

If you do not do this, then you will have to leave your houses and localities and we will destroy them. England is making fools of you. England is not thinking of you! England is thinking only her own

interests. Before you lies a new Europe in which a new Greece will find its place. Face us with sincerity and (*) with lies. Victory is ours; you shall have victory too if you stand on our side."

Then there is a translators note:

"From the context it would appear that a negative is needed here. There is none in the original text."

Then continuing:

"Victory is ours; you shall have victory too if you stand on our side."

Then on page 64 of the English:

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"To the inhabitants of There are men from your village who are being held by the Germans as hostages.

In the event that within a reasonable space of time no bands appear, and peace and order is maintained in your area, these hostages will be released. However, should it be established that you are supporting and promoting the bands and are leaving your villages at their disposal, the hostages will be shot and your villages leveled to the ground.

Hence it is in your own interest and in the interest of peace and order that you support the German occupation forces in the fight against bands and instigators of unrest. Therefore inform the nearest German office immediately when bands appear, in order that the German forces will be able to come to your protection.

Signed: "The German Occupation forces."

DR. SAUTER; Dr. Sauter for the defendant Lanz. I should like to have a look at the original of this document. An expression appears in this document which is not usual in German, and which I do not know myself.

JUDGE BURKE: I am making reference to the English Document Book on page 62. Here an expression occurs "Andartes". That is not a German expression.

MR. FENSTERMACHER: Page 63 of the English, your Honor, second paragraph on that page.

DR. SAUTER: It is the third paragraph from the top, starting "Because the inhabitants of the aforementioned localities collaborated and sympathized, with the Andartes."

What "Andartes" is supposed to be, I, as a German don't know, May I also point out that this alleged document bears no signature apart from an initial "T.H." or "T.A.", an abbreviation, otherwise I cannot see anything from this document.

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MR. FENSTERMACHER: If your Honors please, the document is written in the German language. At the top of it are the words, "Translation of the German pamphlet," and I believe, if I may make an

explanatory statement here, the word, "Andarten" refers to Andartes which is what the Greek people themselves called their guerilla forces.

DR. SAUTER: I don't know that. At least a German, if he had written this pamphlet, would probably have expressed himself differently and I also doubt whether a German would have published pamphlets of this kind in which he designates his own statements as lies.

PRESIDING JUDGE BURKE: For whatever it may be worth it may be received in the same fashion as other documents, subject to the same objections they have received.

Just a moment, however, Dr. Sauter, is there a question of the interpretation of the third paragraph? Is there a question of interpretation involved in the third paragraph on page 63 of the English document book?

DR. SAUTER: No.

PRESIDING JUDGE BURKE: Very well. You may proceed.

MR. FENSTERMACHER: Next, on page 65 of the English, page 48 of the German document book, Document [NOKW-1355](#), which becomes prosecution Exhibit 470, again are a series of daily reports from the Commander in Chief Southeast, which at this time was the defendant Reichs, to OKH headquarters in Berlin. The first report is for the 7th of November, 1943. That section of the report dealing with the 68th Corps:

"Some losses suffered in band attack (70) on German goods train in the vicinity of Aighion. At Tripolis 18 Communists were shot as reprisal for railway sabotage carried out." Signed: "Commander-in-Chief (High Command Army Group F) Ia," Operations Officer.

Next, on page 67 of the English, 49 of the German, Commander-in-Chief Southeast, report to Higher Headquarters for the 17th of November, 1943.

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"68th Corps: Communism activities continuing in Athens. 395th Administrative Area Headquarters. During local mopping up north of Volos 53 bandits were captured as reprisal for attacks made recently in the area of Katerini. 20 Communists were shot."

Next, the Commander-in-Chief Southeast report for the 20th of November, 1943. It is on page 69 of the English, page 50 of the German:

"68th Corps: During local engagements in the areas of Tripolis and Patras in addition to several enemy losses, ammunition and propaganda materials captured. A village 30 kilometers west of Lamia was burned down, reprisal for a band attack."

Next, the Commander-in-Chief Southeast report for the 29th of November, 1943, page 71 of the English, 51 of the German:

"68th Corps: A reprisal for a band attack on the road TripolisSparta (see Daily Report for 26 November) 100 hostages were shot at the scene of the occurrence. During search in Corinth numerous hostages were arrested, arms and propaganda material secured."

This report, as were the others, is signed: "Commander-in-Chief Southeast (High Command Army Group F)" Page 73 of the English, 52 of the German, Document [NOKW-1363](#) becomes prosecution Exhibit 471.

These are various activity reports of the 68th Army Corps, commanded at this time by the defendant Felmy. The first report was transmitted on the 19th of September, 1943 and your Honors will note to whom the report is sent: "1) Army Group Southern Greece, 2) Military Commander in Greece," who at this time was the defendant Speidel, "3) Counter Intelligence Office, Athens."

"Ic Daily Report of 20 September:

"During operations against bands Panzer Grenadier Regiment No. 113 captured 20 bandits in the area of Aphissu and Arachova and transferred 10 hostages to Sparta."

Next, page 74 of the English, 53 of the German, Daily Report of the 69th Corps for 20 September 1943: "St Kabamata 2 Communists were shot."

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Continuing on page 75 of the English, 54 of the German, 68th Corps Daily Report for the 30th of September, 1943:

"The 26 Communists arrested on 25 September at Patras (Ic Daily Report for 26 September) are the following:

"1) Konstantionos, Parles, Town Doctor, residing in Patras "2) Samuris, Andreas, Dr. med " " "3) Sakelarius, Chrisantos " " "4.) Wuiss, Nikolas " " "5) Karanasopulos, Wassil notary " " "6) Michalopulos, Dimitrios Greek, employed in the Court, residing in Patras "7) Petroskos, Marinus, Roumanian national " " "8) Afamasiu, Evangleus unqualified lawyer " " "9) Marketus, Anastasius " " "10)Marketus, Konstantin " " "11)Kuvelis, Spiros, Lawyer and Town Councillor " " "12)Piskopakis,Antipas, Lawyer " " "13)Liakopulos,Panagiotia, Engineer " " "14.)

Geranios,Panajotis,Lawyer " " "15)Kritikos, Johann " " "16)Grustkoss,employed by the Bank of Greece" " "17)Wlachos,nephew of the lawyer, MARKU " " "18)Chaidopulos,Nikolaus nephew of the lawyer MARKU " " "19)Stamadados,Andreas Townhall official " " "20)Sotiropulos,Andreas Taxation Official " " "21)Stathopulos, Johann " " "22)Kulumbis,Angelos Owner of a Printing Shop " " "23)Chosmas, Spirus Doctor " " "24)Kiriakopulos,Nikolaus Employed in electric plant " " "25)Marku, Joannis " " "26)Marku,Andreas,Lawyer Nos 1 - 5, 7 - 16, 18 - 22 and 25 - 26 are already known to Corps HeadquartersThe report is signed:

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"68th Corps Ic Section, dated 29 September 1943" Continuing on page 76 of the English, page 54 of the German, Daily Report of the 68th Corps for the 10th of October, 1943.

"During the capture of Arachowa (Ic Morning Report for 9 October) strong resistance was met in parts of heavy weapons only heavy machine gun confined.

Further advance on Malyvia (5km Northwest of Arachowa) and AnoAgoriani (15 km North northwest of Arachowa) without contact with the enemy. Both villages, in which small ammunition and ration depots were found, were destroyed, at Arachowa 26 houses of leading Communists as well as houses containing ammunition were burned down."

No changes as reprisal for attack on 25 November South of Tripolis (see Ic Daily Report for 26 November) 100 hostages shot on 28 November at the scene of the attack.

During raid in Old-Corinth 67 hostages were arrested, several weapons and propaganda material secured. At Drachmanion (21 km West of Atalanti) 5 suspects were arrested."

Next, the 68th Corps daily report for the 28th of December, 1943:

"As reprisal measure for band attack on 3 December near Jithion (Ic Daily Report for 6 December) 25 hostages were shot at Jithion."

"Ic Daily Report for 9 December 1943:"

"If your Honors, please, the next several reports will be concerned with the operation Kalavrita. I ask that your Honors pay particular attention to these reports as the next witness which the prosecution will present will testify to events carried out at Kalavrita.

"Ic Daily Report for 9 December 1943:

"During mopping up operations in the Northern Peloponnesus a pocket 10 kilometers around Kalavrita were found without further contact with the enemy.

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Enemy withdrew from the area north of Kalavrita possibly towards southeast, since 78 on of one of our companies which was annihilated in the mountains on 7 December were murdered about 10 kilometers southeast of Kalavrita. As reprisal measure for the murder of German soldiers, the burning of villages and execution of the male population has been ordered."

PRESIDING JUDGE BURKE: At this point, Mr. Fenstermacher, we will defer further hearing by the Tribunal until tomorrow morning at 9:30.

THE MARSHAL: The Tribunal will be in recess until 9:30 o'clock tomorrow morning.

(The Tribunal adjourned until 19 August 1947, at 1630 hours).

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Official Transcript of Military Tribunal V, Case VII, in the matter of the United States of America, against Wilhelm List, et al, defendants sitting at Nurnberg, Germany, on 19 August 1947, 0930, Justice Wennerstrum Presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: The Marshal will ascertain if all the defendants are present in time Courtroom.

THE MARSHAL: May it please Your Honor, all the defendants are present in the Courtroom.

THE PRESIDENT: The Prosecution may proceed with the presentation of evidence on behalf of the Prosecution.

MR. FENSTERMACHER: May it please the Tribunal. Prior to yesterday afternoon's adjournment we were considering Document No. [NOKW-1363](#), which is Prosecution's Exhibit No. 471 in evidence. This document is a series of activity reports of the 68th Corps for the period 16 September to 31 December 1943. Your Honors will recall on other documents that have already been introduced by the Prosecution that during this period of time the Defendant Felmy was Commander of the 68th Army Corps, and that Corps in turn was subordinate to Army Group E, which itself was subordinate to Army Group [F and](#) Supreme Command Southeast, under the command of the defendant Weichs and his Chief of Staff the defendant Foertsch. And we are particularly concerned with that section of the document which begins on page 77 of the English, Page 55 of the German, Daily Report for the 9th of December 1943:

"During mopping up operations in the Northern Peloponnesus a pocket 10 km around Kalavrita was found without further contact with the enemy.

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Enemy withdrew from the area N of Kalavrita possibly towards Southeast, since 78 men of one of our companies which was annihilated in the mountains on 7 December were murdered about 10 km Southeast of Kalavrita. As reprisal measure for the murder of German soldiers the burning of villages and execution of the male population has been ordered."

DR. LATERNSEER: Dr. Laternser, Your Honor. I would like a retranslation of the document which has just been read.

MR. FENSTERMACHER: Major Hatfield, please, will you pass the original to the Court Interpreter. The part in question is on Page 8 of the original document.

THE PRESIDENT: May I make inquiry as to what particular portion of the document you are referring to, Dr. Laternser?

DR. LATERNSE: Yes, Your Honor. On page 77 of the English Document Book, the sentence under "F". It is the sentence that was read last, Paragraph "F", on page 77.

MR. HILDESHEIMER (Court German-English Interpreter): It says here: "As a reprisal measure," it could be translated "as a retaliation measure", "for the murder of German soldiers the burning of villages and execution of the male population has been ordered."

DR. LATERNSE: As I have heard it just now in the English, it is the word "the" -- "The male population" -- this "the" should have been stricken.

THE PRESIDENT: Will the Interpreter please read it again and give his interpretation?

DR. LATERNSE: In the German text it says "Erschiessung Maennlicher Bevoelkerung," which means "the shooting of male population." The article the definite article "the" should be stricken, which is found in the line next to the last in the English Document Book on Page 77.

MR. HILDESHEIMER (Court German-English Interpreter): That is correct, Your Honor.

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MR. FENSTERMACHER: Will the Court Interpreter read again from that sub-paragraph "F" of the original document exactly as it should be translated?

MR. HILDESHEIMER (Court German-English Interpreter): "As a reprisal measure for the murder of German soldiers, the burning of villages and execution of members of the male population has been ordered." That is how it should read. That would be the literal translation, Sir.

DR. LATERNSE: Thank you.

JUDGE CARTER: May I ask, before the original is taken away, if the English shows this was signed by the 67th Corps? Is that correct?

MR. FENSTERMACHER: I believe that is again a typographical error, but again we might ascertain the answer to that from the original document.

MR. HILDESHEIMER (Court German-English Interpreter): It says 67th Corps in the English text.

MR. FENSTERMACHER: What does it say in the original?

MR. HILDESHEIMER (Court German-English Interpreter): In the original German text it says 68th AK.

MR. FENSTERMACHER: Might I ask again ---I believe in translating sub-paragraph "F" you gave an alternative translation -- something to the effect of "members of the male population." Will you read it again --sub-paragraph "F"?

MR. HILDESHEIMER (Court German-English Interpreter): As it is or as it should read?

MR. FENSTERMACHER: As it should read from your translation of the original text.

MR. HILDESHEIMER (Court German-English Interpreter): "As reprisal measure for the murder of German soldiers the burning of villages and the execution of members of the male population has been ordered."

THE PRESIDENT: Does that cover the situation, Dr. Laternser?

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DR. LATERNSEER: Yes, Your Honor.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: We turn next to Page 68 of the English, page 56 of the German, continuing with the activity reports of the 68th Corps, the Daily Report for the 14th of October 1943: "The Prefect of Kalamata was murdered in the train at Asprochoma (3km West Northwest of Kalamata). Martial law proclaimed at Kalamata, 50 hostages arrested." Continuing with the Daily Report for the 25th of October 1943: "Enemy losses for the period 18 October - 24 October: Dead, 24; Captured: 1 machine gun, 47 rifles..." It is at the bottom of Page 78 of the English, Page 56 of the German, Daily Report for the 25th of October 1943: "Enemy losses for the period 18 October - 24 October: Dead: 24; Captured: 1 machine gun, 47 rifles, 13 pistols, 3000 rounds Infantry ammunition, 100 Italian handgrenades. Taken prisoner: 31 Greeks, 10 Italians."

MR. HILDESHEIMER: I'm afraid there's a mistake, Sir, in the English Document Book -- a mistake in the translation.

THE PRESIDENT: The translator will make such corrections as he deems advisable.

MR. FENSTERMACHER: Dr. Laternser has informed me that the sentences I have been reading are not in the German Document Book. Perhaps we could hand again the original document to the Court Interpreters and have them read it into the record. This, I believe, is on page 12 of the original document -- the Daily Report for the 25th of October 1943.

MR. HILDESHEIMER: Are you reading from sub-paragraph "D", please? Could you please read the English text again?

MR. FENSTERMACHER: Ic Daily Report for 25 October 1943, II), d), Enemy Losses for the period 18 October - 24 October: Dead: 24, Captured: 1 machine gun, 47 rifles, 13 pistols, 3000 rounds Infantry ammunition, 100 Italian handgrenades. Taken prisoner: 31 Greeks, 10 Italians. During mopping up operations at Kalamata, Sparta, Patras, and Megalopolis a total of 3880 band suspects and hostages arrested."

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Daily Report for the 26th of October 1943.....

THE PRESIDENT: Pardon me. I understood the Translator wished to make some correction. Is that correct?

MR. HILDESHEIMER: I only wanted to say, Your Honor, that this is not contained in our German Document Book.

THE PRESIDENT: Very well; you may proceed.

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MR. FENSTERMACHER: Daily Report for the 26th of October 1943: "During mopping up operation in Githion and Tripolis several suspects and hostages arrested." And then, dropping down to the Daily Report for 6 November 1943, at the bottom of Page 79 in the English, Page 57 in the German, "During retaliation measures(see attach 8 km Northwest of Argos, Ic-Daily Report for 5 November 1943) No contact with the enemy. Villages were evacuated by bandits and the bulk of the population. Hostages taken." Continuing with the Daily Report for the 24th of November 1943, Page 80 of the English, Page 57 of the German, "On 23 November at 1445 hours a band attacked a single truck on the road Corinth-Patras, 8 km Southeast of Aegion. 1st Lt. Roewer was killed, Lt. von Bothmer was wounded, the driver is missing. The Division Commander had ordered the public execution of 20 Communist leaders in Patras on 24 November as reprisal measure." Daily Report for the 12th of December 1943: "As reprisal measure for shooting German soldiers (Ic Daily Report for 10 December) 9 villages Northeast of Kalavrita were destroyed, and 142 men shot." This report, as are all others in the series, is signed by the Ic or Intelligence Officer of the 68th Corps, commanded, at this time, by the Defendant Felmy. Continuing with the Daily Report for the 31st of December 1943: "Enemy Losses during December: Prisoners: 5 American Flyers, 159 bandits, Dead: 918 (of this 839 from reprisal measures), Wounded: 11 (in addition an estimated 100)." Turning now to the bottom of Page 82 of the English, Page 59 of the German, the Ic Daily Report for 13th of December 1943: "Operation Kalavrita concluded without further contact with the enemy. A few of the corpses of the German soldiers shot were found." Next, the daily Report for the 14th of December 1943: "70 corpses of the German soldiers murdered were brought in. As further reprisal measure 3 villages were burned down, Kalavrita completely destroyed, 511 male inhabitants shot." Daily Report for the 15th of December 1943: "During the night 13/14th the telephone not work at the road Tripolis-Sparta, 18 km South of Tripolis, as well as three bridges, was destroyed.

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On 14 December 1 reinforced Engineer Platoon and 50 hostages were employed on repair work. In the area of Kalavrita as further reprisal measure 1 village and 2 monasteries were destroyed." Continuing with the Daily Report for the 16th of December 1943: "Operation Kalavrita: 14 December Mazeika (11 km Southeast of Kalavrita) and Dara (12 km Southeast of Mazeika) 18 houses destroyed, 35 Communists arrested." Daily Report for 17th of December 1943: "During the night 15/16 December bridge 1 km North of Nanthirea (10 km South of Tripolis) was blasted. As reprisal measure Mant*irea was burned down. As reprisal measure for 1 German soldier shot 30 Communist were shot in Tripolis." This report, as are all others, is signed "LXVIIIth Corps, Ic." I think we need not read the remainder of the document into the record at this time. Turning next to Page 86 of the English, Page 62 of the German Document Book, is Document No. [NOKW-1246](#), which becomes Prosecution's Exhibit No.

472. This document is a series of extracts from the War Diary of the 68th Corps, covering the period 1 July to 31st December 1943, during which period the Defendant Felmy was in command of the 68th Army Corps. The first page of the War Diary is signed by the Defendant Felmy, as "General of Air Force."

WAR DIARY NO. 3 Corps Headquarters LXVIII Army Corps Started 1 July 1943 Concluded 31 Dec.

1943.

LXVIII Army Corps was subordinate from 1 July 1943 to 27 July 1943 to the High Command Army Group E from 28 July 1943 to 9 Sept 1943 to the 11th Italian Army from 9 Sept.

1943 to 4 Oct. 1943 to Army Group Southern Greece from 5 Oct.

1943 to 31 Dec. 1943 to the High Command Army Group E The War Diary was kept from 1 July 1943 to 31 Dec.

1943 by Captain Sinapius Turning to Page 87 of the English, Page 62 of the German, the entry in the 68th Army Corps War Diary for the 23rd of August 1943:

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"As reprisal measure of band attacks on 22 Aug. The village of Tropaa and Chora are burned down. . . .

24 Aug 43 The reprisal measures of the German Town Commandant in Argos for the excesses of civilians on 22 Aug. are being systematically sabotaged by the commander of the Italian Sector Argolide. He is attempting to have the hostages released and to cancel the curfew ordered by the German Garrison Command. In order that the reputation of the German Wehrmacht may no longer be in danger, the Commander of the 1st Panzer Division requests the subordination of the Italian Sector Argolide to the 1st Panzer Division. After conference with the chief of the German General Staff with the Italian 11th Army, this subordination is ordered effective 25 August 00:00 Hours.

There of the assumed culprits are shot to death. . . . 25 Aug 43

Fighting between Nationalists and Communist Bands in the areas of Pigadia (18 kilometers East Southeast Kalamata) and Diraklion (18 kilometers Northeast of Kalamata).

30 Aug 43 In the vicinity of Skupi 15 Km east of Liwki one of our own patrols encountered bandits in a skirmish. The Locality was burned down. Operation Chionistra: Group A reaches area, 10 kilometers West of Kalawrita. A village whose inhabitants seem suspect is being burned down.

JUDGE CARTER: Might I inquire against what defendant these orders in August are offered?

MR. FENSTERMACHER: They're offered against the Defendant Felmy, Your Honor, as he was in command in August, at that time.

JUDGE CARTER: Does a previous statement show that he was not?

MR. FENSTERMACHER: Which statement is that, Your Honor?

JUDGE CARTER: At the beginning of this exhibit.

MR. FENSTERMACHER: You mean from 1 July 1943 to the 27th of July 1943, to the High Command, Army Group E, or perhaps you refer to the statement from 28 July 1943 to 9 September 1943, the 11th Italian Army. Is that the statement you refer to, Your Honor?

JUDGE CARTER: Yes, it is.

MR. FENSTERMACHER: That simply means that the Corps itself was subordinate to the 11th Italian Army, but the Corps was commanded during that period by the Defendant Felmy, even though the Corps itself was subordinate to the High Headquarters.

JUDGE CARTER: We had a statement here yesterday or the day before to the effect that the Defendant Felmy didn't arrive until September 9th, and this would seem not to correspond with that.

MR. FENSTERMACHER: I believe Your Honor is referring to a statement of Dr. Sauter, which he made, as a matter of fact, to the effect that the defendant Lanz arrived as Commander of the 22nd Army Corps on the 9th of September 1943 in the Epiros section of Greece; and we are now concerned with the Defendant Felmy, who was Commander of the 68th Army Corps, and I believe there is no issue of fact as to when he took over, in that statement.

JUDGE CARTER: I believe you're correct in that statement, that I did have the Defendant Lanz confused with the Defendant Felmy.

MR. FENSTERMACHER: We are turning next to the bottom of Page 89 of the English, Page 64 of the German, the entry in the War Diary of the 68th Army Corps for the 26th of November 1943: "Peloponnesus: As reprisal measure for the band attack (32 kilometers South of Tripolis) 100 Communist are shot to death at the locality of the incident." Next, on page 90 of the English, page 64 of the German, the entry from the War Diary for the 4th of December 1943: "Peloponnesus: In Aighion, 50 Hostages shot to death as reprisal measure for attack on truck on 2 December." Continuing with the entry in the War Diary of the 68th Army Corps, the entry for the 5th of December 1943:

Peloponnesus: 50 hostages hanged at the railroad station of Andritsa as reprisal measure for attack on 1 December." For 7 December 1943: "Peloponnesus: 25 hostages shot to death in Gythion as reprisal measure for attack by bandits on 3 December West of Gythion." The entry for the 8th of December 1943. If Your Honors will bear in mind this particular date, 8 December 1943, and the events with which it is concerned:

Peloponnesus:

Operation "Kalawrita": The Combat groups advanced concentrically on Kalawrita (targets of the day about 10 kilometers around Kalawrita. According to statements of 2 men who escaped from Fifth Company of the 749th Jaeger Regiment which had been destroyed near Kalawrita on 19 Oct, the

captured company commander Captain Schober and 78 men are alleged to have been shot on 7 Dec. in the mountains East of Kalawrita. To prevent the bands from escaping toward the East, the 3rd Battalion of the 22nd Luftwaffe Jaeger Regiment of Corinth is committed for the area, 25 kilometers Southeast of Kalawrita.

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"9 Dec 43 Peloponnesus:

Combat group, Lt. Colonel Wolffinger reaches Kalawrita without contact with the enemy. Combat group Captain (Cav.) thrusting ahead to the West up to Tripotamia."

We call your Honors' attention to the statement that Lt. Colonel Wolffinger reached Kalavrita without contact with the enemy. Now reading:

"10 Dec 43 Peloponnesus:

Operating "Kalawrita" a patrol of platoon strength of the reinforced company of the 965th Fortress Regiment makes contact with the enemy (10 kilometers South of Liwia. Own losses: 10 dead, 11 wounded. Continued march of combat group Lt. Colonel Wolffinger to Tripotamia without contact with the enemy.

11 Dec 43 Peloponnesus:

Operation "Kalawrita" In reprisal for the 78 murdered soldiers of the 5th Company of the 749th Jaeger Regiment, 9 villages in the area of "Kalawrita" destroyed up to now, 142 members of the male village population shot to death."

Continuing with the entries in the War Dairy of the LXVIII Army Corps, the entry for the:

"13 Dec 43 Peloponnesus:

Operation "Kalawrita" concluded without any notable success except for the continuation of reprisal measures. It again has been demonstrated that an insufficiently mobile Jaeger Regiment in the mountains is insufficient for the execution of a large scale operation (encirclement of bands)."

Another entry for the:

"13 Dec 43 Peloponnesus:

During the course of additional reprisal measures Kalawrita entirely destroyed three more villages burned down and 511 male inhabitants shot to death.

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70 corpses of the murdered soldiers of the 5th Company of the 749th Regiment were found in Masi (10 kilometers Southeast of Kalawrita. . .

"14, Dec 43 Peloponnesus:

During the continuation of the reprisal measures in the area of Kalawrita, Mazeika and 2 Monasteries are destroyed. The combat groups are marching back to their garrisons. During the course of the reprisal measures a total of 24 villages and 3 monasteries were destroyed, 696 Greeks shot to death.

22 Dec 43 Peloponnesus:

Bandits are continuously making sabotage attempts on the telephone line Tripolis - Sparta. 13 Greeks are shot to death during a mopping up operation carried out against this."

The final page of the War Diary of the LXVIII Army Corps, this particular War Diary concludes on the 31st of December, 1943, is signed by the defendant Felmy, the Commander of the Corps.

THE PRESIDENT: Pardon me, does that have his signature or is it a typed signature?

MR. FENSTERMACHER: As I recall, it is his signature written out in hand, Your Honor. Perhaps if we had the original exhibit, I could refresh my recollection. (Showed document to the Tribunal.)

The next document is [NOKW -1029](#); it is a map which is too large for inclusion in the document book. We might hand your Honors three copies at this time. Yesterday afternoon at four thirty I distributed several copies to the defense counsel. I wonder if all of them have copies?

JUDGE BURKE: What is the document number, and what is the Exhibit number, if you please?

MR. FENSTERMACHER: The document number is [NOKW-1029](#): which I becomes prosecution Exhibit No. 473. It is a map which is taken from the files of the LXVIII Army Corps. I would like to ask the court interpreters to read into the record the legend which appears at the bottom of the map.

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MR. HILDESHEIMER: "Enterprise, Kalavrita, of the 5th December 1943 to 13 December 1943. X marks destroyed villages." Correction: instead of "enterprise," "operation" and the last is "X marks destroyed villages."

MR. FENSTERMACHER: Will the court interpreter look at the top half? There is a plus sign and a word "Fundort." I wonder if he would translate that legend.

MR. HILDESHEIMER: "Place of finding of the murdered German soldiers."

MR. FENSTERMACHER: Will you read the date also, please?

MR. HILDESHEIMER: "8 December."

MR. FENSTERMACHER: Your Honors will note the number of "X's" as they appear on the map, according to the map "X" equals destroyed villages. Your Honors may count them for yourselves. I counted 35 separate crosses. Your Honors will also note in the top half portion of the map about in the middle around a group of about ten crosses, the name of the town Kalavrita and above the town of Kalavrita the name Krunini. I hesitate to pronounce the names of the other villages but I think your Honors might note them. The witness which we shall put on from Lalavrita will, I believe, have occasion to refer to several of these names.

Turn next to page 94 of the English, page 66 of the German document book, [NOKW-1257](#), which becomes prosecution Exhibit 474, this document consists of activities reports of the 117 Jaeger Division for the period 1 November to 30 November 1943. I beg your pardon, the whole exhibit concerns activities reports of the 117 Jaeger Division covering the period 5 November 1943 to 16 January 1944, during which period of time the division was subordinate to the LXVIII Corps, commanded during the entire period by the defendant Felmy.

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The first activity report is:

"117th Jaeger Division from 1 November to 30 November 1943. 5.11. 4.) Reprisal action for bandit attack on the 2nd Battery of the 1st Battalion of anti-aircraft Regiment No. 6 near Nawrojianneika on 4.11:

"Village of Bermbati burned down. 120 hostages arrested in Limanaes.

"5.) Up to now the execution of effective reprisal measures for the partisan attacks, which have increased lately, has come to naught because the 1042 Administrative Sub-area Headquarters claimed, on the basis of a decree of Military Commander Greece."

If I may insert a comment there, the Military Commander Greece at that time was the defendant Speidel.

"The authority for the execution of such measures but it does not have any forces available to carry them out. After long drawn out negotiations 1042 Administrative Sub-area Headquarters today was persuaded to transfer to the division their obligations and duties regarding the reprisal measures.

6.11

2.) On 5.11 about 20:00 hours bandit attack (about 70 men) on German freight train, 17 kilometer West of Ajion. Own losses: 2 dead, 1 seriously wounded, 2 missing. Reinforced company left immediately but could not establish (location of) enemy. Negotiator transmits ultimatum to bands to return the missing men by 15 November. They were informed that otherwise severest measures would be taken.

4.) In reprisal for bandit attack near Isari on 27 Oct., 18 Communists shot dead in Tripoli."

Continuing with the entry in the activity report for the 24th of November, 1943:

"As preliminary reprisal measures for bandit attack near Nikoleika, 20 Communist Leaders in Patras shot dead.

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3.12 The 2nd Battalion of the 737th Jaeger Regiment started operation "Andritsa to mop up the area around Andritsa and to seize hostages.

.....

For the attack on 2 Dec. 43, 10 kilometers East of Ajion in Ajion 50 hostages were shot dead.

.....

7.12 As reprisal measure for the bandit attack on the road Jithion Areopolis, 25 hostages shot dead in Jithion.

.....

8 Dec. 43 cont'd.:

Combat Group Gnass occupies Masi (7 kilometers Northeast of Mazeika) by surprise attack with elements of combat strength (reinforced group Kockert) from Mazeika, in order to liberate the 78 German prisoners. Excepting some men who escaped, the prisoners were murdered in the mountains northeast of Nasi on 7 Dec. The immediate reprisal measure ordered was the shooting of the male population and burning down of the villages. Reprisal measures in the Roji and Kerpini were carried out by combat group Ebersberg.

13.12 Operation "Kalawrita": The valley echelon of combat Group Woelfinger reaches Vissoka without contacting the enemy.

Villages which were combed through were evacuated by the civilian population.

Kalawrita was destroyed entirely as bandit shelter and collecting point for German prisoners. 511 male inhabitants shot dead.

.....

Target of the day Dara (12 kilometers Southeast Mazeika). In the course of reprisal measures, 3 villages burned down.

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16.12 Operation "Steiglitz": As reprisal measure for the shooting of one German Soldier 30 Communists shot dead in Tripoli". This is the situation of the LXVII Corps Headquarters:

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"Estimates of the situation to LXVIII Corps Headquarters. Divisional Staff Hq., 23 January 1944, (signed) von Le Suire, Major General and Divisional Cdr."

Continuing on page 97 of the English, 68 of the German, another activity report of the 117th Jaeger Division, dated:

"Divisional Staff Hq, 19 January 1944.

"Concluding and Experience Report "Operation 'Kalawrita' "The assembly of Combat Group Gnass for operation 'Kalawrita' proceeded according to plan.

Jumping off point for Jaeger Regiment 749 was the billet in Patras and Ajion. The 5th of December 1943" -- and Your Honors will recall that date on the map which was submitted in the preceding exhibit -- "was the X day of the operation. Apart from a skirmish lasting some time of the 116th

Artillery Battalion near Pankrati, no fighting worth mentioning took place during the entire operation. Since the enemy withdrew towards the east and northeast from the first day of the operation, the 22nd Luftwaffe Jaeger Regiment was ordered on 7 December 43 to prevent the bands from breaking through by setting up blocks along the plains of Feneos (Operation Steiglitz). The 965th Fortress Infantry Regiment was ordered on 8 December 43 to block the line Demuta-Lala-Duka with a reinforced company in order to prevent withdrawal to the southwest. (Operation Bueffel).

DR. LATERNSE: Your Honor, I would like the translation to be examined and tested. On page 97 of the English document book, page 68 of the German document book, I would ask for a retranslation of the sentence - I quote from the German document book: "Bis auf ein laengeres Feuergefecht der Aufklaerungsabteilung 116 bei Paukvati fanden waehrend des ganzen Unternehmens keine groesseren Kampfhandlungen statt." That is the end of my quotation. I would like this sentence retranslated.

MR. FENSTERMACHER: Would Major Hatfield pass Exhibit 474 to the court interpreters, please? I believe the portion of the document to which Dr. Laternser refers is on page 11 of the original document.

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MR. HILDESHEIMER: "Apart from--

THE PRESIDENT: Pardon me, will you give the line that you are reading?

MR. HILDESHEIMER: It is on page 97 of the English document book and it is under the caption "Concluding and Experience Report Operation Kalavrita, Scale 1:100,000." It is line four; it is line five in the original.

"Apart from a skirmish lasting some time of the 116th Artillery Battalion near Pankrati, no major operations took -- major fighting took place during the entire operation." It is suggested that "116th Artillery Battalion" should be translated "116th Reconnaissance Battalion" and it would read then:

"Apart from a skirmish lasting some time of the 116th Reconnaissance Battalion near Pankrati, no larger fighting took place during the entire operation."

THE PRESIDENT: Does that cover the situation, Dr. Laternser?

DR. LATERNSE: Yes.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: Continuing on page 97 of the English, page 68 of the German, would be the report of the 117th Jaeger Division regarding Operation Kalavrita:

"In reprisal for the murder of 75 prisoners of Company Schober, the shooting of the male population and the burning down of all villages in the area of the operation was ordered.

"On 14 December 1943 the operation was concluded and the units returned to their billets.

"1) Enemy losses: 17 dead, several wounded.

"2) Own Losses: 13 dead, 12 wounded.

"3) Reprisal Measures: The following villages were destroyed: Roji, Kerpini, Railway Station Kerpini, Ano Sachlaru, Kato Sachlart, Ssuwardo, Wrachni, Kalawrita, Monastery of Meg-Spilaron, Monastery of Lawras, Aj. Kiria, Awles, Wissoka, Fteri, Klapatsuna, Pargaki, Wallitsa, Mellissia, Monastery of Omblu, Laponangos, Masi, Mazeika, Pangrati, Worochowa, Derweni, Waltos, Planeru, settlement (four kilometers west Mazeika). 696 Greeks were shot dead.

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"5) Attitude of the Civilian Population: A large part of the civilian population had fled apparently out of fear of seizure as hostages. Those remaining in the villages were mostly old men. The remaining population tried to prove that they had nothing to do with the bands by exaggerated and submissive politeness and by proclaiming their sympathy."

Turning next to page 99 of the English, page 70 of the German, Document OKW-1555 becomes Prosecution Exhibit 475. This document is a series of daily reports of OKH Army Headquarters in Berlin. First "Daily Report West 17 November 1943" under the section of the reports with which we are concerned:

"III) Balkans "1) Army Group E:"a) Islands:

The enemy garrison of Lero surrendered with 200 English officers and 3000 men and 350 Italian officers and 5000 men (elements of the 'Regina' Division).

"b) Mainland:

"LXVIII Infantry Corps: Continued communist intrigues in Athens.

"Administrative Area Headquarters 395: In the course of local mopping up north of Volos, 53 bandits were captured. Twenty communists have been shot to death in reprisal for attacks carried out lately in the area of Katerini."

The report is signed, as are all others in the series, "Heusinger". I beg your pardon: "Per (signed) Heusinger. (signature) Frh. v. Tiesenhausen."

Page 100 of the English, Daily Report for the 29th of November 1943:

"Daily Report West 29 November 1943.

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"III) Balkans "1) Army Group E:"b) Mainland:

"LXVIII Army Corps: In reprisal for a band attack on the road Tripolis-Sparta, 100 hostages were shot to death at the locality of the incident. In the course of a search of Corinth numerous hostages were seized and weapons and propaganda material were secured."

The OKH report for the 1st of December 1943, that section of the report dealing with activities of the XXII Mountain Corps, which at this time was under the command of the defendant Lanz:

"During reprisal operation against bands in the area of Korca a village was taken in the face of resistance, all men capable of bearing arms were shot to death and the village destroyed."

Continuing with the OKH daily report for the 5th of December 1943:

"Balkans "Army Group E:"Mainland:

"LXVIII Army Corps: 50 hostages were shot to death in Aighion."

OKH report for the 12th of December 1943, under the section of the report dealing with the LXVIII Army Corps:

"No enemy contact during continuation of operation Kalavrita. As a reprisal measure nine villages were destroyed and 142 male inhabitants shot to death."

OKH report for the 15th of December 1943, at the bottom of page 103 of the English, 73 of the German:

"In the course of the continuation of the reprisal action in the area of Kalavrita one additional village and two monasteries were destroyed, among them Kalavrita. Altogether more than 500 men were shot to death. The bodies of 100 German soldiers were found who had been shot to death."

Continuing with the OKH report for the 17th of December 1943:

"Balkans "Army Group E:"Mainland:

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"LXVIII Army Corps: In reprisal for blasting of bridge and murder of a German soldier in the area of Tripoli, one band village was destroyed and 30 communists shot to death.

"XXII Mountain Corps: In reprisal for the attack on trucks as reported yesterday three band villages were destroyed, north of Agrinion."

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Case V Case VII

XXII Mountain Corps:

"Seepferd" will be continued. Band losses up to now: 107 dead, 34 prisoners, 265 suspects arrested. In addition to weapons, 15 English parachutes and two printing presses with voluminous propaganda material was taken in booty. Own losses: 5 dead.

In the area of Volos 25 bandits were shot to death in reprisal.

DR. SCHMIDT: Your Honor, I have to state that Volos was not within the field of activity of this Regiment of the XXII Mountain Corps.

MR. FENSTERMACHER: Will you repeat the remark please.

INTERPRETOR HILDESHIEMER: I have to state that this area which is concerned here is not within the field of activities of the XXII Mountain Corps.

THE PRESIDENT: It appears that this would be a defensive matter which could be shown when opportunity is given to the defense to present their evidence.

MR. FENSTERMACHER: I think it was indicated already, however from the documents themselves that the area of operation "Kalarribha" was within the jurisdiction and command area of the 68th Army Corps and not the XXII Mountain Corps.

Dr. SCHMIDT: On page 75 of the German Document Book under Bomar III, XXII Mountain Corps, this is on page 105 of the English Document Book, the last sentence:

"In the area of Volos 25 bandits were shot to death in reprisal."

This gives the impression that Volos was within the command area of the XXII Mountain Corps.

MR. FENSTERMACHER: I beg your pardon for my remark. It only added to the confusion but I think your Honor's statement is correct that this is a matter for the defense to bring up at the proper time. I think I had finished with the document on page 105 of the English, 75 of the German, the OKH report of 21 December 1943.

Under that section of the report headed XXII Mountain Corps the final line:

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"In the rear of Volos 25 bandits were shot to death in reprisal."

Next on page 107 of the English, page 76 of the German, Document NOKW 1402, which becomes Prosecution Exhibit 476. These are a series of daily reports from the Commander in Chief Southeast to OKH and OKW headquarters in Berlin covering the period 1 December 1943 to 23 December 1943. In this period your Honors will recall that the Commander in Chief Southeast was the defendat Weichs and his chief of staff was the defendant Foertsch.

First is the daily report from the Commander in Chief Southeast High Command Army Group F, to OKW/Wehrmacht Operations Staff for December 1, 1943:

Your Honors will note receipt stamp: Army General Staff Operations Section for a day after the report was sent, that is to say, the 2nd of December 1943. We concern ourselves with that section of the Commander in Chief Southeast report dealing with activities of the XXII Mountain Corps. At this time it was under the command of the defendat Lanz.

During reprisal operation against bands in Korca area a village was taken in spite of resistance. All men fit for military service were shot and the village destroyed."

The report is signed, as are all the others, Commander in Chief Southeast High Command Army Group F, Ia, or operations officer.

Next is the Commander in Chief Southeast report for the 5 of December 1943 under the 68th Corps:

"At Aighion 50 hostages were shot."

Continuing the report for the 6th of December 1943, Commander in Chief Southeast OKH Berlin:

"LXVIII Corps: Southwest of Cythion band attack on our own truck column. Losses on both sides. Retaliation measure in return for attack on a railway base Southeast of Tripolis, (See Daily Report of 2 December) 50 hostages hanged. Continuance of "Kalavrit" Operation (See daily report for 4 December) while bands are withdrawing."

Next on page 112 of the English, 79 of the German, Commander in Chief Southeast report transmitter on 8 December 1943, received at Army General Staff Headquarters on 9 December 1943.

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LXVIIIth Corps:

In retaliation for band attack Southwest of Gythion (see Daily Report for 6 December) 25 hostages were shot Operation "Kalavrita" continues with little contact with the enemy.

At Athens Communist attack on Greek police officials Continuing with the report, the section dealing with activities of the 69th Reserve Corps.

Your Honors will recall at this time on the 8 December 1943 the 69th Reserve Corps was commanded by the defendant Deynor and subordinate to the II Panzer Army under the Command of the defendant Rendulic.

LXIXth Reserve Corps:

During mopping up operations by IInd Ustascha Brigade and Police units in the area of Djakovo several villages were burned as reprisal measure and 2 bandits captured.

Next the Commander in Chief Southeast report for 12 December 1943; LXVIIIth Corps:

In the area North of Gythion renewed clashes between our reconnaissance and a band. 6 enemy dead, 2 losses on our side.-Continuation of the "Kalavrita" operation without contacting the enemy. As reprisal measure see Daily Report for 11 December.

Next the report for the 16 of December, Received Army General Staff Headquarters on 17 December 1943.

"LXVIIth Corps: Mazeika (11 km. Southeast of Kalbrita) burned down, reprisal measure concluded therewith. Considerable bandit traffic in the area Southeast of Lamia."

These is a notation that those are crossed out in the original report.

THE PRESIDENT: In this particular document where reference is made to page 29 in the original, reference is stated it is the 68th Corps. Is that correct?

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MR. FENSTERMACHER: I think that is a typographical error but perhaps we could pass it to the court interpreter for determination.

INTERPRETOR HILDESHIEMER: Give us the original page number.

MR. FENSTERMACHER: Page 116 of the English, and 81 of the German. It is the heading of the report of the C-in-C Southeast of the 16 Nov.43. Is it 68th Corps or 67th Corps?

INTERPRETOR HILDESHIEMER: It says 68th Army Corps.

MR. FENSTERMACHER: Continuing on page 117 of the English, page 82 of the German Document Book, daily report from the Commander in Chief Southeast for the 17 December 1943:

LXVIIIth Corps:

As reprisal for blowing up of a bridge and murdering of a German soldier in the area of Tripolis a bandit village was destroyed and Communists shot.

XXII Mountain Corps:

As reprisal for the attack on a truck North of Agrinion reported yesterday 3 villages of the bandits were destroyed.

Next page is 119 of the English, page 83 of the German, Commander in Chief Southeast report for 23 December 1943, in handwritten words:

"According to enemy communiques the 'Jugoslav Liberation Army let by Tito' is regarded as part of the Allied Forces in the Southeast."

I ask your Honors to note the date of that, 23 December 1943. The particular report of 23 December 1943 continues, page 120 of the English, 83 of the German----

DR. LATERNSEER: Your Honor, I would like something retranslated again. That last paragraph on page 119 of the English Document Book, page 83 of the German book. I should like to have a look at the original document. It is the last paragraph on page 119 of the English Document. It is a handwritten note on the actual original document.

INTERPRETOR HILDESHIEMER: The word "regared" is not correct. I should read, therefore: "According to enemy communiques, or reports, the Yugoslav Liberation Army led by Tito is described as part of the Allied Forces in the Southeast."

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There was one word which was originally crossed out and "bezeichnet" which it "described" is added later on, on the original document that is.

DR. LATERNSEER: Your Honor, the actual difference becomes evidence, if you look at the original document. The word "regard" (betrachtet) has been put down first. Then it was crossed out and it was substituted with "bezeichnet" which is "described"; that gives a different content, and I would like to

ask the Interpreters to decide on this, whether the word "describe" is not too strong a translation of the original word.

INTERPRETOR HILDESHEIMER: It could be translated by "called," "described," or "called" if that is more fitting translation. That is the only word I'm afraid I can think of. I think the best word is probably "described." There is also "named," "called," or "described." Those are the three possibilities.

MR. FENSTERMACHER: Continuing on page 120 of the English and 83 of the German with this same report from the Commander in Chief to OKW in Berlin, for 23 December 1943.

Radio Beromuenster announces:

Marshal Tito was appointed in Cairo as an Allied Commander. The Allied Military Command has prepared plans to intensify operations of Yugoslav partisans and to give increased support to Allied units operating in Yugoslavia. The Yugoslav Liberation Army is referred to as an integral Part of the Allied Forces fighting in Southeastern Europe.

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The report is signed Commander in Chief Southeast High Command Army Group F, Ia.

We turn next to page 121 of the English, page 85 of the German, Document [NOKW 1556](#). It becomes Prosecution Exhibit 477. This is a series of daily reports of OKH, reporting the activities of various Germany Army units operating in the field. This report is OKH report for 8 February 1944:

"Balkans. Army Group E: Minor local band activity. Mainland: LXVIII Infantry Corps."

Your Honors please LXVIII Infantry Corps is still commanded by the defendant Felmy.

"100 Communists shot to death and 3 villages destroyed as a reprisal measure for an attack by bands on our truck column North of Kalamata. A road bridge East of Megalopolis was blasted by bands."

Next, the report of OKH for 10 February 1944, the portion of the report dealing with the LXVIII Infantry Corps:

"159 Communists were shot to death and 3 villages were burned down as a reprisal measure for the attack on the truck column on the road Kalamata - Pylos."

Next, on page 123 of the English, 87 of the German, OKH report for 23 February 1944:

"Army Group E:

Mainland:

XXII Mountain Corps:

In Southern Pindus, increased Communists activity. 16 Communists arrested during a raid in Agrinion.

During a local mopping up of the Island of Leukas, 7 Communists were shot to death."

The OKH report for 25 February 1944:

"b) Mainland:

LXVIII Army Corps:

The mopping up of Andros has up to now not resulted in any contact with the enemy.

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In reprisal for the attack on trucks near Megalopolis reported yesterday, 200 hostages were shot to death."

Continuing on OKH report 27 February 1944, the section of report dealing with activities in the Balkans, the section of the report dealing with activities of the II Panzer Army which at this time, February 1944, was under the command of the defendant Rendulic:

"Croatia, Montenegro: V-SS Mountain Corps:

118th Jaeger Division: Mopping up of north of Metkovic concluded. 332 band suspects arrested, 10 shot to death. On the islands of Brac and Miljet band attacks repelled, enemy losses, minor amount of weapon taken in booty."

The report, as with all the others, is signed Heusinger.

We turn now to page 126 of the English, page 91 of the German, Document [NOKW 1417](#), which becomes Prosecution Exhibit 478. These again are a series of daily reports from Commander in Chief Southeast to higher headquarters of OKH and OKW in Berlin. They cover the period 12 February to 22 March 1944 during which time the defendant Weichs was Commander in Chief Southeast and his Chief of Staff is the defendant Foertsch. Defendant Foertsch left as Chief of Staff and Commander in Chief in Army Group [F sometime](#) in March. The Prosecution is not certain as to the exact date. We begin first with the daily report of the Commander in Chief Southeast for the 12 February 1944. And, there is a notation that these words are crossed out.

"In reprisal for the murder of Greek members of the executive 25 Communists reprisal prisoners shot to death in Athens."

Your Honors will remember the defendant Geitner is at this time Chief of Staff to General Felber, the military Commander Southeast and Military Commander Serbia.

"Serbia -- slight local activity of bands - during cleaning up operation against communists village south of Nis by German police and Serbian State Guards 60 Communists shot to death. 13 suspect persons arrested (crossed out). As reprisal for raid on German Customs Frontier Guards in the Banate 15 Communists reprisal prisoners shot to death."

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Next Commander in Chief Southeast report for 25' February 1944. Your Honors will note the receipt stamp of the OKH Operations Section for the 26 of February 1944, one day later, with this section of the report dealing with events in the era of the LXVIII.

"LXVIII Corps: Mopping up Andros so far without contact with the enemy.

Southeast of Meligala 20 communists arrested (notation crossed out). As reprisal for raid on truck reported yesterday near Megalopis 200 hostages were shot dead."

Next on page 130 of the English, page 93 of the German, the Commander in Chief Southeast report for 12 March 1944:

"LXVIII Corps: - As reprisal for the raid by bands on a well protected convoy column southeast of Tripolis the state of emergency was ordered for the civilian population and 200 communists hostages were shot dead."

The report is signed Commander in Chief Southeast High Command Army Group F, Ia, No. 1100/44.

Continuing on page 132 of the English, page 94 of the German, Document [NOKW 1356](#), which becomes Prosecution Exhibit 479. These are again a series of daily reports from Commander in Chief Southeast which were OKH and OKW headquarters in Berlin, covering the period of 3 to 30 April 1944. During this period of time the defendant Weichs is Commander in Chief Southeast and the defendant Foertsch is no longer his Chief of Staff.

Your Honors will note the date of transmission of the first report which is 3 April 1944, sent to OKH, Army General Staff, Operations Section. In the upper right hand portion of the document is the receipt stamp. Army General Staff, Operations Section for 4 April 1944:

"Enemy losses during the part week in Serbia: D.M. Followers: 123 dead, 64 prisoners, 17 deserters. Communists: 622 dead, 61 prisoners, 30 shot as reprisal measure. 537 arrests. Booty: 39 rifles, 4 machine guns, ammunition, and equipment."

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Your Honors will recall that at this time, 3 April 1944, the defendant Geitner is in Serbia as Chief of Staff to the Military Commander in Serbia.

Continuing with the report from the Commander in Chief Southeast for the 15 April 1944, page 133 of the English, page 95 of the German:

"Corps Group Joannina:

"In the Florina area lively band movements lately. - As reprisal for an attack on the railroad line Agrinion -- Mossolongi 120 Communists were shot, or hanged. During a raid in Agrinion 50 suspects were arrested."

(A recess was taken.)

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THE MARSHAL: Persons in the courtroom will please find their seats.

The court is again in session.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: Prior to the recess, your Honors, we were considering Document [NOKW-1356](#), which is Exhibit 479 in evidence, being a series of daily reports from the Commander-in-Chief Southeast to OKH and OKW in Berlin. We were on page 134 of the English, page 96 of the German, the daily report for the Commander-in-Chief Southeast for the 25th of April, 1944.

"During large-scale raids in Athens, a total of 126 persons were arrested and arms and ammunition seized. 15 Communists were shot."

Finally, the daily report from the Commander-in-Chief Southeast for the 26th of April, 1944:

"West of Lewadeia a motorized column was attacked by a well-armed band. The terrain is being mopped up. As reprisal measure 50 Communists were shot."

The report, as were all others, is signed "Commander-in-Chief Southeast (High Command Army Group F)."

As the final document in Document Book XX, page 136 of the English, page 99 of the German, is prosecution document [NOKW-1065](#) which becomes Prosecution Exhibit 480. These are various extracts from the War Diary of the 68th Army Corps covering the period 1 January to 30 June 1944.

Your Honors will recall that during this period the defendant Felmy was in command of the 68th Corps, that it was subordinate to Army Group #, which was in turn subordinate to Army Group [F](#) [commanded](#) by the defendant Weichs.

The signature of the defendant Felmy appears on the first page of the War Diary. It is: "War Diary No. 4, Corps Headquarters 68th Infantry Corps (Headquarters Authorities Troop Unit), Started 1 January 1944, Concluded 30 June 1944.

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"Corps Headquarters 68th Infantry Corps was subordinate from 1 January 44 to 30 June 44 to the High Command Army Group E" -- and there follows the list of persons and the dates, who kept the War Diary of the 68th Corps.

Turning to page 137 of the English, page 99 of the German, the entry in the War Diary of the 68th Corps for the 17th of January, 1944:

"Peloponnesus: As reprisal for an attack on 1 officer (2nd Battalion, 670th Artillery Regiment) near Rhizacs (12 Southeast Tripoli) 20 Communists executed."

Continuing with the entry in the War Diary for the 68th Corps for the 7th of February, 1944:

"Peloponnesus: As reprisal measures for the attack near Skala the villages of Skala, Christophiluka and Taukaleika are being destroyed. In addition, 100 Communists will be shot to death. During the reported reconnaissance operation on Skala, bandit losses are confirmed as 10 dead. Own losses amount to 10 dead and 1 wounded.

"23 February 1944 Peloponnesus: Band attack on truck convoys of the 3rd Battalion 737th light Infantry Regiment (men on leave). Own losses: 15 dead, 7 wounded. Reconnaissance in combat strength committed. Because of increased band attacks, the 117th Light Infantry Division is making use of severe measures" -- and your Honors will recall from an earlier document that the 117th Light Infantry Division was subordinate to the 68th Corps under the command of the defendant Felmy.

"On all roads not easily surveyed and on all important passes, field guards in platoon strength are being set up. Mission: patrolling the terrain by day and night. Shooting of everything which moves in the terrain outside the main road (in addition of order enclosed). As reprisal measures for the last band attack on 23 February the following is being carried out: shooting to death of 200 hostages from hostage camp Tripoli at the locality of the attack."

"11 March 44 Peloponnesus: Own losses amount to 18 dead and 44 wounded. The Commander of the 177th" -- and I believe, if your Honors please, that should be changed to read "117th Light Infantry Division.

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If defense counsel have any doubts about that we can submit the original document to the interpreters.

In order that there might not be any doubt, your Honors, perhaps we ought to submit the original document to the interpreters, Exhibit 4 473.

DR. MUELLER-TORGOW (Counsel for the defendant Felmy): Mr. President, this is evidently a matter of the 117th Infantry Division.

MR. FENSTERMACHER: "The Commander of the 117th Light Infantry Division, Major General von LeSuire requests approval of the following reprisal measures:"

Your Honors will recall at this time the 117th Light Infantry Division is subordinate to the 68th Corps under the command of the defendant Felmy.

"Prohibiting leaving of houses by the civilian population excepting from 9:00 hours to 12:00 hours in cities and villages South of the line Zakaro (South) - Tripoli (North) - Sevglatio (North) Astroa (North) duration 8 days.

"Prohibiting civilian vehicles and persons on the roads of the Peloponnesus South of the line stated under 1.) Exception - vehicles of the International Red Cross. Violators will be shot to death on the spot. Duration 8 days.

"Everything South of the line stated under 1.) in the terrain up no 2 kilometers away from the main roads will be shot down. Duration 8 days after preceding announcement.

"Shooting to death of 200 hostages (Communists) from the entire hostage camps. The executions are to be carried out by members of the Greek Volunteer Units under German supervision. Approval will be given. The decision concerning the burning down of some villa ges known to be band nests is still lacking. Elements of the 1009 Fortress Infantry Batallion and of the reinforced company of the Greek

Free Corps had minor contact with the enemy during an operation in the area of Stephanía (10 North, Northeast Githíon) – Lajíon – Chersowá (8 North Githíon) enemy losses:

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6 prisoners."

Continuing on page 140 of the English, 104 of the German, entry in the War Diary for the 68th Corps for the 15th of March, 1944:

"Peloponnesus: As reprisal measures for the band attack on 11 Mar, 44, the following villages, confirmed as band nests are leased to the 117th Light Infantry Division of destruction: Karíe, Wresthena, Kato – and Ano-Kollíne, Skortsínon, Kaltese, Mavrojinánni, Vlaohokerassía, Arvenítokarassía and Manarí.

.....

"14 Mar. 44 Peloponneses:

In the course of reprisal measures for bank attack of 11 Mar, 44, the villages of Mavrojiánni, Kaltese, Skartsínon are being burned down, "15 Mar.

44 Peloponnesus:

As reprisal measure for band attack on 11 Mar, as reported Karíe and Wresthena are being destroyed.

.....

"16 Mar. 44 Peloponnesus:

As reprisal measure the destruction of Arwanítokorassía, Vlaohokerassía, Kato – and Ano Killíne is reported. Operation "Spatz" reports no contact with the enemy."

Continuing with the War Diary of the 21st of March, 1944:

"Attika: During the absence of the Commander-in-Chief the Commanding General takes over Command of Army Group E."

If your Honors please, the prosecution submits that that reference in the War Diary of the 68th Corps is to the Commanding General of the Corps, General Felmy taking over command of the Army Group E during the absence of Commander-in-Chief of Army Group E, General Alexander Loehr.

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Continuing with the excerpt from the 68th Corps War Diary for the 21st of March, 1944.

"The Commanding Officer of the 117th Light Infantry Division is charged with the command of the Corps.

"1 May 44. Attika: As reprisal measure for the attack on the truck convoy of the 41st Fortress Division in the area of Molai (Southeast Peloponnesus) 335 Communists and band suspects shot to death.

"3 May 44. Attika: Operation "Geier" is still without contact with the enemy. For the attack on base point (III Caucasian Bergmann) in Chani-Derwene 50 hostages are being shot to death and for railroad sabotage East of Megalo Pefko, 10 hostages are being hanged.

"9 May 44. Peloponnesus: A reprisal measure for the wounding of two Marines by bandits in Patras, 10 hostages are being hanged, curfew set at 1900 hours and civilian traffic to the city is prohibited."

I wonder if we might submit that document to the interpreters for a retranslation. This is Exhibit 480.

THE PRESIDENT: It's [NOKW-1065](#).

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MR. FENSTERMACHER: Would you translate the entry in the War Diary of the 68th Corps for 9 May, 1944, appears on page 142 of the English, page 103 of the German, and on page 11 of the original exhibit?

BY THE INTERPRETER:

"10 May 1944. Boestia: Pelepenes: As reprisal measures for 2 marine soldiers wounded by bandits in Patras 10 hostages are hanged; deadline 1900 hours. Civilian traffic to the town is barred."

No traffic is permitted to the town, that is.

MR. FENSTERMACHER: Continuing Page 142 of the English, 102 of the German entry in the war diary of the 68th Corps, for the 10th of May, 1944:

Boestia:

As reprisal measure for the attack on cars on the 26 April 44 as additional hundred hostages are being shot to death in Athens.

26 May 44 Peloponnesus:

"Rabe": Enemy forces continue to withdraw to the East Coast where they are attempting to reach the islands of Hydra and Spots as well as the arm of Asperes via the gulf of Angas. 10 EXK members as well as 4 Greeks in flight were shot to death. 35 arrests. Sizeable amounts of ration and 5 tons of coal taken as booty. During reconnaissance operation in the area of Kalasuni (7 Southwest Kyparissia) 1 Communist shot to death, 16 arrests.

23 May 44 Peloponnesus:

"Rabe": Armed Air reconnaissance prevents the enemy from escaping by sea. Enemy is attempting to thrust through Southward in the Direction of Didimi. The daily targets of the combat groups have been reached according to plan. 10 Communist shot to death, 4 Italians taken prisoner. In Liguria a bandit camp with equipment secured.

31 May 44 Peloponnesus:

"Rabe": without contact with the enemy for breaking combat zone regulations, 1 Greek was shot to death and 6 arrested.

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5 June 1944...

Boeotia:

Increase of sabotage on railroad line Athens - Lamia Recent blasting carriage attack on freight train at 128.6 kilometers (18 East, Southeast Lowadia) minor damage. As counter measure increased use of the track security train and of armored self propelled railway trolleys, use of hostage railway tricks and request for an armored train which may be counted on to arrive in the middle of June, Speeded up executed of measures "dead zone" and "blackened zone". In the Sperchios Valley between Linaokladien and Makrakomi, an assembly of bands was scattered by anti-aircraft fire.

22 June 44 Peloponnesus:

"Matter": Operation concluded. Minor contact with the enemy during return march. 4 Bandits shot to death, 26 arrests.

27 June 44 Peloponnesus:

Commencement of operation "Adler", Bands withdrew from the area of Eliecherion on the direction of Astros taking along the entire civilian male population. About 50 bandits shot to death while escaping. Daily targets reached according to plan. Third battalion of the 22 Light Infantry Regiment (Air) landed in Astros via Seaway.

29 June 44 Peloponnesus:

"Adler": Enemy withdrawing without plan before our advance. 21 bandits in flight shot to death, a small ration supply depot was captured. 68 artillery Battalion landed in Leonidion. Daily targets reached according to plan. Continuous band reconnaissance by Fieseler Storch 156.

30 June 44 Peloponnes:

"Adler" Enemy continues to withdraw without fighting before our own advance. 11 bandits in flight shot to death, daily targets reached according to plan.

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Railroad bridge blasted near Mamria on railroad line Tropoli - Megalopolis. Repairs will take about 10 days.

MR. FENSTERMACHER: That, if your Honors please, conclude the presentation of the documents in Documents Book No. 20.

PRESIDENT WENNERSTRUM: Mr. Fenstermacher, in connection with the map which was introduced as Exhibit 473, [NOKW 1029](#), do you have any suggestion as to where that should be inserted, as to the page?

MR. FENSTERMACHER: Yes, in order to understand the continuity of the document, your Honors, that document should be inserted following exhibit 472, which exhibit begins on page 86 of the English, page 62 of the German, so that this particular map, Exhibit 473, should be inserted after page 93 of the English, and after page 65 of the German Documents Book.

PRESIDENT WENNERSTRUM: Should that be given a page number, such as 93a?

MR. FENSTERMACHER: Your Honors could paginate it 93a in the English and 65a in the German. If your Honor please, I ask now that the marshal be directed to call the witness Takis Spiliopoulos.

TAKIS SPILIOPOULOS, a witness, took the stand and testified as follows :

BY PRESIDENT WENNERSTRUM: The witness will arise and be sworn. I swear to speak the truth, and only the truth, in reply to whatever I am asked, without fear and without prejudice.

(The witness repeated the oath)

DIRECT EXAMINATION BY MR. FENSTERMACHER:

Q. Witness, will state your name?

A. Takis Spiliopoulos.

Q. When were you born, witness?

A. On the 14th of September, 1903.

Q. Where were you born?

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A. In Katavrita,

Q. Where is Katavrita?

A. In the Peloponnese

Q. Is the Peloponnese part of Greece?

A. Yes.

Q. Are you married?

A. NO I am not.

Q. How much education have you had?

A. I am a graduate of College, and I attended for two years a commercial school.

Q. What is your present occupation?

A. I am a merchant.

PRESIDENT WENNERSTRUM. I am wondering if it would be helpful to the witness if he would take off the ear phones. You might suggest it to him.

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10-1-19 August 1947-A-AEH-Stewart (Lea)

Q Were you in the army? In the Greek Army during the war between Greece and Italy?

A Yes, I was in the army.

Q For how long?

A For the whole period that the war between Greece and Italy was lasting.

Q When did you return to Kalavrita?

A On the 2nd of April, 1941.

Q Have you remained in Kalavrita continuously since 2 April, 1941 until the present time?

A Yes, I have remained there continuously.

Q Witness, what is the population of Kalavrita? I mean the population today.

AAproximately 2,800 inhabitants.

Q What was the population of the town of Kalavrita in the month of December 1943?

AAproximately 4,200 inhabitants.

Q Is there also an area known as the Kalavrita area in addition to the town of Kalavrita?

A Yes, that is correct.

Q How many inhabitants in the area of Kalavrita prior to December, 1943?

AAproximately 32,000 inhabitants.

Q How many villages were in the Kalavrita area?

A 55 villages, villages and smaller villages together

Q What was the largest village in the Kalavrita area?

AAfter Kalavrita was a village by the name of Daphni and next to Daphni Klitoria.

Q How many inhabitants did the smallest village in the Kalavrita area have in December, 1943?

A 350.

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10-2-19 August 1947-A-AEH-STEWART (Lea)

Q. How did most of the inhabitants of the Kalavrita area make their living in December, 1943?

A About 90 per cent of them were farmers, dealing with agricultural work, and breeding cattle.

Q Witness do you recall the month of December, 1943?

A Yes.

A Will you tell the Tribunal what the weather was in the month of December, 1943?

A The weather was rather rainy, and from time to time it was snowing.

Q. Do you recall the 8th of December, 1943?

A Yes, I do.

Q Will you tell the Tribunal what happened on that day, and the succeeding days, in your own words?

A Yes, I will. On the 8th of December, 1943, at 7 o'clock in the morning, German motorized vehicles, armored cars, came in from the direction of Tripolis. This German column blocked all of the roads and exits from Kalavrita and sent patrols into the town telling the population that all male persons ranging from 10 years until the highest age, should gather at the square in front of the Cathedral. The male population gathered in front of the cathedral and we were kept there for about an hour. The German officer, who was able to speak Greek very well, asked us where all of the other men were.

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We answered him that there were not any other men. He asked us how many men are you; how big is the population. We answered him about 4,500, whereupon he told us it was not possible that these were all of the men living in Kalavrita. Then he told us to go back to our homes, to stay home, and warned us that whoever would leave his home would be shot by the patrols without being spoken to. We went back to our homes.

In the afternoon he called me and other members of the community, and asked us to furnish foodstuff, meat, bread and oil, for the German troops. We took care of supplying him with the food and stuff he had asked us for. Two German officers that I had kept in my house, offering them hospitality, thanked me in the night and told me that they were very grateful for the hospitality offered to them, and they would leave next morning altogether.

The next morning about 7 o'clock, the whole German column left in the direction to Patras. After half an hour, another detachment came in, coming from the region. Before they entered Kalavrita they insulted the whole town, and the roads were closed by a double, approximately, detachment than that which had come in before, then they began to loot the stores. They had brought in about 150 trucks that they began to load, and these trucks left then for Patras. These new detachments stayed in Kalavrita for the 9th, 10th, 11th and 12th of December, and we were always kept in our homes, not emitted to leave our homes. On the 12th of December, at 1150 hours in the morning they had gathered about 30 thousand head of cattle of all kinds that they had brought in from the surrounding villages. These trucks loaded with the Cattle left some in the direction of Patras, some for Korinthes and some for the region.

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A. On the 13th of December , at 6:30 in the morning, German soldiers told the population, accompanied by Greeks who knew the German language, that they go altogether in front of the cathedral. Then.....

MR. FENSTERMACHER: If Your Honors please, I wonder if we could perhaps sit later today in order that the witness' story might not be interrupted should he not finish by 12:15?

THE PRESIDENT: Could you complete it by 12:30?

MR. FENSTERMACHER: I believe he will, Your Honor.

THE PRESIDENT: Is there any reason why it couldn't be completed after the lunch period?

MR. FENSTERMACHER: Well, we're coming now to a particular incident, and it would hurt the continuity if it were interrupted.

THE PRESIDENT: One of the members of the Tribunal has an appointment at 12:15 which would be difficult to change. And in view of the circumstances, we will adjourn at 12:15. You may proceed.

WITNESS SPILIOPOULOS: ---we were told to bring with us enough food for two days and blankets for two days. But they did not bring us in front of the cathedral, but to the public school building. There they separated us -- I mean the men from the women. The men had to stay in the courtyard, which was surrounded by a high wall, and the women and the small children up to ten years of age were locked in the school building. When all the population had gathered there they took the first section of men and brought it to the place of execution -- about 600 men. After half an hour arrived the second section, consisting of about the same number as the first section or more. After we had stayed there for about a quarter of an hour a German officer asked, " Who has knowledge of the English language?" One of the professors of the college answered, "I can speak English." And he told this professor, "Tell the population that we have got orders from our Supreme Commander to burn the town, but all of you will be allowed to go away."

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When we stayed there until a quarter to 12:00, suddenly we could perceive a rocket of blue color coming down in front of the townhall. And at the same time, machine guns and the heavy machine guns -- about ten -- started shooting from in front and from both sides. This shooting was going on for about 10 to 12 minutes. Then, it was interrupted for about 5 minutes. Then two German soldiers walked around and gave the people the finishing stroke with automatic weapons. I was one of the first who was wounded. I was first wounded on my leg and then on my head. Then the shooting went on and two soldiers were walking around and finishing the men. This went on until 4 o'clock. I want to go back to a certain point and to tell as soon as the machine guns and heavy machine guns had started some groups of the Greeks jumped toward the machine guns in order to stop them, but on their way they were executed, and so they did not succeed. They jumped there screaming, "You're murderers --and our allies forever." Then, while the soldiers were walking around finishing the massacred persons with coup de grace, they cut off their fingers and looted them, taking away their watches and everything precious they had with them. They turned them around, looting the massacred, and this they did under

terrible laughs. After they thought everybody was dead the place was silent. Then they left and after a quarter of an hour the first persons from the town came in. One of the old men who had been hiding among the women, two women and my sister. They took me because I was wounded and they wanted to take me back, but I just fainted because of the loss of blood. After all the women arrived at that place -- I cannot tell you what happened because my tongue is too poor, and it's beyond my capacity of describing. This scene could only be described by one of the great tragedians. Then the night came, and it was very cold. It was freezing. They took me into a house. The German troops who had left were going to the Monastery of Aghia Lavra. They took me into one house that was not entirely burned down.

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The population was obliged to stay outside, and they were warming up between the ruins that were still smoking. They had burned down the whole of Kalavrita, the cathedral and another church. The two churches that they had burned were big churches with great treasures inside, and the small churches were not burned. Presumably they had burned the 2 bigger churches to finish the looting which they hadn't done before. Then, the women and I, with some of the old men, began to bury the corpses, but it was very difficult because we didn't have any instruments. Everything had been burned down, and it was very difficult to make the evacuations for burying the people. So this burying went on for seven days.

THE PRESIDENT: The Tribunal will be in recess until 1:30 this afternoon.

(The Tribunal adjourned at 12:15.)

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AFTERNOON SESSION

THE MARSHAL Military Tribunal No. 5 is again in session.

THE PRESIDENT: You may proceed.

BY MR. FENSTERMACHER: (DIRECT EXAMINATION CONTINUED)

Q. Witness, will you please continue with the narration of your testimony?

A. Yes. On the 17th of December 1943, after the massacre of Kalavrita a Major of the British Command, by the name of Anthony came in and brought us undershirts and money.

INTERPRETER ANAGNOSTOPOULOS: The witness wants to show you the undershirts that they got. (Witness opens his dress shirt and shows the undershirt.)

A. (Continued) On the 18th of December the President of the International Red Cross came from Athens and brought us medicine and flour. And on the 22nd of December we received about 2,000 blankets from Greek industrialists from Athens, who were from Kalavrita. But the German Commander did not allow us to get the flour which was stationed at Diakophto, about 22 kilometers from Kalavrita. And so we had to walk there in order to get some flour; this was difficult because many

of us hadn't any shoes. On the 28th of December three American planes came down in the vicinity of Aghia Lavra. They had come from Pyraeus. I had been told to meet them at the spot where the planes had come down, and I went there and brought them medicines and food. Two had survived; the others had died. Then, I informed the British Commanders, and they came after we had given the first-aid assistance to the two wounded, and they came and picked them up. And the others that were killed were buried in Aghia Lavra. Two months later German troops came again. But nobody remained in the town. All of us were afraid and we left in a great hurry, going to the snowy mountains of Chelmos, about 2.500 meters of altitude. A German Colonel, who was the Commander of the detachment, informed me that I had to come down immediately. But the Creek population didn't want me to go down, and so I left secretly by left the mountains secretly.

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Then, the German Commander asked me, "Why did you leave the town, you as a mayor, and take with you the population into the mountains?" I answered him that, "You have committed such a terrible massacre that everybody is afraid, and not even the savages of the jungle would have done that. If you wanted to exterminate the friends of the Allies, as I was and a few others of the town, you should have spared all the innocents who did not demonstrate their friendly feelings for the Allies. He got mad with my answer, but then he told me that he wasn't responsible, but only the command of Aegion was to be hold responsible for these deeds. But they took away all the blankets that we had got from Athens and all the foodstuffs that the Red Cross had sent us, consisting of flour and peas. I objected to this, but in spite of my objections they didn't leave anything behind them. Then they left for Patras, and another detachment came again in June, 1944, and this was the last one.

INTERPRETER ANAGNOSTOPOULOS: Now, the witness asks the Court if the Court wants him to testify about another village that he saw burning after the massacre of Kalavrita occurred--that he saw himself burning?

THE PRESIDENT: That will be a matter for the Prosecution to decide. If you will direct your inquiry to the Prosecution....

MR. FENSTERMACHER: Now, witness, I would like to ask you a few additional Questions. You said earlier that on the 8th or 9th of December German troops camps and stayed for four days in the village of Kalavrita. Is that correct?

A. There is a small difference. The first detachment came in on the 8th and left on the morning of the 9th, and the other detachment that came in on the 9th stayed for four days. The detachment having come from Tripolis left again on the next morning. And the other detachment, having come from Aegion, stayed for four days.

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Q Did the detachment which stayed in Kalavrita for four days harm you or any of the other inhabitants of Kalavrita?

A No, they didn't do any harm to me, neither to me nor the other inhabitants. The only thing, they looted all the stores and shops, emptied them completely and took away about 30,000 different pieces of cattle, oxen, goats and sheep etc.

Q Did you and the other members of the Kalavrita population feed these troops, and did you give them clothing during that four days' stay?

A Yes, we gave them food and clothing and many of them who were sick, had their frozen limbs, we took care of them in a special way.

Q Why did you do that for them? Weren't those men your enemies?

A The history of Greece, all our traditions and the policy of the Greek army where I was a master sergeant, has taught us to treat anybody with hospitality and even the enemy as they came in and were not fighting- we had to treat them according to our traditions in a very friendly way.

Q Did you know to what unit these men belonged, the men that stayed in your village for four days?

A I don't know exactly; it may be that they belonged to the SS but I don't know it. The only thing I know-- that they were members of the German army.

Q How did you know that? What color uniform did they wear?

A I know of this because I have been for five years a soldier, so I know about the uniforms and besides that they were the single soldiers being left in Greece because the Italians had left already.

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Q What color were their uniforms?

A Green, some were green and with the usual German cap.

Q Witness, did you yourself entertain German members of this detachment in your own house during that four-day period in which they remained in Kalavrita?

A Two officers I kept in my house.

Q Did you feed them?

A I fed them in the best way I could, as I would have fed every stranger. They were very much satisfied and when they left I gave them fruits, apples, and a bottle of old wine, which was famous, the old famous wine of Kalavrita. They thanked me for this very great hospitality and told me that they would leave in the next morning.

Q On the next morning, witness, what time was it when you and the rest of the population of Kalavrita were gathered together?

A They started to gather us about 6:30 and this action was completed about 8:30. Everybody then had gathered - about four thousand people.

Q Did you live with anyone else in Kalavrita at this time?

A I was living with my mother and my sister together in the same house.

Q Did both your mother and sister join you in marching away with the rest of the people of Kalavrita?

A My sister followed me but my mother, as she was sick, suffering of rheumatism, could not leave her bed so she remained in the house in her bed.

Q How many people were gathered together in the group that marched away to the school building?

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A All the inhabitants, approximately 4,000 people,

Q How many men were there in the gathering?

A Approximately 1,500.

Q Were all of the men taken away from the school building to a place where the shooting occurred?

A All men were taken away with the exception of a few very old men who succeeded to hide among the women and joined them in the rooms of the school building.

Q What did you and the others do at the place where the shooting occurred before the shooting began?

A We were just sitting there and standing and could not escape because this point had been chosen very carefully. It was a very steep mountain going down abruptly to a precipice and about three days before the German soldiers had walked around in order to find out this very strategic point.

Q Could you see the town of Kalavrita from the place where the shooting occurred?

A Very well. I could see the town very well.

Q Did you at any time see the town in flames?

A We just saw the town like an amphitheater and we saw the flames arising from all points.

Q Were you able to see your mother from the place where you were standing?

A Yes, I could see my mother very well. One of the neighbor women had taken her out with the bed and she was in the garden, and so I could see her very well.

Q How far away was this? How far away were you from the town?

A From the last house of the town we were about 7 to 8 minutes away.

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Q How many guns did you see at the place where the shooting occurred?

A At the beginning I could see only one machine gun that was directed with its mouth towards us but then they turned it away as if no parole would be for us but at the time the shooting began it must have been about eight or ten machine guns.

The witness wants to point out an event that took place there when they were standing and waiting. I was sitting together with the manager of the National Bank of the Bank of Athens and the manager of the Public Treasury and at one time the Germans came and took them, all three of them to the town of Kalavrita. After half an hour they brought them back and then I asked the director of the National Bank for what purpose they had taken them to the town. He answered me that they had to open the banks and the treasurers and deliver all money and besides that plenty of quinine that the Red Cross had sent to the inhabitants of the whole district of Kalavrita and that they had been keeping in a safe.

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Q. How many German soldiers did you see at the place where the shooting occurred?

A. About 1,500.

Q. You stated that you saw a rocket explode over the town of Kalavrita. Do you remember what color that rocket was?

A. It was light blue.

Q. That did you do when you saw the rocket explode—the first thing that you did?

A. The first thing I did was to fling myself on the ground because I was afraid that something terrible would happen and I covered myself immediately with my coat.

Q. Did the shooting begin then?

A. Yes, the shooting began immediately from the front and from the sides.

Q. Did you remain lying down until the shooting stopped?

A. Yes, I was lying down constantly until four O'clock without moving but I kept my senses aware and more aware than I can say I am now.

Q. How many wounds did you receive during the shootings?

A. Two wounds: one on my leg and one on my head.

Q. Were you bleeding from those wounds?

A. Yes, I was bleeding very much indeed.

Q. Do you remember how long it was after the shooting stopped before the women came to you?

A. About ten minutes.

Q. Did you at any time walk around and look at the rest of the bodies lying around at the place where the shooting occurred?

A. Yes, I walked around and two women were holding me because I was too weak to walk by myself and then I saw the corpses and I saw four priests whose faces had been mutilated.

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Nobody could recognize them and an axe was lying close by.

Q. Witness, how many male persons were killed that day in Kalavrita?

A. 1,300 men from Kalavrita and about 140 foreigners, Greeks, merchants that had come to Kalavrita for buying supplies.

Q. Are there any survivors besides yourself of the male population of kalavrita?

A. Another 15 survived but two of them died because of their wounds; some 13 are still living.

Q. What was the age of the oldest inhabitant of Kalavrita who was killed that day?

A. The oldest man who was killed was the owner of the dispensary by the name of Estavios Makrijannis who was about 95 years old.

Q. How old was the youngest person who was killed that day?

A. Between 11 and 12 years of age.

Q. Did any family lose more than one person?

A. Many of them lost many. For Instance, a woman by the name of Athinae Nikolai lost seven of her children ranging from 16 to 40 years of age, and besides that her husband; and another woman by the name of Vassiliki Ferliki lost eight children ranging from the age of 10 to 45, and her husband 90 years of age.

Q. How many of your relatives were killed, witness?

A. About 40, among them uncles and first cousins.

Q. And all the persons who were killed that day in Kalavrita were buried in the same place in Kalavrita?

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A. No, not all of them could be buried in the cemetery because it didn't take them all, so we buried the greatest part of them at the cemetery and about 300 were buried at the place of the execution.

Q. How long did it take you to bury all the persons who were killed?

A. It took us seven days and even longer because we had to dig the graves with our fingers. We didn't have any instruments and then we had to watch the dogs who came and who dug out again the corpses and we had to bury them again so it took us even longer than seven days to bury again those who had been dug out by the dogs.

Q. How are the widows of these men who were killed dressed today?

A. They are dressed in black and they will always be dressed in black and many of them, the oldest, are spending all their days at the cemetery at the graves.

Q. Witness, you stated that a monastery near Kalavrita was also burned?

A. Yes, there were even two monasteries that were burned. Aghia Lavra and there five monks were killed; and Megeaspilion where eighteen monks were pushed down from a high rock into a deep precipice.

Q Did you see either of these monasteries while they were burning?

A. Yes, I did. The monastery of Aghia Lavra-- I saw it burning myself because it is on a top that we can see like an amphitheater from Kalavrita and Legeaspilion I didn't see while it was burning but I could see the flames and after a few days I went there and saw that it was burned completely.

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Q. Do you know what happened to the school house where the women and children were held after they had been separated from the men?

A. While the women were locked there in the school building, the German soldiers put gasoline at the corners and began to light the gasoline. Then when the flames began to rise, the women, some of them, jumped out of the windows and throw their babies down and other succeeded to force the doors, so they came out with burning wounds and they chased the few guards that had remained there away. Those guards escaped because there were very few.

Q. Were there any German soldiers around after the shooting stopped and after the women had come to you?

A. No, there were no German soldiers left, The last one had just gone.

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Q. On the same day when the shooting occurred, did you spend that night in the town of Kalavrita?

A. I remained in a house that was not entirely burned down, as I was wounded. They had brought me there, the women and the other population stayed outside between the ruins and it began to snow; it was very cold; so they were freezing outside and stayed there among the smoking ruins.

Q. How many days after the shooting occurred was it before help was brought to you?

A. Four days. First of all came a Major from the British Commandos then a representative of the Red Cross.

Q. Did any German investigators or Germans asking questions ever come to the village of Kalavrita and ask you what had happened?

A. No German came. The only persons who came was the representative of the Red Cross, the International Red Cross.

Q. Didn't some German soldiers come a few days after the shootings occurred? I believe you said a month or a month and a half after the shootings occurred?

A. Yes, that is correct.

Q. Did they ever inquire about the events that occurred on the 13th of December 1943?

A. No, they did not, because they would have examined me and asked questions of me, who was the mayor, and they did not. They avoided very carefully to mention the whole matter.

Q. When were you elected mayor of Kalavrita?

A. Before the massacre I was the councilor of the community and after the massacre had occurred on the 19th of December I was elected Mayor, after an appointment of the ministry of Interior in Athens.

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Q. Did you ever have occasion to make a tour of the area surrounding the town of Kalavrita after the events of the 13th of December?

A. After one month approximately, I visited the two most close villages, Kerreni and Rogoi, and I found that both these villages had been burned just the same and 115 persons had been slaughtered at Rogoi and 30 at Kerpeni.

Q. Did you ever see any other villages burning besides the village of Kalavrita?

A. Yes, another 12 villages and two monasteries.

Q. How many villages did you yourself actually see while they were burning?

A. Personally I saw burning the two monasteries and the villages of Visoka, Kerpeni and Rogoi, and the two monasteries.

Q. Did you ever write out pensions for the widows for the men who were killed in Kalavrita?

A. Yes, I did, and especially for Kalavrita I wrote out 545 pensions. For the village of Rogoi 115; and for Kerpeni 32.

A. Did you write out a pension for each person killed in Kalavrita or for each family killed in Kalavrita?

A. No, I only wrote out one pension, which means for the head of the family, and the other members get some more; the widow gets some more for every child that has been killed, a certain analogy.

Q. At the time when the shooting took place on the 13 December 1943 did you hear that this shooting or burning of Kalavrita was in retaliation for the death of German soldiers?

A. NO.

Q. Were any Greek partisans ever stationed in Kalavrita?

A. No, they were not stationed.

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Q. Were German troops stationed in Kalavrita?

A. No, Italian troops were stationed; the German troops were just transient troops.

Q. Then did the Italian troops leave Kalavrita?

A. Just after the capitulation; I think about the middle of September. I just was there at the time of the Italian capitulation; they were supposed to join the British Commandos, but before they could give their agreement the German troops came in and disarmed them and took them away as prisoners of war.

Q. Did you ever hear that Greek Partisan units were operating in the vicinity of Kalavrita prior to 13 December 1943?

A. There were some in that vicinity. I want to correct myself, no Guerillas, but members of the regular Greek Army serving under the British Commandos.

Q. About how far away from Kalavrita were those units operating?

A. About 30 or 28 Kilometers away.

Q. Did you ever hear about a battle fought between these Greek units under the British Commands and German troops?

A. Yes, I heard about such a battle.

Q. When did you hear that the battle took place?

A. In September: I don't remember the exact date.

Q. Did you hear that German prisoners were captured in that battle?

A. Yes, I even saw them. They passed through Kalavrita. There were 78. They stayed one night in Kalavrita. We fed them and took care of them.

Q. When was that?

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A. Now, it was in September; I can't remember the exact date because after all there were many events and I can't remember the date exactly.

Q. Do you believe it was September when the German prisoners passed through Kalavrita?

A. Yes, I believe so.

Q. Could it have been later or earlier or aren't you sure?

A. It may be a little earlier or it may be a little later because I didn't keep exactly these dates.

Q. But you remember seeing the prisoners and feeding them?

A. Yes, that I remember very well. They stayed there one night.

Q. How do you know there were 78 of them?

A. Yes, I was told by the Greeks that they had captured 78 German soldiers.

Q. Who told you that?

A. Major Sfakianos, a major of the regular Greek Army.

Q. Do you remember when he told you that?

A. Just the same day when they were brought in after the battle into Kalavrita.

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Q.- Did the major tell you anything else beside the number of prisoners they had captured?

A.- Yes, he told me a few days later that he had received a letter from the German colonel of Capras, that he should return the prisoners. He answered, the German colonel of Capras, that they were regular Greek Army under the command of General Milson, the Commander of the middle East, and he answered, in addition to that he answered the German colonel that he would treat the prisoners according to the laws and rights of the prisoners of war.

Q.- Was the major of whom you spoke a resident of Kalavrita?

A.- No, he was from Crete. He was the permanent officer of the Greek Army.

Q.- Were you, witness, in December 1943 a member of any Greek partisan organization?

A.- I was a Liaison man between the Greeks and the British commander between all the Greek patriots and the British Commanders.

Q.- Did you have a gun?

A.- No, I did not.

Q.- Did you have ammunition in your house?

A.- No, I did not have ammunition.

Q.- Do you remember whether there were any explosions during the burning of Kalavrita?

A.- No, no explosions took place.

MR FENSTERMACHER: I have no further questions, your Honor.

CROSS-EXAMINATION BY DR. LATERNSEER: Q.- Witness, you just said that this battle in September 1943 at Kalavrita, 78 prisoners were made?

A.- Yes.

Q.- How long have you been in Nurnberg now?

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A.- 9 days.

Q.- Who did you talk to in Nurnberg about your statement of today?

A.- With the delegation with whom together I came, the Greek representatives and with the Prosecutors.

Q.- The Prosecution? Who to?

A.- With the Prosecutor who just now investigated me.

Q.- Did you also talk to him about the 78 prisoners that have been made in kalavrita?

A.- Yes.

Q.- And on this occasion did you hear for the first time that at Kalavrita 78 prisoners were made?

A.- I know that from personal knowledge before.

Q.- Who mentioned the figure 78 at this discussion, you or the Prosecutor. Just a moment, witness, before you answer. You must know that I can check up on your statement.

A.- That I do not remember exactly who first mentioned this number.

Q.- You cannot maintain that you mentioned the figure first?

A.- I know very well the prisoners because we were there when they came through kalavrita when they were fed and they were taken even care of by the doctors and of the people that gave them medicines.

Q.- Before you came to Nurnberg did you make any notes about your prospective statements?

A.- No, not at all. Just the same description gave four or five days after the massacre occurred to the American and English correspondents who came and asked me about it.

Q.- Did you tell them something about this 78 prisoners?

A.- most certainly, I did.

Q.- Has that been written down or noted?

A.- Yes.

Q.- How do you know? Did you read the records or did you sign it?

A.- I got the papers back from London and New York and I regret very much that I didn't bring them along.

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Q.- Have you really no copies with you?

A.- I would like to tell the defense counsel that I have lived in this death moments for hours. I am a survivor from a terrible tragedy. I did not come here to do any harm to anybody but only to tell the truth and let the truth shine brightly.

Q.- And in order to state that, to make it absolutely certain, I am asking you, witness for the truth. witness, I am asking you where can I find a copy of the records of the statements made by you sometime ago?

A.- The President of the Swedish Red Cross is in possession of a copy of my first statement by the name of Aleas Stretch.

Q.- When was this statement made by you?

A.- Five days after the massacre occurred, that is to say. on the 18th of December 1943.

Q.- Do you want to swear your mention of this statement is the figure 78?

A.- Yes.

Q.- Is there a copy of your statement at the time in the rooms of the Greek Delegation here?

A.- That I am not in a position to know.

Q.- Furthermore you stated, witness, that units who took part in this battle, the collaborators with the Germans, came under the commanding officer Middle East. How is it that you know this?

A.- I want to correct something. Not the battle of Kalavrita but the battle of Kerpeni, in the woods of Kerpeni, not Kalavrita. It was not the battle of Kalavrita.

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A.- Yes, that is correct. There were units of the regular Greek Army under the Command of General Wilson of the Middle East and they were being supplied by the British with weapons, uniforms and ammunition, that were dropped by parachutists.

Q.- Since you are in Nurnberg, have you spoken of this to the prosecutors?

A.- No, I did not especially mention that part.

Q.- You want to tell me, witness, that you were not told that the units came under the command of the Middle East Commanding officer?

A.- I want to let you know, Mr. Defense Counsel, that I don't want you to doubt my credibility. I have escaped from death and I am responsible, not only towards God; I am testifying as a Greek who knows what he owes to his Greek origin and tradition.

Q.- And, therefore, I am asking you, witness -- you haven't answered my question -- do you really want to tell me that you were not told since you arrived in Nurnberg that these units came under the command of the Middle East Commanding Officer of the Middle East, yes or no?

A.- No, no, no.

Q.- And no documents have been shown to you, witness?

A.- No, but I want to tell you again that I myself was a liaison man between the Greeks and the British commanders and knew that broadcasting took place and messages were sent regularly to the Middle East. I know it from my personal activities.

Q.- I asked you, witness, and you have evaded my question, whether you were told, whether you were shewn document here in Nurnberg, about the Kalavrita case or not.

A.- No.

Q.- Witness, you said after the Germans had evacuated the area the funerals of the dead took place?

A.- Yes.

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Q.- Who buried the dead?

A.- The women and the small children and some of the old men who had remained.

Q.- Did you also help?

A.- I was a wounded man and could not do it at that time.

Q.- How many women did there remain in the village?

A.- All the women had remained.

Q.- How many were there approximately?

A.- Between 1,300 and 1,500. We have also small children to count.

Q.- And you said just then that you wore digging the graves with your hands. Is that true?

A.- Yes, that is correct, because we had to do it with the hands as we didn't have any instruments to do it with and, besides that, we took out of the burned houses some iron bars and whatever could help us in doing this job.

Q.- You said just then "We did that." Did you help, therefore?

A.- That is the manner of saying. Naturally, I could not help as I was a wounded man.

Q.- How long did it take those women to dig these graves?

A.- Seven days and a half and some more' because, in the meantime dogs were there and dug them out so we had to bury them again, I want to correct myself -- foxes and dogs went there.

Q.- Witness, hots many school children were there approximately in Kalavrita, that is, children who went to school?

A.- 345, because I am a member of the school committee, I know it.

Q.- How many school rooms did the school contain approximately?

A.- You mean now?

Q.- Yes, -- no, at that time, of course.

A.- Six classrooms, Q.- That is sort of a medium sized building, isn't it?

What does it look like approximately?

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A.- About six times this room here, as long as six times this room.

Q.- And then, of course, there was a courtyard, I assume? How big was that?

A.- Very big courtyard with flowers and much bigger than the school -- with trees and flowers and much bigger than the school itself.

Q.- What was the size of the courtyard, about three or four times the size of this room?

A.- To give you an idea, it is about two times as big as the square in front of the Grand Hotel in Nurnberg.

Q.- That is, the courtyard is about twice the size of the open space in front of the Grand Hotel?

A.- This is a courtyard and at the same time a garden which surrounds the school building and is as big as I told you.

Q.- Do you happen to have photographs or pictures of this village?

A.- Yes, I had them but, unfortunately, I didn't bring them along, together with the trousers with it that I wanted to bring along, which I wore at the time I was executed and which sowed the bullets. I had taken many pictures but I didn't bring them along.

Q.- You said, witness, there were six rooms in this school house?

A.- Yes, that is correct.

Q.- How many women and children were there in Kalavrita in December 1943?

A.- About 2,600. I cannot give you exact figures.

Q.- Now, you said, witness, that all women and children were locked into the school house. Do you want to tell me that 2,600 women and children were housed, were put into these six rooms?

A.- There were. I really told you this and I mean it because if you have an idea how the sardines are put together in a tin you would get an idea how these people were crowded and jammed together.

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THE PRESIDENT: We will take our afternoon recess now.

THE MARSHAL: The Tribunal will recess until 1520 hours.

(A recess was taken.)

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Q. Witness, how large is a classroom in the school of Kalavrita?

A. It is narrower than this room by about 2 meters and longer than this room about 3 meters.

Q. Is the usual schoolroom in that schoolhouse larger or smaller than this room?

A. I consider it bigger than this room, - larger.

Q. Much larger than this room?

A. About three meters longer than this room.

Q. I have already asked you how many school children were regularly in attendance at Kalavrita?

A. 350 as I said before.

Q. And how many classrooms did the school usually have?

A. Five.

INTERPRETER LEA: That is not classrooms; it is classes.

BY DR. LATERNSEER, (continuing)

Q. You then said before that, in this schoolhouse on that day, I believe it was the 9th of December, -- no on the 13th of December, 2,600 women and children were locked in ?

A. Yes, that's correct.

Q. How many persons had to be in each room - approximately?

A. About 400 persons. It is very simple to figure it out people were standing also in the corridors.

Q. And you mean to say that in every one of these rooms, that 400 persons fit into those school rooms?

A. Yes, I repeat it, and I insist upon that, and I saw it personally.

Q. I have already asked you before, do you have any pictures with you of Kalavrita, -- here in Nurnberg?

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A. As I told you already before, I had pictures, but I left them in Athens. I do not have them here. I will have them sent to the Tribunal as soon as I arrive back in Athens.

Q. Then will you also include pictures of the school? Will you please?

A. Most certainly.

Q. Witness, you said that the Germans took -- collected a lot of cattle and drove them away.

A. Yes, I did, especially this cattle had been collected from the various villages around Kalavrita, and had been gathered in the fields and plains of Kalavrita, and were then driven away. There were a great number of cattle.

Q. How were they carried off, on trucks, or were they just driven away, as it was?

A. They drove away the big cattle, and the chickens and the ducks and the geese they loaded them on, - they sent them by railway and cars, and sent them away after they had loaded them on freight cars.

Q. But most of she castle, they loaded most of them on trucks; is that correct?

A. I did not speak about trucks; on the trucks wore loaded the stems that had been looted from the stores; the other items, the geese and the ducks and the chickens had been loaded on freight cars and were sent away, and the cattle were driven away on the highways loading to Patras, Corinthos and Aegion.

Q. Witness, but you just said that all of the cattle were driven together near Kalavrita; is that right?

A. Yes, that's correct.

Q. And where were they gathered together? There was this place to which the cattle were driven?

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A. It was just a plain that begins after the town of Kalavrita, in the fields and vineyards and so on, just in the plain that begun after the last part of the town.

Q. And how large is this place where the cattle were collected?

A. The plain of Kalavrita, to give you a picture, is about 25,000 square meters. Now exactly how big the place was where the cattle were gathered together, I couldn't tell you, but it was a big place, because the plain has very big extensions. It could be that they were gathered without any disturbance, because the plain was Dig enough.

Q. How do you know there were 30,000 head of cattle?

A. That is very easy to find out because the various cultivators and farmers that had to bring the cattle in, knew about how many head every man had brought in, and so it was very easy to be sure about the figures.

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Q. Who determined that figure?

A. We did not give you just an exact figure. I mean that largely I estimated the figure personally, because 14 villages had to contribute, and every person told me that they had so many head of cattle.

G. But how do you get the figure 30,000?

A. Because this is the approximate figure, that I know exactly well from the farmers who had brought in the cattle. It is an approximate figure that I give you. It could be even more than that.

Q. Witness, you said that during the shootings at Kalavrita, 40 of your relatives were killed. Is that correct?

A. Yes, that is correct.

Q. Please enumerate these 40 relatives for me?

A. Yes, I will.

Q. Always give the name and the degree of relationship.

a. Hagolnis, and the first name, Spyridon, mother.

Q. You just have to give one name, and the degree of relationship. Just one name is sufficient.

A. Karakassis, a first cousin of mine;

Kamberos, a first cousin of mine, a lawyer;

Gatsos, a first cousin of mine.

Q. This is No. 4, what about five?

A. Yes, I am very willing to continue. Refer, a second cousin of mine. His brother, Alekos Fefes, also a second cousin of mine.

Pagonis, a first cousin of mine, and his brother, Alekos, Pagonis, also a first cousin of mine.

Q. How many have we got now? It is 6 isn't it. No. 7 please.

MR. FENSTERMACHER: I believe we are now through No. 8, Your Honor.

BY Dr. LATERNSEER:

Q. No. 8 please. Please list the 8th relative.

MR. FENSTERMACHER: I think he has already given 8. The next number is 9 your Honors.

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BY DR. LATERNSEER:

Q. We will calculate it afterwards. No. 9 for all I care. Give me No. 9.

A. Dimitrios Beskos a 2nd cousin of mine.

Q. No. 10?

A. His father, Christos Beskos, my uncle.

Q. No. 11?

A. Philipos Philippakopoulos, and his two sons by the names of Joanis and Andreas.

Q. What degree of relationship?

A. Second cousins, and their father, my uncle.

Q. Next.

A. Alkibiades Konstantopoulos, and Athmasius Kappis, first cousin.

PRESIDENT WENNERSTRUM: Dr. Laternser, may I inquire whether these questions are for the purpose of testing the credibility of the witness?

DR. LATERNSEER: Yes, your Honor, but the critical point is to come as yet. I don't know, but I would like to find out.

Q. We have 14 now; how about 15?

A. You must know that I can even reach the number of hundreds, because I have many persons for whom I have been best man, or have been baptizing their children, and in Greece this means relationship. These are holy relations, and these persons are connected with us through relationship.

Q. By relationship -- don't you mean blood relationship?

A. You must know the Greek custom, that if my father has baptized a child, I am considered as his brother, but I can tell you many blood relatives as well.

Q. To which number had we gotten?

A. I do not remember because I did not count them.

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Q. Witness, you testified that 40 of your relatives were killed. If you use the word, "relations" or "relatives" you meant of course that these are blood relatives. Do you wish to change your testimony so far as that point is concerned?

A. I shall continue so far I told you about relatives by blood. I can go on. telling you about them, but I can go as high as 80, - but I also considered, as I told you before, the persons that have relationship by marriage or by baptism in just the same manner.

Q. Witness, I ask you now, when you mentioned the number, "forty" of those who had been killed of your family, were all of those blood relatives or relatives as far as your interpretation goes?

A. I did not mean only relatives from blood, but also the others that we, in Greece, consider as relatives.

Q. Witness, in your testimony, have you any other reservations or any other interpretations?

A. No.

DR LATERNSEER: I have no further questions, your Honors.

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DR. MUELLER-TORGOW: Dr. Mueller-Torgow for the Defendant Felmy. CROSS-EXAMINATION BY DR. MUELLER-TORGOW:

Q Witness, you're a businessman by profession?

A Yes, that's correct.

Q What kind of business do you have?

A I have a grocery, and hides, and a factory for candles and wax lights.

Q May I please have this answer repeated?

(English-German Court Interpreter repeats answer.)

Have you travelled much in your business?

A Yes, within Greece I should say, and as far as Smyrna and Asia Minor.

Q Do you know the Peloponnese well?

A Yes, I do.

Q Witness, do you speak English?

A No, I don't speak English.

Q Witness, you said that the District of Kalavrita has 62,000 inhabitants.

A The whole province of Kalavrita, with the town of Kalavrita. That is correct.

Q And the district outside the town of Kalavrita consists of 55 villages and other small villages. Is that correct?

A That's correct.

Q And the two largest towns each had 350 inhabitants. Is that correct?

A The smallest villages, because the largest had about 3,000 inhabitants. I said the smallest, and the largest 3,000 -- Daphni and Kiporia. I mentioned the two largest villages.

Q Witness, how many houses did the town of Kalavrita have in November, 1943 -- approximately?

A Approximately 600 to 680 houses -- approximately.

Q From 500 to 580?

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A No, from 600 to 680. Besides the shops and besides the public stadia, the Tribunal and schoolhouses, etc.

Q And in these 600 to 680 houses there lived about 4200 people. Is that right?

A That's correct -- from 3800 to 4000 -- that's correct.

Q And after the destruction of Kalavrita you said about 2800 inhabitants were left.

A That's not correct. I said that now we had a population of about 2800. After the destruction of Kalavritza about 650 to 800 had remained in the 22 houses that had not been completely burned down but were still there as ruins. And this population from about 650 to 800 stayed there only a few days after the destruction; then the Government took care to send them to Patras, Aegion, to Athens, and the

Pyraeus in order to be settled in other villages and smaller villages of the province of Kalavrita where they were placed.

Q Witness, where are the 2800 inhabitants living who are there now?

AAfter the liberation, the Greek Government, with the help of the Allies, built 200 new houses at Kalavrita. And we repaired many of the houses that had not been completely burned down and that could be repaired.

Q Witness, I'd like to go back to a prior point. You said that there were 30,000 pieces of cattle.

A Yes, and I estimate that there were even more. I mean goats, sheep, horses, oxen, and I'm insisting on that.

Q Could you tell me, approximately, of what those 30,000 pieces of cattle were composed?

AAbout 15,000 sheep and about 5,000 horses and oxen together.

Q And how was this cattle transported away?

A They drove them away through the highways to Patras and Aegion and Corinthos. And they loaded besides, two wagons with chickens and ducks and geese that they had already slaughtered.

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Q Witness, but you said before that most of the cattle was taken away by trucks and a small part by railway. What was transported by trucks and what was transported by railway?

A I told you that by trucks they transported items that they had looted from the stores. That is to say, the jewelry, clothing, shoes, cereals, fruits, apples -- and by railway they transported that is by two wagons which they loaded chickens, ducks, and geese.

Q But you said something else, Witness. You did not speak of 5 but 150 trucks which were filled with plundered things, but that was previously. You said then once more that the greater part of the cattle was likewise transported by trucks.

A I told you that on the 150 trucks the merchandise was loaded -and not the cattle. The cattle had been driven away mostly by the highways leading to Patras, Aegion, and Corinthos, and also by paths leading from Kalavrita to Aegion.

Witness, you said unequivocally that 150 trucks transported cattle away; besides you said that the largest part of the cattle was transported on trucks. Another question: Were the railroads running at that time?

A Yes, the railway was running. There had been a certain damage which had been repaired. And I can even tell you that they put on the engine a man who was not able to conduct the train because the regular railway officials had gone to the mountains in order to avoid doing service for the Germans. Two Germans had assumed the job to conduct the engine with one Greek who was not able and did not know anything about this job.

Q. How were the railroads run then?

A. This is the cog wheel railway which runs from Diakophta for eleven kilometers with one car and then with two cars.

Q. Witness, you said that for seven days or longer the bodies were buried by the survivors and that you had to dig the graves with your fingers.

A. That's correct.

Q. You said this morning, and I must come back to it once again, "We dug the graves." and you said then upon a protest by Dr. Latenser that it is customary in the Greek language to say "we". Will you please explain why it is customary in modern Greek to say "we" if you yourself did not participate?

A. That's very simply explained. That is just a Greek idiom. When we say "we", we understand that that means persons very close to us and as we were connected through this terrible tragedy we were just like one person.

Q. What did you do during that time?

A. After I had recovered from my wounds - it was about 25 days later - I began to take care of the few inhabitants that had remained. For instance, I went to Patras to ask the German commander to release the flour that the Red Cross had sent to us and that had been withheld from us by the Germans. And I even went there with the representative of the Swedish Red Cross, but the German commander still refused to release the foodstuff that had been sent by the Red Cross, saying--

Q. Witness, you said that approximately two months later, at the end of February 1944, when the Germans came for the second time, you all had fled into the snowed-in mountains, 2500 meters high. Which mountains do you mean, witness?

A. The mountains of Chelmos.

Q. How are they situated in relation to Kalavrita?

A. About two hours from Kalavrita.

Q. In what direction?

A. Southeast of Kalavrita.

Q. Witness, in spite of my eager scrutinizing, I don't find any trace of this in the map submitted by the prosecution, nor do I find that on any other map, nor can I find any mountains 2500 meters high two hours from Kalavrita in that direction.

A. The highest peak of this mountain is about 2500 meters. We naturally went to hide there in the woods of the mountains. I didn't say that we climbed up to the peak of the mountain.

Q. But you said that near Kalavrita there are mountains 2500 meters high.

A. The mountain range of Kalavrita really begins very close to Kalavrita, about 20 minutes after Kalavrita, and the mountains naturally rise gradually. So I can really say that it is near Kalavrita, as this mountain range begins very close to Kalavrita.

Q. Are there any mountains 2500 meters high in the Kalavrita area? Is that correct?

A. About two hours distant.

Q. Then the map is all wrong, witness.

MR. FENSTERMACHER: I object to defense counsel's last remark, if Your Honors please.

THE PRESIDENT: I see no basis for that remark. There's no showing as to whether the maps, as presented, cover all the territory of which the witness has testified. And on the Court's own motion the statement of counsel will be stricken.

JUDGE BURKE: I'm wondering as a matter of natural history, Dr. Mueller-Torgow, if you have any serious doubts of the existence of such a mountain, regardless of the map.

DR. MUELLER-TORGOW: No, I don't have those doubts, but the witness said that "we fled to the snow-covered mountains, 2500 meters high".

JUDGE BURKE: But the question now seems to revolve around the fact of natural history, of whether there is such a mountain or not. It ought not to be ultimately such a mystery. Either there is or there isn't; it can be proven.

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BY DR. MULLER-TORGOW:

Q. Witness, you said that you were informed to come back to Kalavrita.

A. Yes.

Q. Who informed you of that?

A. The German colonel from Patras let me know that I should return to Kalavrita.

Q. Witness, in June 1944 the German soldiers came for the third time to Kalavrita and again took along 30,000 pieces of cattle. How did that happen at this time?

A. I never told the Tribunal such a thing. First of all, nothing happened there because in Kalavrita there were only ruins and blackdressed widows.

Q. May I ask you to repeat that please?

(Answer repeated by the English-German interpreter)

Witness, you said then that two monasteries were burned and near one of them some monks had been thrown into a gorge from there.

A. That's correct. They had been pushed down from a rock into the depths -- down the precipice.

Q. Did you see that yourself?

A. No, but this had been told me by the Bishop of Afxentios, as well as by the Metropolitane of Kalavrita.

Q. Witness, let us return to the school for a moment -- I mean in front of the school. No doubt it was this way: Women and children were locked up there while the men gathered in front of the church. Is that correct?

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A Yes, we first had been told to gather, everybody, men, women and children as well, in front of the cathedral but then the plans were changed and we had to gather in the school while the men were kept in the courtyard of the school and the women locked up in the school building.

Q How many floors did the school have?

A Two.

Q Two? Do you mean by that the first floor and the second floor or do you mean first, second, and third floor?

A I mean the ground floor and one floor above which was being used.

Q And how was the school built?

A With stone. It had been, it was built with stone.

Q And this school was lit up by gasoline? How was that done?

A They naturally poured the gasoline over the wooden doors and over other wooden items, and over the floor too - the floor and the ceiling were also of wood.

Q And how many women and children were in there? How many women and children were able to escape?

A Everybody was saved with the exception of an old woman who had been trampled upon and the others had wounds but nobody died except this woman.

Q Witness, you said before this action in Kalavrita, 78 German soldiers had been taken prisoner and were taken care of and were treated well in Kalavrita.

A Yes, and I can tell you that they had been placed in the same school building and that we had given them meat and everything, fed them very carefully and took care of them in the same school building that afterwards was burned.

Q Do you know witness, what became of those 78 prisoners?

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A Yes, they were then transferred from Kalavrita to a village by the name of Planiterou, approximately 30 kilometers from Kalavrita.

Q In what direction?

A Southeast, rather to the east.

Q Witness, do you know anything about the village Marsi?

A Yes, I know of that.

Q That is also situated southeast of Kalavrita.

MR. FENSTERMACHER: Can we have the witness' answer to the last question, please?

THE WITNESS: Yes, I know Marsi.

BY DR. MUELLER-TORGOW:

Q Do you know, witness, that in Marsi before the so-called action in Kalavrita, that in Marsi they found the same number of mutilated German soldiers as you saw as prisoners in Kalavrita?

A I know that about five days after the destruction of Kalavrita and after a battle between the Germans and the Greek Liberation Fighters, these German soldiers were killed as a retaliation for the massacre of Kalavrita.

Q In your opinion then, these soldiers were killed after this action in Kalavrita. Is that right?

A That is not my opinion, but the Major of the British Commandos Anthony and the Greek Major Sphagianos know that.

Q Witness, what is your opinion? In your opinion, are these 78 murdered German soldiers connected in any way with the 78 prisoners which you saw? I would like to point out to you in this connection that these bodies were already found on the 7th of December.

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A I know from official sources that the bodies of these German soldiers have been found about the 17th of December. Why should they have been killed just during the destruction of Kalavrita since the Greeks hold them captured since three months and had treated and fed them well? There was no reason at all to kill them since they had kept them for three months and a half.

Q Witness, did you ever think about why the men of whom you told us, were killed in Kalavrita?

A Yes, I know perfectly what was the idea -- because the Germans who wanted to break the Greek resistance had just chosen the sacred place of the Greek country where the liberation had been announced and started about 130 years ago and so as a symbol they wanted to destroy the very sacred place of the liberation of Greece.

Q Witness, I return once more to the date. The prosecution has submitted this in document book 20 in document No. 1246, Exhibit 473, this is the War Diary No. 3, 68th Army Corps, up to the 31st of

December 1943. There it says on page 64 in the German text – from the 1st July to the 31st December. There it says under 8th of December, 1943, "Peloponnesus according to a testimony of two refugees from the 5th Battalion, 749th Infantry Regiment which was destroyed on the 19th of October at Kalavrita, the company commander Schober who had been taken prisoner and 78 men are alleged to have been shot on the 7th of December in the mountains east of Kalavrita." Witness, do you maintain your statement that the German prisoners were not killed until after the action at Kalavrita?

A Yes. That is the truth. I insist upon it and I can prove it.

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DR. MUELLER-TORGOW: I have no further questions, your Honor.

THE PRESIDENT: The Court will stand in recess until tomorrow morning at nine-thirty.

(The Tribunal adjourned until 20 August 1947 at 0930 hours.)

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Official Transcript of Military Tribunal V, Case VII in the matter of the United States of America against Milhelm list et al, defendants, sitting at Nurnberg, Germany, on 20 August 1947, 0930, Justice Edward F. Carter presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain if all the defendants are present in the Courtroom?

THE MARSHAL: May it please your Honor all the defendants are present in the Courtroom with the exception of defendant Weichs who is absent due to illness.

THE PRESIDENT: The Tribunal has a certificate from the physician which I am handing to the Secretary General.

Judge Edward F. Carter will preside at this day's session.

JUDGE CARTER: Is there any further cross-examination of this witness by the defense?

CROSS EXAMINATION BY DR. BERGLER:

Q. Dr. Bergler as deputy for Weisberger for defendant Speidel. Witness, you told us yesterday you were a soldier in the Greek Army. Is that correct?

A. Yes, that is correct.

Q. In the Greek army you had a service rank?

A. Yes.

Q. Which service rank did you have?

A. I was a Master Sergeant.

Q. Isn't that a non-commissioned officer?

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A. Yes, quite.

Q. And is that a comparatively high rank of a non-commissioned officer?

A. Yes.

Q. Which is the next highest service rank after your rank, already an officer's rank?

A. Lieutenant.

Q. Did you have any relationships with officers and did you frequently talk with officers?

A. Yes.

Q. After being released as a prisoner of war, did you then talk with officers?

A. Yes, I did.

Q. Another question. While serving as a soldier in the regular army, did you take part in fights against the Germans?

A. Yes.

Q. And then you were captured. I mean how did this take place?

A. No, I wasn't captured as a prisoner of war.

Q. Yes. Well then, how did you get to Kalavrita from the army?

A. I had been wounded and then I was serving in their military hospital Sokratis. It was a hospital on a boat and it was sunk in front of Selanitika near Aeghion on the Aegean Sea. The German aircraft had destroyed it.

Q. I didn't want to know that. I only wanted to know how you reached home.

A. The German troops had not yet arrived in the South of Greece. They were still in the north of Greece and so I managed to go back to Kalavrita which is in the South of Greece.

Q. That is quite enough. I only wanted you to answer the question and not to go on talking when the question is answered. Now, witness, the Greek army capitulated. Did you know that?

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A. No, at no time the Greek Army did capitulate.

Q. Well, conditions of capitulation have been fixed. How did it come about that the Greek army was currently released from captivity? Something must have been agreed upon.

A. We did not recognize it because the office government with the King had left and one single officer did capitulate but that we did not recognize.

Q. Okay. Who was this officer who signed?

A. This is a man for whom I never was concerned, a certain Greek officer of whom I do not even like to remember the name.

Q. That is -- do you know his name?

A. Yes, I know his name.

Q. What is his name then?

A. His name is Tsolacogloy.

Q. And what office did he have -- this officer? Was he a General?

A. Yes, he was a General.

Q. What was his position? Was he the commanding general or was he a general in a more subordinate position?

A. Yes, he was a commander.

Q. The commander. Was he a commander of a division of a corps or was he commander of the entire Greek Army?

A. He was not the commander of the whole Greek Army. He was the commander of a corps--of an army corps.

Q. Officers were captured too, weren't they?

A. Yes, that is correct.

Q. Were they also released from c activity?

A. That I don't know. Maybe they were released, maybe they were not.

Q. Did you later see any officers after that or not?

A. Do you mean Greek?

Q. Yes, I mean Greek officers.

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A. Very few.

Q. Only very few. Did you talk to those few?

A. Yes, I did.

Q. Did you discuss their captivity and did you discuss the experiences they made with the Germans during the war?

A. No, I did not.

Q. Did you read papers, witness?

A. Yes.

Q. Did you also read newspapers in the year 1941?

A. Yes.

Q. In 1941, when did the first newspapers appear after the hostilities ceased?

A. The newspapers were always printed and issued. They never ceased.

Q. Did not cease? Well, did these papers contain anything about the conditions of capitulation?

A. Yes, there were certain points, but I don't remember them because the whole Greek people was not interested, as they never recognized this capitulation of a single Greek officer whom all of them despised.

MR. FENSTERMACHER: Can we have the remainder of the witness's answer please?

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BY DR. BERGLER:

A Yes. Since the Greek government and the king had left and had not capitulated, we all recognized only our official government and not an officer or people whatsoever to whom we never gave our agreement.

Q That is what you are concerned with. I only asked whether you read the capitulation conditions in the paper; whether you recognize them that has nothing to do with this question.

A I repeat that I do not remember those terms and conditions because I was not interested in them and I never remember things that I am not interested in at all.

Q You don't remember anything about these terms of capitulation, not a single point of them?

A No.

Q Did you never discuss these terms with anyone?

A No.

Q How do you know then that the population did not recognize these terms.

A This is very well known. I am Greek and I know the whole mentality and the feelings of the whole Greek people. It was just one feeling.

Q Witness, can you tell us when the Greek government left Greece?

A Ten hours before the German troops entered Athens.

Q Had the army capitulated by that time?

A One single unit of the Greek army capitulated. I told you before that the Greek army as a whole never capitulated.

Q But it went into captivity as a whole, as a unit, didn't it?

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A No., that is not correct. Only part of the Greek army, one part went and joined the Allies in the Middle East. Another part went up to the mountains to continue fighting and another part managed to escape and to come back to their homes without being captured as prisoners of war.

Q Where did those people go? A part you just said -did they all leave Greece?

MR. FENSTERMACHER: I didn't get the first part of the question, if your Honor please.

BY DR. BERGLER:

Q You told us previously, witness, of the Greek soldiers. A part went to join the Middle East command. Where did they go now? Did they remain in Greece?

A The whole navy and the air forces left for the Middle East. The mercantile navy left to go with the army.

Q They did no longer remain in Greece?

A Both the fighting navy and the mercantile navy had left Greece. One part, when they were withdrawing, proceeded to Crete and after Crete had been conquered by the Germans they left Crete for the Middle East.

Q But a part went into captivity. That is to say, a large part, and now I am asking you, witness, did you never hear anything about the Greek officers who were released from captivity giving their word of honor?

A I want to tell you that in Albania we had 500,000 Greeks fighting. The army consisted there of 500,000, only 50,000 of them capitulated. Do you mean by the whole Greek army -- do you mean by those 50,000 who capitulated?

Q I have asked you, witness, whether you had heard anything about officers giving their word of honor at being released from captivity?

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You can answer me yes or no. You heard this question. I don't want to hear any other questions. I didn't ask you about the strength of your fighting forces.

A No, I don't know that.

Q Did the papers print anything about these or not.

MR. FENSTERMACHER: If your Honor please, I submit we are getting quite far afield from the direct examination which as I remember it only took up the operation Kalavrita.

PRESIDING JUDGE CARTER: Overruled. He may answer the question.

BY DR. BERGLER:

A No, I don't remember such a thing and I repeat again that the Greek people never recognized those officers. The only officers and army they recognized were those who were faithful to the Greek government.

Q I didn't ask you concerning this. I only asked you whether you knew something about it. Something must have been known to you about it because you did not recognize these officers that there were officers who were released from captivity, and who gave their word of honor when they were released. You just told me you did not recognize these officers, but something must have been known to you that officers were released from captivity and gave their pledged word on this occasion.

A I would like to repeat that I was never concerned with those things. The only thing I know, since a single unit only had capitulated, we never recognized this single unit and we never did know what they did, whether they gave their word of honor or not. I want to repeat that I was never concerned with anybody having dealt with capitulation.

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Q. You were a liaison man, you said, witness?

A. Yes, I was.

Q. Between whom did you act as a liaison man?

A. Between the British commander and the Greek Army.

Q. From what date onwards were you a liaison man?

A. Approximately, from October 1942.

Q. Did you also act as a liaison with the partisans?

A. I don't know any partisans; I only know the Greek Army.

Q. Were you also acting as a liaison with those people whom you call the Greek Army?

A. I do not call them "Greek Army". They really are the Greek Army; they were the Greek Army; and they still are the Greek Army.

Q. Well, did you also act as a liaison man for this Greek Army?

A. Yes.

Q. Yes. What was your task as a liaison man?

A. We liberated our country from the conqueror.

Q. I would like to know in detail what you did as a liaison man. This is a bit too general for me. Did you collect news about the German Army?

INTERPRETER: Excuse me, I did not get the last word: "Did you collect information about the German Army....?"

Q. Did you collect news regarding the German Army? That is, the German troops who were in Greece?

A. Yes; and we transmitted -- I transmitted that information to the Greek Government and the government in command of the Middle East.

Q. That is to say, you were a spy?

A. No, I was no spy. I was a Greek soldier.

Q. Did you wear a uniform on those occasion?

A. Yes, accordingly.

Q. When did you wear a uniform?

A. When I was with the Greek Army and the British commander, I wore a uniform, and when I was in the town I did not wear it.

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Q. And when you were in town you collected news, didn't you?

A. Yes.

Q. -- And then you did not wear uniform?

A. No.

Q. From whom did you obtain this news? Did you collect it all yourself? Did you go yourself?

A. From various persons I just got the information wherever I could get it.

Q. Did they also come from Kalavrita?

A. We all had the task and the desire to increase our liberation army in order to liberate the country from the invader.

Q. I ask you whether the people from whom you obtained this news came from Kalavrita. That is what I asked you.

A. Certainly not, because Kalavrita is a very small place and we couldn't get any information at such a very limited, small place.

Q. Yes. I didn't want to know whether they all came from Kalavrita but weren't some people from Kalavrita among those people who got news for you, and told it to you?

A. No. I repeat that it was impossible to get information at such a small and very limited place.

Q. Apart from you, none was ordered to act news from people from Kalavrita, and to ask them to tell you something if they got to know of something? Did you not ask a single person in Kalavrita to tell you something as soon as he heard something about news regarding Kalavrita?

A. No.

Q. Well, now when you put on your uniform did you leave the town of Kalavrita in uniform?

A. No; because I put on the uniform when I was with the Greek Army when I arrived at the British commandos place, at the battlefield.

Q. Where did you keep that uniform?

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A. It was there where the Greek Army was, actually.

Q. At home you didn't have a uniform?

A. No.

Q. Well, you joined the Greek Army. Of what did this Greek Army consist?

A. That army consisted of Greek officers, Greek soldiers; and British officers and British soldiers.

Q. Did all these people wear uniforms?

A. All of them were wearing uniforms.

Q. There were two groups, weren't there, in Greece? Do you know anything regarding a group lead by General Cervas, and that there was a Communist group?

A. I know of no Communist group. I know only of Greek resistance groups. How they called themselves is of no importance because the German army, too, had several groups, with several names: Divisions and corps, and so forth.

Q. Witness, you claim that you don't know that in the Greek resistance movement there were groups who were at loggerheads with each other?

A. No; one thing that I can tell you is that they always agreed with regard to the common struggle against the enemy. If they had some personal differences between themselves--that is another matter.

Q. Yes, witness; well, that is another matter.

Well, witness, I am now putting to you that we have examined a witness here who belonged to the organization of General Cervas, and this witness was at all times in the immediate neighborhood of

General Cervas and his troops, and he told us the following about the uniforms worn by the troops of General Cervas: Only a few officers were supposed to have worn uniforms.

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MR. FENSTERMACHER: If Your Honor please, I object to the statement of defense counsel. I don't believe that is a proper or correct summary of the evidence given by a preceding witness in this case.

PRESIDING JUSTICE CARTER:

Objection sustained.

Q Witness, from where did those people get their uniforms?

A From the Headquarters of the Middle East, from the Greek and British Government.

Q What was the strength of this Greek Army which still remained in Greece?

A In our sector -- I mean the whole province of Kalavrita between Tripolis and Aegion, there were three battalions, about 2,000 men.

Q What is the strength of three battalions?

A Between 1,800 and 2,000.

At what time did they have that strength?

A The strength was reached little by little, and at the time of the destruction of Kalavrita, we had approximately that strength, 2,000 --3,000 men.

Q Witness, where did the others come from then, the people who currently joined the Army?

A They came from the various districts of Greece. They got their equipment from the British Headquarters of the Middle East.

Q And how was this equipment transported to Greece?

A With airplanes.

Q Was it possible to drop so much equipment that these people could currently be equipped with uniforms?

A I told you before, little by little, gradually, not at once.

Q Witness, tell me now is the organization Edes known to you?

A Yes.

Q What kind of an organization was Edes?

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A Edes was part of the Greek Army.

Q By whom was it led?

A Cervas.

Q Cervas? yes. Is the organization Elas also known to you?

A Elas, too, is a part of the Greek Army.

Q By whom was this organization led?

A There were several officers.

Q Is an organization called EAM known to you?

A Yes.

Q By whom was this organization led?

A This was not a military organization. It was a political organization and I was never concerned with political organization. I was in the Greek Army and I was fighting in the Greek Army and I had nothing to do with political organizations.

Q Is it now known to you that EAM also formed formations and that they fought?

A I was not concerned and I do not know anything about this. I was a Greek soldier fighting and my whole feelings and interest were concentrated on that.

Q Who was the overall commander of this Greek Army of Edes and Elas together?

A This was General Wilson of the Headquarters in the Middle East.

Q To which of the two organizations did you yourself belong? to Edes or to Elas?

A I did not belong to any organization. As I told you before, I was a Greek soldier fighting for the liberation of Greece, and obeying the British commanders who were under the High Command in the Middle East.

Q You just said the Supreme Commander and the two groups, Elas and Edes were subordinate to this group. As a Greek soldier you must have belonged to one of these organization. You were not a British soldier, were you? You said you were a Greek soldier and belonged to the Greek Army and the Supreme Commander was General Wilson.

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To which of the Greek organizations did you belong?

MR. FENSTERMACHER: If Your Honors please, I object to the question. I believe the witness has already stated that he belonged to neither of the organizations named by the defense counsel.

PRESIDING JUSTICE CARTER: The witness so testified. Objection sustained.

Q Witness, -- Since what date did this Command Middle East take an interest in these Greek soldiers?

PRESIDING JUSTICE CARTER: Counsel, till man wasn't asked anything about that on direct examination. So far as his personal connection with those organizations is concerned, you are perfectly within bounds in asking him about that, but I think your questions are improper as they are and that this question has been pursued far enough.

Q Witness, since when did you have anything to do with Greek officers -- what I wanted to say was, with British officers?

A The Greek Army -- where I was fighting -- was organized when the British Officers came together with Greek officers from the Headquarters Middle East.

Q When did you take part for the first time?

A I told the High Tribunal already that it was in October, 1942.

Q Well, as another question, Witness, let us come back to your release from the military hospital. At which military hospital were you? You also mentioned a hospital ship.

A I was on the hospital ship which had been bombed by the German airplanes, although it was full of wounded soldiers. I was on that hospital ship on the 16th of April -

Q I didn't ask you -

A Yes, on the 16th of April, 1941.

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Q And where was this ship anchored?

A I just told you about where it was. I came from the front and it was at Selanitika near Ageion, - near the Ageian coast in the Corinthian Bay.

Q That is what you are saying now. Didn't you tell us before that Ageion was in the Ageian Sea.

INTERPRETER ANAGNOSTOPOULOS: I want to make a personal remark.

This was translated by me, "Ageian Sea, Salanitika near the Ageion. The whole is the Ageion Sea, I think.

BY DR. BERGLER:

A Witness, now another question. Were there several liasonmen between the population as you said, and the British command, and the Greek army?

A What do you mean?

Q In Kalavrita and other regions. Is it known to you that apart from you, there are other such liaison men?

A Yes, there were several.

Q Did they have the same tasks as you?

A Yes, the same tasks.

Q Did the others wear uniforms?

A The whole army being on the march, did wear uniforms.

Q When these men were not in the mountains, when they were collecting their information did they then wear uniforms?

A I was in one part of Greece. It was impossible for me to know what they did in other parts of Greece.

Q You need only answer my questions regarding the regions in which you were, - in the part in which you were. Were there other liaison men or were you the only one?

A I was the only one.

Q The only man in the whole neighborhood? Don't you know any other liaison men apart from yourself?

A In this territory I was the only one.

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DR. BERGLER: I have no further questions.

DR. LATERNSEER: Your honors, I only want to clarify two points, which I forgot to clarify yesterday. I shall be through in five minutes.

BY DR. LATERNSEER:

Q Witness, did you also fight against the Germans in the front, during the war between Greece and Germany?

A No.

Q Later, as you said, you were fighting in the Greek Army for the liberation?

A Yes.

Q When and where?

A Do you mean after the occupation by the Germans?

A Yes.

A No, then I did not participate in a battle.

Q You said that you had worn a uniform on various occasions, and that you were with the British Commander, or with the Regular Army?

A Yes, I was wearing the uniform, and I would even have participated in the battle, but it did not occur just at the times when I was there. If it had, I would have taken part.

Q Well now, where did you talk with the British Commanders, and how long were you always absent from Kalavrita for this purpose?

A This was at Demestricha, about 40 kilometers from Kalavrita.

Q For how long did you always stay at Demestricha, or whatever the name of the place is?

A One, two or three days.

Q Now something else. You said yesterday that 10 minutes after the shooting had been carried out, the German troops had left Kalavrita. Is that correct?

A I meant by that, and I made it clear that after they had exterminated everybody they left. Not 10 minutes after the shooting with the machine guns had taken place.

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Q That is to say--how am I to understand it? 10 minutes after the executions were concluded, the troops left Kalavrita?

A The event took place in the following way, as I told you yesterday, to the Tribunal--

Q I only want to put one question, whether it is correct as you said that the German troops left the community 10 minutes after the execution. Yes or No? Did all people leave Kalavrita then, -I am sorry, I mean all of the German troops. Did they all leave Kalavrita?

A Yes, all of them.

Q 10 minutes after the executions were concluded, all German troops left Kalavrita?

A Yes, after they had given the finishing shots to everybody. I mean that was 4 hours after the machine gun shooting had finished. After that time they left.

Q Did more of the soldiers take part in the execution?

A Do you mean the shooting of the machine guns, or the finishing extermination which took place after the shooting by machine guns?

Q I mean the shooting of the inhabitants.

A I told the High Tribunal approximately 10 machine guns were shooting, so naturally not the whole of the German soldiers could participate. As many as were necessary for that shooting. I cannot tell the number.

Q When did the 1st of the soldiers leave Kalavrita on that day?

A Approximately five o'clock the last German soldiers left, after having put a fire under the school building.

Q At that date, prior to that time the shootings were carried out?

A Do you mean the shooting by the machine guns?

Q. No, I mean the actual shooting.

AAbout 4 hours.

Q How long did the troops need in order to herd away the 35,000 cattle?

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A I don't know how long it took for the German troops, they usually were looting and had quite a system in that. I do not know because we are not accustomed to that.

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Q. I want to ask you when did they start driving the cattle out of Kalavrita?

MR. FENSTERMACHER: Your Honors please, I believe all this had been gone into in great detail yesterday.

DR. LATERNSEER: I did not put this question.

Q. I ask you, when did the troops start to drive away these 35,000 head of cattle?

A. They started -- they brought them in about 12 o'clock and started at 2 o'clock to drive them away until the next day, on the 13th. When the execution took place, they had taken almost all of them because the German troops, when they left Kalavrita after the execution had taken place, went with them.

Q. Now, how did the troops get all these 35,000 head of cattle together?

PRESIDING JUDGE CARTER: Dr. Laternser, they went through all that yesterday - somebody did - on cross examination. It seems to me like repetition.

DR. LATERNSEER: I only wanted to try and clear up this incredible story because it is completely impossible that 35,000 head of cattle could be brought together in this neighborhood. I only want to show that the witness told untruths in this matter. It is impossible to get 35,000 head of cattle in this neighborhood. For this reason I am putting this question.

PRESIDING JUDGE CARTER: I followed counsel on the other cross examination on the same story and repeating again and again isn't going to help us much.

DR. LATERNSEER: I only wanted to establish how the cattle was herded, Your Honors.

PRESIDING JUDGE CARTER: All right. Do it briefly.

Q. Witness, quite briefly, how did the German troops herd these 35,000 head of cattle together?

MR. FENSTERMACHER: Your Honors please, I don't believe the witness ever testified that there were 35,000 head of cattle.

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PRESIDING JUDGE CARTER: I think that's correct and I think that question was answered yesterday. It's repetition, Sustain the objection.

DR. LATERNSEER: I have no further questions.

PRESIDING JUDGE CARTER: Continue with the cross examination by the defense. Any further redirect examination?

REDIRECT EXAMINATION BY MR. FENSTERMACHER:

Q. Witness, yesterday you were asked whether you knew that German soldiers were killed before the destruction and executions which took place at Kalavrita.

A. The German prisoners were killed after the destruction and the executions at Kalavrita had taken place and retaliation measures for the whole massacre.

Q. What information have you in that respect, witness, that leads you to that belief?

A. I was told of this fact by the head of the British command, Anthony, as well as by the Greek major, Sfagianos, and by the inhabitants of surrounding villages.

Q. Witness, during the period 6 to 13 or 14 December 1943, were any announcements made to you by the German troops in your village to the effect that Kalavrita would be burned or was being burned in retaliation for the execution of German prisoners?

A. No, most certainly not, because if they would have told us such a thing we would have fled and would have reached the ocean.

Q. Were there any units of Greek forces fighting the German troops in the neighborhood of Kalavrita during the month preceding the events of the 8th to the 13th of December 1943, to your knowledge?

A. There was a small section.

Q. How far-

A. At the time when the massacre took place, there was a small section of three soldiers who watched the massacre from the fortress.

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Q. Did you ever have a gun in your house in Kalavrita?

A. No.

Q. Did you ever have any ammunition in your house?

A. No.

Q. Do you know if there were guns or ammunition in any of the other houses in Kalavrita?

A. No, there were not and it wasn't possible because every other day either the Germans or Italians came and searched the houses entirely.

Q. To your knowledge, did any combat actions take place between Greek forces and German forces in or near Kalavrita preceding the destruction of Kalavrita?

A. Yes, I know a battle took place in the vicinity of Kalavrita, Kertini, and in the village of Rogi, and during that battle the Greek forces captured 78 German prisoners.

Q. How far away from Kalavrita did that battle take place?

A. About 18 to 20 kilometers.

MR. FENSTERMACHER: I have no further questions, Your Honors.

PRESIDING JUDGE CARTER: Any further cross examination? Any questions by the Tribunal? The witness will be excused for the time beings.

MR. FENSTERMACHER: Your Honors, yesterday afternoon at four-thirty I passed out copies of the photographs which were taken by the witness Triandaphylidis, who testified earlier in this proceeding and whom I should like now to recall to the witness stand to identify the photographs.

PRESIDING JUDGE CARTER: Probably it would be better to call him after the recess. We will take our morning recess at this time.

THE MARSHAL: There will be a fifteen minute recess.

(A recess was taken.)

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Court No. V, Case No. VII.

THE MARSHAL: All persons In the courtroom will please find their seats.

Tribunal Number 5 is again in session.

PRESIDING JUDGE CARTER: You may proceed.

MR. FENSTERMACHER: Your Honors please, I should like to ask the Tribunal to direct the Marshal to recall to the witness stand the witness Triandaphylidis.

PRESIDING JUDGE CARTER: The officer may produce the witness.

COSTAS TRIANDAPHYLIDIS - Resumed REDIRECT EXAMINATION BY MR. FENSTERMACHER:

Q. Witness, will you state your name, please?

A. Triandaphylidis, Costas.

Q. Have you given testimony in this case before?

A. Yes.

Q. Witness, I am handing you a folder containing 39 photographs. Will you examine them? Do you recognize these photographs?

A. Yes.

Q. Did you take them yourself?

A. Yes.

Q. Are they an accurate reproduction of the events which were intended to reproduce?

A. Yes.

Q. Will you take each photograph in order, state the approximate time when you took the photograph and what it describes?

PRESIDING JUDGE CARTER: I think you better have them marked and handle this by interrogation or we will be confused on them.

MR. FENSTERMACHER: All right, your Honor. I ask that the photographs be marked for identification as Exhibit 481-A.

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Q. Will you look at the first photograph, witness? Will you state the approximate date when you took this photograph?

MR. FENSTERMACHER: I believe they are in numeral order, your Honors -- the number on back.

A. On the 13th of November, 1942.

Q. What does this photograph represent?

A. This was the proclamation of General Zervas's -- this is an order of General Zervas -- this is a reward that the Italians wrote out for the head of General Zervas after the Greek, after the destruction of the bridge of Gorgopotamus had taken place. It is a poster announcing the regard for the leader. In addition to that, everybody who would tell the Italians where General Zervas was living would get this reward.

Q. Was the poster written in more than one language?

A. It is written in three languages: in the Italian, in the German and in the Greek, because the same announcement had been given by the German command and by the Greek Quisling government.

Q. Will you turn to your photograph marked "No. 2." When was this photograph taken?

A. At the beginning of October 1943.

Q. And what does the photograph represent?

A. It shows in what conditions were the German prisoners who had come down from German airplanes and the Italian prisoners from Italian airplanes, and the Italian prisoners, regardless of airplanes.

Q. Will you turn to the photograph "No. 3." When was that photograph taken and what does it represent?

A. This was received also. This was taken, this photograph, at the beginning of October 1943 and it represents the representative of the Swiss Red Cross, Mr. Bickel, who had come to the mountains where General Zervas was stationed together with the delegates which the Germans had sent in order to make negotiations with General Zervas.

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Q. Which of the persons is Bickel?

A. The person dressed in civilian clothes.

Q. Witness, If I hand you copies of these photographs would you be able to identify and testify from the copies so that I might give the originals to the Tribunal?

A. Yes.

Q. We turn now to photograph marked "No. 4." When was that photograph taken and what does it represent?

A. It was taken at the same period and it represents Mr. Bickel and General Zervas at the headquarters of General Zervas in Skiadavas.

Q. Which one of the Figures was General Zervas?

A. This person with the beard and dressed in military clothes.

Q. We turn now to photograph marked "No. 5." When was that taken and what does it represent?

A. This was taken also at the beginning of October, 1943, and it shows the military hospital, the doctors and the nurses and the military hospital of Vugareli, and shows the good condition in which this Hospital is and the good military organization that we did have.

Q. Will you turn next to the photograph marked "No. 6" and state the date when it was taken and what it represents?

A. This was taken also at the beginning of October 1943 and represents the Greeks what the Germans had sent to bring the offer to General Zervas.

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Q Can you identify the five persons in the foreground of the photograph by name?

A To the right of the General is the Mayor of Joannina, Vlachlidis.

Q Witness, I suggest that you identify the persons on the photograph reading from left to right.

A The first, from left to right, is an officer belonging to the Greek forces, whose name I cannot recall. After him comes the Mayor of Joannina, Vlachlidis. The third person is General Zervas. The fourth

person is the deputy of the Metropolit of Joannina, Athanassios. The last person, I'm sorry, I cannot see very well; so I cannot identify him.

Q Is the person on the extreme left of the photograph wearing the uniform of the EDES organization?

A Yes, he does wear the uniform of the EDES organization.

Q Turn next to Photograph marked No. 7. When was that taken, and who is it a photograph **?

A Approximately at the same date, that is to say, in October 1943, and it represents the British Lt. Colonel Tom Barnes, the head of the British Mission.

Q The British Mission to whom?

A The British Mission, to the staff of General Zervas.

Q What are the letters which appear on the cap of Major Barnes?

A EOE A.

Q What do those letters stand for?

A Greek National Guerilla Bands.

Q And what is the insignia that appears on the left, below the left shoulder of the Major?

A That he belongs to the Corps of the British Parachutists.

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Q Turn next to photograph marked No. 8. When was it taken and what does the scene represent?

A It was taken on the 10th of October 1943, and it represents the 40th Regiment of Evzones of the National Guerrilla Bands, which is departing from Vulgareli in order to proceed to Petratomo in order to block the roads to the Germans, who, we were told, were coming on to this point.

Q Did you say that these were Evzones?

A Yes, I said that these were Evzones. Understand that these Evzones had, by no means, any relation with those Evzones that were fighting with the Germans, and that had spoiled the Greek name and reputation of the Evzones, which is an elite troop in Greece.

Q Do they wear any EDES insignia on their uniforms?

A Yes, they always were wearing the EDES insignia on their uniforms.

Q We turn now to photograph No. 9. When was it taken, and what does the scene portray?

A This was taken in March, 1944, and it represents a new section that had been recruited and organized.

Q Next look at photograph marked. No. 10.

A This was taken in April, 1944, and it represents General Zervas who came to review the sacred parade of the students.

Q Which one of the persons on the photograph is General Zervas?

A The person who is proceeding on horse back.

Q Next, look at photograph marked No. 11.

A This was taken in May, 1944, and it represents part of the third division, which is being reviewed by the officers.

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Q The third division of what organization?

A The third division of the National Guerrilla Bands.

Q What is the flag which appears on the photograph?

A It is the Greek military flag.

Q We will now turn to photograph marked No. 12

A This was taken also in May, 1944, in the village --near the village of Plessia, and it represents a part of the division Xyrovuni, division of the National Regiment, of the Regiment Xyrovuni which is a regiment of the National Guerrilla Bands.

Q What is the flag which appears in this photograph?

A It's the Greek Military Flag.

Q Turning next to photograph marked No. 13.

A This was taken also in May, 1944, and it represents the 39th Regiment of the National Guerrilla Bands, which has received the order to proceed to another place.

Q Where was this photograph taken -- No. 13?

A Near Pesta.

Q Next turn to photograph marked No. 14.

A It has been taken at the same period, and it represents the same part of the regiment at the same place.

Q The same as which photograph, Witness?

A The same with the photograph No. 13.

Q Turn next to photograph marked No. 15.

A This is the third photograph showing the same regiment as Nos. 13 and 14, and it has been taken at the same period and at the same place.

Q Next, will you look at the photograph No. 16?

A This, again, has been taken in May, 1944, and it shows General Zervas who is reviewing new sections of the Army which had been newly recruited and organized.

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Q Is General Zervas the single figure standing to the left of the photograph?

A Yes, that is correct.

Q Will you look now at the photograph No. 17?

A This was taken at the same period of this review and has been taken at the same date.

Q As what?

AAAs No. 16.

Q As the photograph No. 16?

A Yes.

Q What is the flag which one of those soldiers is bearing in photograph No. 17?

A This is the Greek military flag, and this is the same flag that the Greek Regular Army had been using when the soldiers had been captured. They had hidden this flag. After the capitulation of 1941 the soldiers had hidden this flag and brought it out newly again. It's the same flag.

Q Turning next to photograph No. 18.

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A. This has been taken in May, 1944 and it represents the same parade.

Q. As.

A. As photographs No.s 17 and 18.

Q. Will you look now at photograph No. 20?

A. This has been taken in May, 1944, and it, is a part of another regiment of General Zervas.

Q. Look now at photograph marked No. 21.

A. This has been taken in July, 1944 and it represents the investigation of German prisoners of war.

Q. Are there any members of the EDES organization shown in this photograph?

A. At the right side there's the Lt. Colonel, Christou, who was the head of the Intelligence Service of General Zervas' staff.

Q. Turn next to photograph marked No.22.

A. This has been taken in July, 1944, and it represents the investigation of German prisoners of war by Lt. Colonel Christou, head of the Intelligence Service of General Zervas' staff.

Q. Which person in the photograph as the Lt. Colonel?

A. It is the person standing in the middle, who is just a single person, standing in the middle.

Q. You mean the man with the beard?

A. Yes, the man with the beard

Q. Will you turn now to photograph marked No. 23?

A. This has been taken towards the end of July, 1944, and it represents the investigation of German prisoners of war--some of them are wounded soldiers.

Q. Are there any members of the EDES or anization shown in the photograph?

A. Yes, at the left side of the photograph and at the right side of the photograph.

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Q. Is the man with a bread a member of the EDES organization?

A. Yes, that is a member of the EDES organization, by the name of Lt. Col. Christou.

Q. Will you now look at photograph marked No. 24?

A. This was taken towards the end of July, 1944, audit represents the investigation of German officers who had been captured at the village of Lures.

Q. Who are the two men with caps facing the camera?

A. This represents Lt. Colonel Christou and his aide de camp adjutant.

Q. Now, look at photograph marked No. 25.

A. This was taken towards the end of July, 1944, and it represents the investigation of German prisoners of war at the village of Dervisema.

Q. Who is the man in the right center portion of the photograph, the man wearing the beard?

A. This is the head of the Intelligence Service, Lt. Colonel Christou.

Q. Was he a member of the EDES organization at that time?

A. He was one of the oldest members of the EDES organization and was an officer of the Regular Greek Army.

Q. Will you turn now to photograph No. 26

A. This has been taken during the summer of 1944 in Paramythia. And to represents a newly recruited organized regiment, which is taking the place an other.

Q. To what organization do these men belong?

A. They belong to the National Units of General Zervas, the EDES organization.

Q. Are they wearing the uniform of the EDES organization?

A. Yes, all of them are wearing the uniform of the EDES organization.

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Q. We will turn now to photograph No. 27

A. This has been taken in July, 1944, during the battle of Preveza, and it represents a mortar activity.

Q. Are the men shown in the photograph members of the EDES organization?

A. Yes, they are. They are the men of the so-called Sacred Company of the students.

Q. Turn next to photograph marked No. 28.

A. This was taken on the 23rd of July 1944, which was the second anniversary of the exodus of General Zervas to the mountains. And it represents the parade in front of the monument of the dead of these National Guerrilla units. It represents General Zervas, and at the right side of Archbishop of Paramythia, by the name of Thortas.

Q. Will you look next at the photograph marked No. 29?

A. This was taken on the 23rd of July 1944, and it represents the artillery that had been given to us by the Americans.

Q. The men in the photograph wear the uniform of the EDES organization?

A. Yes, all of them are members of the EDES organization.

Q. Turn next to photograph marked No. 30.

A. It was taken on the 23rd of July 1944, and it represents the artillery weapons taken off the horses.

Q. Who are the men in the photograph?

A. On the left side there are two soldiers of the artillery. In the middle is standing the Governor of the artillery, Colonel Metaxas, Standing nearby is General Zervas.

Q. Is he the man with the beard?

A. Yes, the man with the beard, And at the right side again are two soldiers of the artillery.

Q. Are all of the men shown in the photograph members of the EDES organization?

A. All of them are members of the EDES organization.

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Q. Are they wearing the uniform of the EDES organization?

A. All of them are wearing uniform, and the one of the soldiers to the right side is wearing a uniform fit for him to ride on horseback

Q. Why do there see to be white lines on the photograph, Witness

A. Because I used this photograph in order to publish to in the newspaper.

Q. Turning next to photograph No.31.

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Q We turn next to photograph marked 31.

A This has been taken on the 23rd of July 1944 and represents a parade in front of the monument of the dead soldiers and officers of the national guerilla forces.

Q The next photograph is No. 32.

A This has been taken on the 23rd of July, 1944, and it represents General Zervas, the Archbishop of Paramythia, and the whole staff of General Zervas.

Q Is General Zervas the man with the beard standing to the right of the Archbishop?

A Yes, General Zervas is the man with the beard standing to the right.

Q Look next at photograph No. 33.

A This has been taken in August 1944 and it represents the entrance of the hospital of Dervisema with the German wounded prisoners of war to whom a Greek nurse is offering cigarettes.

Q Is the man on the extreme left of the photograph facing the camera a member of the EDES organization?

A Yes, he is.

Q Is he wearing the uniform of the EDES organization?

A Yes, he is wearing the uniform of summer; he is only wearing a shirt without his jacket.

Q Will you turn next to photograph No.34?

A This has been taken after the battle of Menina about the 20th of August, 1944, and represents the General Zervas sitting in one of the cars that we have captured from the Germans.

Q Is General Zervas the man to the extreme left of the photograph?

A Yes, that is correct.

Q We will look next at photograph No. 35.

A This has been taken in summer, 1944. This represents General Zervas together with the Archbishop of Paramythia and with many of the soldiers and inhabitants of the village of Dervisema after the performance of the religious service.

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Q To what organization do the soldiers in the photograph belong?

A All of them did belong to the EDES.

Q. Will you look now at the photograph numbered 36?

A This has been taken in August 1944 in the village of Paramythia and it is the arch which the 10th Division of the EDES organization had built up in order to welcome General Zervas.

Q Who are the persons shown on the left of the photograph?

A They are several of the inhabitants; among whom is a priest and at the right are the soldiers of the 10th Division standing at attention.

Q To what organization do those men belong?

A To the organization EDES.

Q What are the two flag shown in the photograph?

A They are both Greek flags.

Q Will you look now at photograph No. 37?

A It was taken at the beginning of October, 1944, and it represents the bridge of Zita that the Germans had blown up while they were withdrawing and which the engineers of the Engineer Corps of the national guerilla units had repaired within two days in order to materialize the pursuit of the Germans with the artillery.

Q Do you know the name of the river across which the bridge is built?

A It is just a side river of the River Luos.

Q. Turn now to photograph marked No. 38.

A This has been taken on the 18th of October, 1944, and it represents the flag of the General Zervas, at the day when the General entered the town of Jannina.

Q The soldiers in the photograph are members of the EDES organization?

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A All of them.

Q What are the flags shown at the top of the photograph?

A The American flag, the British flag and the Greek flag.

Q Which is the Greek flag?

A In the middle of the American and the British.

Q What is the writing which appears on the lower right hand portion of the photograph?

A Entrance into Jannina of the national Greek guerilla bands on the 18th of October, 1944.

Q Turn finally to photograph marked No. 39.

A This has been taken also on the 18th of October, 1944, and it represents a battalion of the Greek notional guerilla bands with their weapons as a souvenir of that day.

Q What is the writing on the lower right hand portion of the photograph?

A Battalion of Galani.

MR. FENSTERMACHER: If your Honors please, I ask that these photographs be admitted into evidence and given Exhibit No. 481. I ask also, your Honor, if we might return the original photographs to the witness and give the Secretary General photostatic reproductions of the originals.

PRESIDING JUDGE CARTER: There being no objection, that may be done.

MR. FENSTERMACHER: I have no further question to the witness, your Honor.

CROSS EXAMINATION BY DR. LATERNSE: Q Witness, where are the negatives of these photographs?

A I don't have them here. They are in Athens.

Q May I see the originals of No. 23 end No. 24, please?

(Dr. Laternser examined the originals.)

DP. LATERNSE: I have no further questions, your Honor.

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PRESIDING JUDGE CARTER: Any further questions on cross examination? Is there anything further, Mr. Fenstermacher?

MR. FENSTERMACHER: Your Honor, I believe it was last Saturday when Dr. Sauter, counsel for the defendants Geitner and Lanz, indicated that he might wish to make this witness his own witness. Since this witness is planning to return to Greece very shortly, I wonder if your Honors might place a time limit on Dr. Sauter within which he would let prosecution and the Tribunal know whether he wishes to make the witness his own?

PRESIDING JUDGE CARTER: Dr. Laternser, do you think you could find out by one-thirty whether there is any desire on the part of the defense to call this witness on direct examination?

DR. LATERNSE: Your Honor, I shall try to report to the Court about that at one-thirty but I am not quite sure whether by this time I will be able to do so.

PRESIDING JUDGE CARTER: I wonder if the Tribunal might not make the inquiry of the defense at this time as to the period of time they expect to be allowed them after the prosecution completes its case and before we take up the evidence of the defense?

DR. LATERNSE: Your Honor, this question comes a little suddenly if I may say. I can't supply the answer now but only then when I have talked about this with my colleagues, as I cannot say now how

long each individual colleague wants for the submission of his documents and the stating of his case. I shall sneak to my colleagues and I will probably be then in a position to give you an answer.

PRESIDING JUDGE CARTER: If you will do that and inform the Tribunal at the earliest possible moment, we would appreciate it.

DR. LATERNSEER: My attention was drawn to the fact by Mr. Denney that the question of the Tribunal about the time is about the recess between the prosecution resting their case and the defense starting their case. Is that the question?

PRESIDING JUDGE CARTER: That is what I was inquiring about.

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DR. LATERNSEER: Also this question I would like to think over because in order to give the answer I must talk to my colleagues but I shall do so as soon as I can.

PRESIDING JUDGE CARTER: Very well.

MR. FENSTERMACHER: Your Honor, may the witness be excused for the time being?

PRESIDING JUDGE CARTER: Yes, the witness will be excused for the time being. The Tribunal will adjourn until one-thirty.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION (The Court reconvened at 1330 hours, 20 August 1947.)

THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

PRESIDING JUDGE CARTER: You may proceed.

MR. DENNEY: If it please your Honors, the document which is being distributed to your Honors now is the identification exhibit which goes at the close of Document Book 16. It should be marked 408-A, pages 201, 202, 203, and it is offered as Exhibit 408-A for identification to be submitted, to be placed at the close of Document Book 16.

The document which has just been handed to your Honors is to be marked 423-A and will receive page numbers 132 and 133 and is to be inserted at the close of Document Book 17 and is offered as Prosecution's Exhibit 423-A for identification.

And this next one is to be marked 441-A, pages 107, 108, and is to be placed at the end of Document Book 18 and is offered as prosecution's Exhibit 441-A for identification.

And the last one which your Honors have just received is to be marked 457-A for identification.

JUDGE WENNERSTRUM: 457?

MR. DENNEY: 457-A, yes, your Honor, and is to be placed at the end of Document Book 19 and is offered as Prosecution's Exhibit 457-A for identification.

JUDGE WENNERSTRUM: Pages?

MR. DENNEY: 156 and 157. I have spoken with Dr. Sauter during the noon recess and he has advised me that he will not require the witness Kosta Triandaphylidis and has authorized me to so inform the court.

PRESIDING JUDGE CARTER: Very well.

MR. DENNEY: We now start with Document Book 21.

Was the last exhibit number, Mr. Stone, 481?

MR. STONE: Yes.

MR. DENNEY: The first document in this book at pages one of the English and the German, [NOK W-469](#), is offered as Prosecution's Exhibit No. 482 in evidence.

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This is a series of reports having to do with the operation Klissura, and the reports in the document book are from the standpoint of dates backwards. However, I think they are just as informative one way as the other, and for the convenience of the Tribunal why we will take the pages as they come.

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The first page, which is a communication from the Commander in Chief Southeast, who was at that time the defendant Weichs, is dated 6 July 1944, and I would direct Your Honors attention to the number which the communication bears, the German Staff Record Book Number 4506, directed "To the Special Plenipotentiary of the Foreign Office to the Southeast Envoy Neubacher."

This document, incidentally, is signed by the defendant von Weichs.

It says:

Referring to your teletype dated 16.5.44 I am enclosing the report of the commander of SS Panzer - Grenadier Regiment 7, dated 3.6.44, with the comments of the Corps Group Saloniki and of the High Command Army Group E pertaining to the operation against the village of Klissura. And Your Honors' attention is called to the facts it quotes these various reports, which we will come to presently.

Returning now to the document. I see from these reports that the events at Klissura differed from the way in which they are represented in the minutes of the interrogations of some village residents before the Consulate General of Saloniki. I wish to point out in particular that according to the report of Regiment Commander it was not a subsequent reprisal action but that the village of Klissura was stormed and taken with the employment of all heavy weapons of the regiment. One must count on the civilian population of the village already having suffered considerable losses due to the employment of heavy weapons and that the Bulgarian military put in action there are guilty of excesses after the capture

of the village, which can not be checked on afterwards. I consequently believe that a further following up of this matter would meet with no success.

This incident is taken as occasion to recall attention to the orders on the execution of reprisal measures which at the time of their issuance had your concurrence.

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Signed Freiherr v. Weichs.

Before turning to the next page I should merely like to direct Your Honors' attention to the fact that von Weichs there speaks of the employment of Bulgarian troops.

JUDGE CARTER: Can you advise us, Mr. Denney, as to the meaning of this word "Freiherr?"

MR. DENNEY: "Freiherr", yes, Your Honor, I believe it is a title of nobility. Is that not right, Dr. Laternser? A title that would be similar to Count, or Duke. I am not familiar with the various titles of nobility. Is that right, Dr. Laternser?

DR. LATERNSE: Yes.

MR. DENNEY: Still on page 1 of the German, but on page 2 of the English, or rather on page 2 of the German too, we have a communication of 20 June 1944, which is from the Commander in Chief Southeast, High Command Army Group F, both being the same person, namely, the defendant von Weichs, and this is addressed to the Oberkommando Wehrmacht, Wehrmachtfuehrungsstab, Wehrmacht Operations Staff, and has reference to a communication which von Weichs has sent to them under early date No. 4450. The subject of this operation again is "Operation Klissura", and it states:

Enclosed please find copies

- 1.) Statements of the Greek citizens, Kitsis, Tripis, Papakristos and Manos, all residents of the village of Klissura, as certified by the German Consulate General in Saloniki. Both records are the basis for the teletype from Envoy Neubacher to the Foreign Office which has been submitted to you.
- 2.) Report of the Commander of SS-Panzer Regiment 7, dated. 3.6.44. And that is the report referred to in the earlier communication which we have read, but it bears the later date of 6 July.
- 3.) Comment of Corps Group Saloniki dated 12.6.
- 4.) Comment of High Command Army Group E dated 14.6.44.

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And the Court's attention is directed here to the channel of command through which these various papers relating to this incident came up to von Weichs from Army Group E, and from the 7th Corps to Army Group E and from the 7th Panzer Regiment SS to the Corps Group Saloniki.

The report of the Commander of SS Panzer Regiment 7 differs markedly from the statements of the inhabitants of the village:

The Regiment Commander reports that the village was taken by assault with the employment of heavy weapons. In contrast to that the village residents state that the combat actions against the Red Andartes did not touch village itself. They further state that after the Red Andartes had been driven out of the area around the village, the village was searched without further incidents by sections of a German detachment, and that only after a certain time had elapsed and without combat action did further sections of the German troops appear and proceed against the population of the village in the manner known.

On the basis of the comment of Army Group E the Commander in Chief Southeast believes that the accusations made by the Greeks are to be rejected, as groundless by reason of the statements of the Commander of the SS Panzer Grenadier Regiment 7.

It is recalled to attention again that there must be strict observance of the orders on the execution of reprisal measures that were issued in agreement with Envoy Neubacher.

Copies of the report and of the comments have been submitted directly to Envoy Neubacher.

Signature For the Commander in Chief Southeast (High Command Army Group F) Chief of the General Staff Winter (signature) And down at the lower left there is a note, After dispatch Ia/F Order on reprisal measures Department Ia/F No. secret.

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22.12.43, to be brought to attention in a suitable way in accordance with the paragraph preceding the last.

And on page 3 of the German and page 4 of the English, the communication of 12 June 1944, which is referred to in the earlier letter. This is the report from the Group Saloniki to the High Command of Army Group E, and the reference Number 6299 of May 18, is called to the Count's attention, and the subject is "Operation Klissura", to "High Command Army Group E."

Enclosed we are submitting another report of the Regimental Commander of the SS-Panzer Grenadier Regiment 7.

The statements of the residents of the villages of Klissura show that the male population were evacuated from the village on the day in question and only women and children remained. On the other hand it is a fact that the soldiers were shot at from the village, that is, from its near vicinity. The regimental commander of course could not know of the withdrawal of the male population. The tactical measure carried out by him to break resistance by using all available weapons in order to avoid unnecessary losses was correct and no accusation can be made against him for that. It can therefore be assumed with certainty that the majority of the women and children lost their lives while the village was under fire and not later when the village was being combed through. It may be correct that in individual cases during the combing through women were fired upon also as some statements of the residents indicate. But in evaluating this incident one must take into consideration the emotion of the soldiers during combat on the one hand and on the other hand that of the population during interrogation.

It may be absolutely correct that in some cases mistakes were made by the soldiers; but it is hardly probable that the detachment more or less murdered the women or children who lost their lives.

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I personally know SS-Standartenfuehrer Schumers as a particularly severe superior. Often measures taken by him are draconically hard. But he is always considerate of the welfare of his men and his actions are motivated by this attitude.

The report of the regimental commander makes it clear that the events in Klissura do not represent a reprisal measure but that they were combat actions during a pursuit fight.

And there is a certification to the left as to the correctness of the copy by a Major, and the rank of Pflugradt was Generalleutnant. The Major's signature is illegible.

And the next document in this connection is a report from the SS Panzer Grenadier Regiment 7, with reference to the operation Klissura, and it is made by the Regimental Commander of this Regiment, dated 3 June 1944.

"Two convoys of the I/7 were attacked on the ridge of the Klissura pass on 5.5.1944. This attack cost the lives of 8 men of the I/7. Seven were more or less heavily wounded."

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Some of the corpses were entirely disrobed and cruelly mutilated, and lay in a row in the street. This is how I and the sections of my regiment employed in the liberating of the pass found the place of attack.

After receiving information of the attack I myself went to the place of attack with a combat group in order to combat and perhaps pursue the bandits. Considerable detachments of the Bulgarian military stationed near Klisura also participated in the engagement to free the pass. After relatively minor resistance, the bandits preferred withdrawal in a Southwest direction to the village of Klisura taking along their wounded, their weapons and 1 motorcycle. I ordered the immediate and ruthless pursuit of the fleeing bandits.

The bandits stopped at the outskirts of the village of Klisura and resisted anew. They shot with rifles, machine guns and mortars at my units pressing after them. In order to avoid further losses I ordered the advance to halt and ordered that all heavy weapons be brought into position. Brought into action were: 1 trench mortar platoon (6 barrels), 1 light infantry gun platoon (4 light infantry guns), 1 half platoon, 2 centimeter anti-aircraft, 2 groups heavy machine guns (4 heavy machine guns). Then I gave the order to open fire ruthlessly on Klisura. Since I was unable to locate exactly the firing positions of the enemy trench mortars, the firing was directed over the entire village of Klisura. After about 30 minutes observation showed that the bandits had ceased firing and many persons, among them women and children also, were leaving Klisura for a forest situated in a southwesterly direction. I now ordered the advance on the village of Klisura. Even at that time individual shots still were fired from Klisura. Klisura itself was taken by assault. I could not prevent the killing of women and children also during the firing and assault on Klisura, because Klisura had to be taken by assault.

That in the shooting and storming of Klisura women and children lost their lives is regrettable and was in the overall situation not to be avoided.

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The enclosed interrogations show beyond doubt that the bandits had occupied Klisura before as well as after the attack. I further believe the interrogation of the Greek tailor Christos Kitsis shows that this man must have been right at the place of attack at the time even if he did not participate in it, for Kitsis gives exact details regarding the attack in his interrogation. I personally know the entire terrain, and it is inexplicable to me how Kitsis was able to observe the details of the attack at a distance of 2.5 kilometers - the population of Klisura was kept in the village by guards. I notice in particular the fact that Kitsis was able to recognize at a distance of 2½ kms. that the two motorcyclists were attacked with a hand grenade which was thrown by an Italian.

As stated at the beginning of this report Bulgarian military also participated in the assault on Klisura. These people voluntarily had attached themselves to my units during the advance and after the capture of Klisura they were the first to break into the houses in which Communists known to them resided. I am not in a position to say whether the events actually took place as the interrogations state. After the capture of Klisura I ordered the burning down of houses from which fire had come and which the Bulgarian militia designated as residences of Communists.

This was done.

In the evaluation of this incident I ask that it be taken into consideration the humanly understandable feelings of my men and of the Bulgarian militia aroused by the sight of their cruelly murdered comrades at the Klisura pass.

Signed Schumers SS-Standartenfuhrer and Redigmental Commander And it is certified to be a true copy.

And next is a communication of 25 May 1944 from the foreign office. It bears the receipt stamp of High Command Army Group F, and Commander in chief Southeast, for 26 May 1944, and it also bears an arrival stamp over on the right for the same date.

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And then at the left in the heading is, "For submission to the Chief WFST (Wehrmachtfuehrungstab) Via VO Ag Ausland (Foreign Office Liaison.)

"Copy.

"The Foreign Office forwards the following telegraph report from the Special Plenipotentiary Southeast, Envoy Neubacher, under Pol I M 1138 Top Secret dated 20.5.44. The report is dated 15.5."

"Rapid investigation and information as to its outcome is requested." And then over to the left is typed on this, "Commander in Chief Southeast with the request for speedy investigation and report of the results.

By order of (signature illegible)" "Subject:

The Blood Bath of Clissure."

Your Honors attention is directed to the fact that this comes from Envoy Neubacher who is the German representative down there and the Special Plenipotentiary Foreign Office Southeast, to whom Weichs first communication in this series, the one of 6 July was directed.

According to the reports previously submitted to me on 5 April 215 inhabitants of the village Clissura in the area of Saloniki, mostly women, children and old men, were killed and 27 people wounded. The allegedly was done by order of the Commander of an SS regiment from Saloniki. This action constitutes a most serious infraction of an order on reprisal measures issued by the Commander in Chief Southeast issued with my agreement on the basis of the Fuehrer directive dated 29 October 1943.

Reports available up to now show that among the dead were 9 babies less than 1 year old:

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29 children from 1 to 5; 39 old people between 60 and 90.

The competent military authorities are investigating this on the basis of the present report - senseless and irresponsible excess.

The preliminary report of our Consulate General indicates to me that German trucks were shot at by partisans at a distance of about 2½ km from the village on April 4th. No losses occurred. 2 German motorcyclists were allegedly killed later by hand grenades thrown by an Italian of the same group of partisans at the same spot. The motorcycles are said to have been brought to Clissura. As happens daily in numerous villages partisans had been quartered overnight in the village itself.

Partisans surrounded the village and forbade the inhabitants to leave the village and to use the pasture. After the last partisans withdrew on 5 April at about 1400 hours the adult men left the village, because repeatedly in North Greece and elsewhere too it happened that our side proceeded with mass shootings of the male population after the partisans had left. The men went to a neighboring village to a monastery. Women, children and old men were.....

DR. LATERNSEER: Your Honor, could I ask that the Prosecution read this a bit more slowly in order to enable us to follow what is being said?

MR. DENNEY: Do you have a German copy there?

DR. LATERNSEER: Yes.

(note - continue reading)

almost the only ones to remain. The slaughter of those who were left began approximately at 1600 hours, and allegedly was stopped later by intervention of a Wehrmacht officer. I do not know the number of houses burned down.

The village priest was shot with his wife on the street. The house of a Greek captain fighting on our side with a group fighting the partisans was burned. All the relatives of a tailor who had worked for many years for the Consulate General in Saloniki were killed.

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In view of the necessity of advancing final operations in the population, the political effects of such incidents are catastrophic. It is utter insanity to murder babies, children, women and old men because heavily armed Red bandits billeted themselves overnight by force in their houses and because they killed 2 German soldiers near the village. The political effect of this senseless blood bath doubtless far exceeds the effect of all propaganda efforts in our fight against Communism.

No matter what the end result of the investigation may be the operation against Clissura represents a severe transgression of existing orders. The shining result of this heroic deed is, it is true, that babies are dead. But the partisans continue to live and they will find quarters again with machine pistols in completely defenseless villages. It is a further fact that it is much more comfortable to shoot to death entirely harmless women, children and old men than to pursue an armed band with a manly desire for vengeance and to kill them to the last man. The use of such methods must necessarily lead to the demoralization of a genuine combat morale.

I shall follow up this affair on the basis of the Fuehrer directive dated 29 October 1943. The Reich Foreign Minister is requested by me today to inform the highest competent military authorities of my attitude and in the interest of our foreign policy in this area to ask for a most thorough investigation."

And down at the bottom is handwritten:

"you bet we'll do it!"

And handwritten over to the right:

"M has been informed that [F has](#) asked a very thorough investigation."

And on page 12 English and page 8 of the German, a communication dated 16 May 1944. This is a teletype and it appears on a teletype blank, and it bears the receipt stamp at the bottom of Army Group F, for the 19 May 1944, and this teletype is signed by Neubacher, the Special Plenipotentiary Southeast of the Foreign Office for the Southeast, and it is directed to the Commander in Chief Southeast, General Field Marshal von Weichs, Belgrade.

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And it also has to do with the "Blood Bath of Klissure," and I should like to call Your Honors attention to the fact this term "Blood Bath of Klissure" is theirs, not our.

"What ever the result of the investigation may be regarding the reprisal action against babies, children, women and old men, executed in the area of Saloniki, as far as I am concerned it was certainly a flagrant violation of the directions issued by the Commander in Chief Southeast. The principles of these directions were agreed upon with me. I state further that this senseless irresponsible operation has done

great political harm which will become greater the more the news of this incident, which frequently is not even believed today, becomes public.

On the basis of the Fuehrer directive dated 29. October 1943, I request the Commander in Chief Southeast to instigate a strict investigation.

Considering the political importance of this affair I have submitted a preliminary report to the Reich Foreign Minister of which I shall inform the Commander in Chief Southeast in Belgrade.

Special Plenipotentiary Southeast (Signed) Neubacher And down written at the bottom is the words:

"What is this?" "Probably puffed up," Then on page 10 of the German and page 13 of the English is a communication of 20 April 1941, which has to do with the statement of the Greek tailor Kitsis, which was referred to in an earlier report.

As I recall there is reference to this in the report from the Commanding officer of the 7th Panzer Grenadier Regiment, page 7 of the English and page 5 of the German "Saloniki 2--April 1944," and this also has Enclosure 1 to the Commander in Chief Army Group E, from the lower units.

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"The Greek tailor Christos Kitsis known here for many years appeared today at the office of the Consulate General to make the following statement regarding the incidents in the village of Klissura on the 4th or the 5th of April 1944. These statements are supported by the statement of the principal of the primary school in Klissura Aristotelus Jovas.:

Communist bands who had been in the village of Klissura several times before appeared again on Tuesday, 4 April, towards evening and took billets there. Some days previously the Germans had left. The farmer Andreas Panajotopulos, who at present is a captain with the Pulos Group, had the last guard duty in the village. The night was quiet. The next morning 2 German trucks drove from Kastoria to Amynteon. The road Klissura - Amynteon is about 2½ km distant from the village of Klissura. Both German trucks were shot at by the insurgents from that spot of the road closest to the village. But they continued on their way. Later a German motorcycle with 2 German soldiers passed the same spot. An Italian who now belongs to the Communist bands, threw hand grenades at the German soldiers; four of them were killed. The Andarts brought the motorcycle to Klissura. At that time the village was perfectly quiet. In the village itself the Andartes had left guards behind. The population was not permitted to leave the village. After the Andartes had left (about 1400) all male inhabitants left the village due to fear of German reprisal measures.

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The men found refuge partly in the monastery of Panajia and partly in the village of Varikos (a Bulgarian village).

"That means that only women, children and old men remained. German troops arrived in the village about 1600 hours and searched the houses. There were no incidents, no weapons were found.

Immediately afterwards an SS detachment appeared and shot women and children to death partly in the houses, partly on the farms. Furthermore, houses were set on fire.

According to my knowledge the number of dead is 215, primarily women children and old men: and there are 27 wounded. Among the dead were 3 old men who met the arriving detachment and were asked to show the German Wehrmacht the houses in which the Andantes had been billeted the night before. After the 3 old men had pointed out these houses they were shot to death. The village priest and his wife were shot on their ways to the monastery. The house of Captain Andreas Banajotopulos also was burned down.

"According to my knowledge the Nomarch of Florina has made an extensive report of this incident to the Governor General 1 of Saloniki.

"The village inhabitants believe that this incident of the insurgents occupying the village occurred with the purpose of causing the male inhabitants of the village to go to the mountains together with the insurgents"--and there is a pencilled note there: (very characteristic; this method is used frequently by farmers.)

"I note that there never were any Communist elements in Klissura. All my relatives, including a 75 year old uncle, lost their lives in this.

"This statement was confirmed by the Greek teacher Georgies Tripies, who also comes from Klissura. He was present during the making of the report."

And then there is a further statement which is also enclosed which starts on page 11 of the German, page 15 of the English.

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"In regard to the incident in Klissura on the 5th of April of this year the Greek citizens Spyres Papchristos and Nikoas Manos make the following statements: these statements were referred to in the earlier communications.

"When the village inhabitants, ourselves included, woke up on Wednesday April 5th they found that there were insurgents outside the village. They surrounded the village and forbade anyone to leave the village. Even the herds might not be driven to the pasture. One detachment of the insurgents marched off in the direction of the road Kosani - Amynteon. The first rifle fire was heard in the village between 9:30 and 10:00. The combat seemingly took place on the main road which was 2½ km distant from the village. Two German trucks could be seen on this road. These however, seemed to have escaped the attack. They continued driving in the direction of Amynteon. A combat between Bulgarian volunteers and the bands developed about 2½ kilometers on the other side of the main road."

"According to my knowledge one insurgent was shot there and 3 to 4 wounded. Shortly after the 2 trucks had disappeared a German motorcycle appeared moving in the same direction. It is alleged that an Italian with the insurgents attacked the motorcycle with hand grenades and that the drivers were killed. The fighting was broken off about 1300 o'clock. The insurgents moved off in the direction of

Profiti Elias touching the edge of the village of Klissurea. After they had gone the guards around the village were also removed whereupon the male inhabitants of the village went away in order to find refuge in the monastery and in a neighboring Bulgarian village. Immediately afterwards the Bulgarians together with a German detachment moved into Klissura. They had pushed forward from the village of Verga. Meanwhile it had become about 1400 o'clock. They started the searching of houses which took place without incident. Some time later machine gun fire could be heard coming from the direction of the forest.

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A detachment of about 25 German motor vehicles from Amynteon arrived about 1530 o'clock. Although the village was perfectly quiet the shooting started immediately. 5 men, among them 3 old men, who led the Germans through the village were let go then and shot to death from behind. Women and children were shot in houses and yards whereupon the houses were set on fire. We do not know the exact number of losses since there are still some dead under the ruins.

"I, Spyres Papachristos, was told by my son that a German officer belonging to the unit arriving from Verga attempted to order these shootings stopped."

"Although he does not understand German, the behavior of the officer made him think so. Shortly afterwards the firing of a flare gave geh signal to stop the shootings. The detachment left again about 1930 hours. The village priest with his wife was shot to death on the street near his apartment.

"The Secretary of the Society of the Residents of Klissura, Elias Jovas, submitted a list of the casualties ascertained on the first day (5 April). In regard to the appearance of the insurgents he remarked that these probably surrounded the village during the night. The fact was that the people learned of the surrounding of the village only when dawn came. There never had been Communist elements among the residents of Klissure, he said."

And over on page 14 of the original, page 13 of the German, page 18 of of the English, is a list of the victims of Klissura as of 5 April 1944, the total number 215, and the various age groups are listed there. Again Your Honors will note it ranges from under 1 year of age to people who are between 85 and 90; and I would again like to direct the Court's attention to the first page of the exhibit, the comments of the defendant Weichs in his letter of 6 July 1944 to envoy Neubacher, the last sentence of the first paragraph:

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"I conscientiously believe that a further following up of this matter would meet with no success."

Turning now to page 15 in the English -- or in the German, page 21 in the English, Document [NOKW 081](#) -- page 14 in the German and page 19 in the English -- excuse me, Your Honors -- Document NOKW --081, which is offered as prosecution exhibit 483, this is a one page report from the Commander-in-Chief Southeast (High Command Army Group F, dated 16 July 1944, referring to the action at Distomon.

Now, this reference number here of 4506 is the same reference number that was used in communication from the Commander in Chief Southeast of 6 July 1944 with reference to the Klissura action and it is the same number which was used in the communication of 20 June 1944 to the Wehrmacht, Oberkommando Wehrmacht, the Wehrmacht Operation Staff, that communication again being from the Commander in Chief Southeast by his Chief of Staff.

The same file number is on the report of the Commanding Officer of the 7th Panzer Grenadier SS Regiment on page 5 of the English, page 4 of the German. That report is dated 3 June 1944.

This is from Oberkommando Suedost in Army Group F, that is, the Commander-in-Chief Army Group [F to](#) OKW/WFSt.

"Reference: Commander in Chief Southeast High Command Army Group F Ic/A O No.4506 Secret of 20 June 44. Subject: Occurrences during combat at Distomon."

" According to combat reports of the 7th SS Tank Infantry Regiment" -- and, if Your Honors please, I would like to submit this to the interpreter. This is the same unit. Still they translate it as a "Panzer Garadier Regiment."

It is the first line of the letter, Mr. Jacobsohn.

INTERPRETER JACOBSON: It is the same unit.

MR. DENNEY: "According to combat reports of the 7th SS Panzer Grenadier Regiment, the village Distomen was attacked during a skirmish with insurgents on the road Lewadia-Amfissa on 10 June and after the mopping up of the village 250 to 300 dead persons, suspected of being bandits and relatives of bandits were counted.

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According to another report received from an NCO of the Secret Field Police"--and that, if Your Honors please, is the Geheime Feldpolize, of which we have heard before -- "belonging to the Secret Field Police Group 510 which participated in the operation, Distomon was reached without combat whilst combats with the insurgents only began at Stiri (5 kilometers southeast of Distomon) and the inhabitants of Distomon were shot to death after termination of the operation Stiri when the troops came back. According to this latter report, in contrast to the report of the unit, it was a question of a reprisal measure. When interrogated by Corps Judge of the LXVIII Corps, the NCO of the Secret Field Police upheld his first statement in every detail. The Corps Headquarters of the LXVIII Corps has ordered that the Commander of the 4th SS Panzer Grenadier Division be examined with regard to the false official report which was made knowingly.

"According to information available up until now, there is a striking parallel to occurrences in Klissura which also concerns the SS 7th Panzer Grenadier Regiment. After the submission of the results of the examination, a supplementary report by Corps Headquarters of the LXVIII Corps remains withheld.

"The Special Plenipotentiary of the Foreign Office who requested explanations of the occurrences is informed of the contents of the reports available up to now.

"According to a report of Radio Cairo, in the Greek language, on 15 July, Hull commented at a press conference on the occurrences in Distomon."

The initial "R" and at the bottom is typed, "Commander in Chief Southeast (High Command Army Group F) Ic/Army High Command No.5298 of 16 July 44" and it is certified to by an illegible signature "Colonel in the General Staff."

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And, if Your Honors please, the reference to Hull which is here made, it is submitted, refers to the then Secretary of State of the United States Cordell Hull, who will appear in a later document.

The 68th Corps which is referred to here is the Corps of the defendant Felmy and the Special Plenipotentiary of the Foreign Office who is referred to here is the Neubacher with whom we have been familiar before.

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Turning then to page 15 of the German, page 21 in the English Document [NOKW-467](#), which is offered as Prosecution Exhibit 494 in evidence this is a series of detailed reports covering the period June to December 1944 and one of January 1945 with reference to the prior exhibit, the action in the Greek town of Distomon.

The first communication is from the Commanding Officer of the SS Panzer Grenadier Regiment 7, the same Standartenfuehrer and Regimental Commander who wrote the earlier report, von Schuemers, dated 21 July 1944. It's addressed to the Commanding General of the 68th Corps and bears a stamp up at the right with reference to an enclosure, one, to the Army, that is, the Commander-in-Chief Southeast, the small stamp; and then there is a receipt stamp from the 68th Corps dated 23 July.

"Subject: Events in Distomon on 10 June 1944. Reference: Order by the Commanding General 9.7.1944" -- that is the 9th of July -- and it is addressed to the Commanding General of the 68th Infantry Army Corps, who was at that time the defendant Felmy.

"The investigation ordered regarding the events at Distomon on 10 June 1944 has been accomplished. The Regiment herewith submits for your information:

"Interrogations of the SS leaders of that company participating in the events at Distomon.

"Comment of the battalion commander "A statement by Corporal Koch of the Secret Field Police."

And that again, if Your Honors please, refers to the "Geheime Feldpolizei."

"Investigations were made to clarify the following points in particular:

"1) Does the shooting to death of the 12 prisoners who were exceedingly suspected of being bandits represent a breach of the Fuehrer order regarding the treatment of PWs?

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"2) Were reprisal measures against the village of Distomon justified and was the company commander empowered to order such measures to be taken?

"3) What factual errors and inexactitudes are contained in the combat report of the committed company and how can such deviations from the actual occurrences be explained?"

And then the report continues:

"On the basis of the results of the investigation, the regiment submits the following comment on the individual points of the investigation:

"To 1" -- and that has to do with whether or not the shooting to death of 12 prisoners who were exceedingly suspected of being bandits represented a breach of the Fuehrer order regarding the treatment of prisoners of war -- "The sequence of events regarding the shooting to death of the 12 prisoners is clarified by the interrogation of the SS Obersturmfuehrer Weichenrieder. They were men who were either suspected or convicted of belonging to bands. Since they attempted to escape while being arrested, they had in their possession parts of uniforms and detonation equipment, they were brought to Distomon as prisoners and were guarded by an entire group. As this group had to be employed except for one man and in addition attention seemed to have been diverted by the arrival of the company after the skirmish, these 12 prisoners attempted to escape. Some of them even succeeded in reaching a vegetable plot nearby.

"The use of arms in preventing the escape was a military necessity. The prisoners were shot while trying to escape.

"A procedure for negligent guarding of prisoners would have been the consequence if arms had not been used.

"The statements of Caporal Koch of the Secret Field Police do not contradict this description. Koch states explicitly that he was looking after the wounded interpreter Theo of the Secret Field Police during that period.

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According to his own statement, some of his statements regarding some details of the events in Distomon are not based on observations of his own.

"Summarizing the above, one may say that there was no transgression against the Fuehrer order regarding the treatment of prisoners of war. Rather convicted, or at least exceedingly suspicious bandits were shot to death during an attempted escape. The shootings did not fall within the framework of reprisal measures."

Then with reference to "2", this has to do with whether or not reprisal measures against the village of Distomon were justified and whether the Company Commander was empowered to order such measures to be taken, and I would just like to direct your Honor's attention again to these questions and the second question: "Were reprisal measures against the village of Distomen justified?"

"The interrogation of the Company Commander SS Hauptsturmfuehrer Lautenbach offers an impressive picture regarding the cooperation of the civilian population with the bandits. The guilt of the inhabitants of Distomon is proven by their assurances when questioned, that there are no bandits in the vicinity, while actually bands are in readiness at a distance of 500 meters. The inhabitants must have noticed this under any circumstances. During this interrogation SS Hauptsturmfuehrer Lautenbach at length explains the reasons why, as a soldier, he not only believed himself to be justified but even considered it his duty to take immediate measures.

"Tho regiment – in complete accordance with SS Hauptsturmfuehrer Lautenbach – is convinced that the competent authorities would have ordered reprisal measures against Distomon. This would have meant renewed enemy resistance and attacks and it would have meant a high fuel consumption because of the required large amount of troops. One should also consider the argument that immediate measures are considerably more effective than those taken at a later period."

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"No doubt that SS Hauptsturmfuehrer Lautenbach has gone beyond the limits of the orders for reprisal measures. However, he did not do so because of negligence or ignorance of the orders, or in a form which might be considered insubordination. Rather he believed that, in accordance with his duty and responsibility, he had fulfilled by the measures he ordered the sense of the reprisal order, even if he had transgressed the text.

"The communist bands in general are proceeding now not only to form rifle women formations but are also using women and children for espionage purposes, as communication agencies, because they have confidence in German humanitarianism which sometimes turns to softness. They train them for acts of sabotage and for throwing bombs (see i.e. Regimental reports on the enemy situation dated 10.6.44 and .7.7.44). The Company commander thought he would have to make an example in such a clear case of civilians belonging to a band, as happened in Distomon.

"Whereby the occupying power would prove with all clearness that it also know how to counteract the meanest and most vicious "warfare". If one side continuously disregards the laws of warfare and international law, it necessarily forces the other side to employ measures going beyond the usual framework of soldierly, combat between two chivalrous adversaries.

"Though I appreciate SS Hauptsturmfuehrer Lautenbach's idea from a soldierly end human point of view, I request to be permitted to punish him by disciplinary action, since "I cannot approve of his acting independently because on his own he overstepped the bounds which were laid down by order of superior authority."

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Then with reference to the third point which is contained in the initial paragraph of the communication from the Regimental Commander of the 7th Panzer Grenadier Regiment.

"What factual errors and inexactitudes are contained in the combat report of the committed company, and how can such deviations from the actual occurrence be explained.

"From the combat report submitted by SS Hauptsturmfuehrer Lautenbach the regiment immediately appreciated that SS Hauptsturmfuehrer Lautenbach had exceeded his orders. On the other hand it was clear that he had done so, gladly taking upon himself the responsibility. The regiment believed it had to cover SS Hauptsturmfuehrer Lautenbach. His procedure seemed to be merely a transgression against formality and corresponded to a natural soldierly feeling, SS Hauptsturmfuehrer Lautenbach who is one of the best company commanders of the regiment was to be guarded against incriminating himself with insubordination in his combat report. That is why the regiment suggested changing the form of some individual paragraphs of the combat report. Statements pertaining to losses of the enemy and our own remain unchanged. However SS Hauptsturmfuehrer Lautenbach unhappily changed the location of the fire attack in order to explain, to justify and to give the reasons for his reprisal measures, which were inwardly justified but which did not correspond to the text of the orders.

"In this manner, the combat report does not correspond in all points to the actual course of events. In regard to this also, I request permission to call SS Hauptsturmfuehrer Lautenbach to account. The suggestion of the regiment not to incriminate himself was misunderstood and misinterpreted by him after he realized he was not authorized to give the reprisal order.

"In consideration of the sacrifices which the regiment had to accept in a relatively large measure in its present area, I request that the matter rest with the disciplinary punishment of the case and not to direct further measures.

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In an understandable emotion, caused by the sad fate of their comrades, and 2nd Company, a unit particularly young and eager for combat, has made mistakes. The Company Commander was also in error. The regiment believed it ought to cover and excuse this action for reasons explicitly given above.

"Since the mistakes in the combat report are not due to any base motives, I again request permission to handle it by disciplinary proceedings."

Then there is a signature, which is illegible, of SS-Standartenfuehrer and Regimental Commander. Handwritten at the bottom, dated 22 July, 1944. The year does not appear, there appears:

"I agree to the procedure suggested by the SS-Standartenfuehrer and Regimental Commander."

And it is signed, "Felmy", and this is written in his own hand.

Then on page 19 of the German, page 26 of the English, is a report from the Third Battalion of the SS Panzer Grenadier Regiment No. 7, which is dated 20 July 1944, and over on the right is the statement.

"2 enclosures to Commander-in-Chief Southeast/ 1c No. 5924/44" These are minutes of an investigating officer, made by one SS Hauptsturmfuehrer Heske, SS Regimental Provost Marshal, recorded by SS Unterscharfuehrer Hillebrand:

"The person named below appeared by order of regimental commander. He was informed of the subject of the investigation and the legal consequences of untrue statements, and was interrogated as follows:

"1. Personal:

"I am Georg Weichenrieder, 24. I am on active SS leader and SS-Obersturmfuehrer. I am a platoon leader in the 2nd SS Pz. Grenadier Regiment 7. I am married and childless. I am a believer in God. I have no criminal record."

Now this man Weichenrieder is the one who is referred to in the letter from the regimental commander of the SS Panzer Grenadier Regiment to General Felmy, Commander of the 68th Corps, and that communication is dated 21 July 1944.

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The reference to Weichenrieder is on page 22 of the English, and page 15 of the German.

Subject matter:

"I gave the order to fire on the 18 Greeks attempting to escape, who were thoroughly suspect of belonging to bandits. The contents of the combat report of the 2nd SS Pz. Grenadier Regiment 7, dated 11.6. 1944 are correct. They are incomplete, or rather inexact, only inasmuch as the attempted escape took place in two different localities. The combat report does not express that clearly.

"First, 6 men shot to death in the area of the Palioklisi Ridge. The remaining 12 were captured. These 12 men attempted their escape in Distomen as parts of the company returned to Distomen on their way back from a reconnaissance mission to Stiri. It is probable that the arrestees considered this moment propitious for their attempt to escape. Only I guard was available to guard the 12 prisoners since he was the only one remaining from the original Guard Group after the rest of the men of this group had to be employed for combat tasks. Two of the 12 prisoners had already escaped to behind the house in front of which they were guarded. 3 others were even able to reach a nearby vegetable plot. The in part almost successful attempt to escape could only be interpreted as proof and admission of membership of a band. Since I had been charged with the responsibility to guard these bandits I was obliged to stop their escape by opening fire on the fugitives.

"Thus, it was not a matter of shooting to death within the framework of any reprisal measures, but it was rather a military necessity to prevent the escape of prisoners who had been recognized as bandits."

It is certified to by, "Heske, and a signature SS-Hauptsturmfuehrer and SS Regimental Provost Marshal". On the left:

"This has been read to me, approved, signed, Weichenrieder, SS- Obersturmfuehrer."

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On the next page, which is page 20 of the German, page 28 of the English, is a further report by the investigating officer:

"SS-Hauptsturmfuehrer Heske, SS Regimental Provost Marshal.

"Recorded by: SS-Unterscharfuehrer Hillebrand.

"The person named below appeared by order of regimental commander. He was informed of the subject of the investigation and the legal consequences of untrue statements, and was interrogated as follows:

"1. Personal:

I am Fritz Lautenbach, 27. I am an active SS leader and SS-Hauptsturmfuehrer. I am a Company Commander of the 2nd SS Panzer Grenadier Regiment 7. I am unmarried. I am a believer in God. I have no criminal record.

"2. Subject Matter:

I am acquainted with the orders pertaining to the treatment of prisoners and reprisal measures. I concede to not having followed them exactly in all points.

"The following considerations constitute the reasons for my procedure. Accompanying circumstances showed beyond all doubt that the assistance extended to the bands by the civilian population of Distomon was the only cause of our own losses. The competent authorities would also have subsequently ordered reprisal measures in accordance with orders. The execution of these reprisal measures would have necessitated sending a strong mission with corresponding high fuel consumption to Distomon at a later time. These troops in their turn would have had to count with enemy resistance and consequently with casualties of their own. In fact, on other occasions, there was particularly stubborn enemy resistance in this same area. As the orders themselves state again and again, reprisal measures have an impressive effect only if they follow the action to be avenged immediately, and not only after a longer period of time. In the face of the dead and wounded of my company, these considerations caused my decision to follow the sense and not the letter of the reprisal order.

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I understood clearly that my directives could be taken as formal transgressions. However, I figured that they would be approved post-factum on a soldierly and human basis.

"The regiment on its part pointed out to me that my combat report in its original version would incriminate me in regard to a transgression of orders issued, and that a new version was necessary. Thereupon, I rewrote the report. Whereby several unintended inexactitudes crept in, which however were not intended originally.

"Possibly one or the other formulations was influenced or limited by the dramatic and varied events of the 10 of June which in part were painful for the company because of the casualties.

"The 18 men shot to death in the areas of Palioklisi and in Distomon were all shot while trying to escape (6 of them were captured, the remaining 12 during an attempt to escape in Distomon). None of them was shot as a reprisal measure. The urgent suspicion that these civilians belonged to a band was founded on their behavior and the finding of blasting equipment and of parts of uniforms at the locality where they were.

"The shooting attack on parts of my company took place about 2 km. southeast of Distomon. Civilians from Distomon working in the fields energetically denied the presence of bandits. These civilians were

about 500 to 600 meters distant from the enemy positions which were situated in an approximate semi-circle around the column. On this assumption it is impossible for them to have overlooked the bandits' preparation to attack. The efforts of the civilians to lure the soldiers into ambush proved their previously arranged and conceded cooperation with the bands. For this reason, I believe myself justified in the immediate execution of reprisal measures. The previous behavior of the population led one to the logical and immediate conclusion that further attacks from the ambush, even from the village itself, would have to be counted on at any time. My measures also intended to stop losses which might possibly occur in the future. My first combat report, which I later rewrote, expressed this also."

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Certified, "Heske, SS-Hauptsturmfuehrer and SS-Regimental Provost Marshal". It is also signed, "Fritz Lautenbach SS-Hauptsturmfuehrer".

Then turning to page 22 of the German, and 31 of the English, this is a communication dated 20 July 1944:

"Reference: Letter LXVIII Infantry Corps to 4th SS-Pol. Pz. Gren. Div.

"Subject: Verbal order of the Regimental Commander.

"To the "SS-Ranzer-Grenadier-Regiment 7 "STATEMENT "The statement made against myself in the letter cited above requires the following clarification:

"The combat group SS-Hauptsturmfuehrer Lautenbach accomplished independently the mission I ordered for the reconnaissance in the area Arachowa-Distomen. I received a report of the development of the action via radio at battalion headquarters in Lewadia. Shortly before the combat group Lautenbach reached the village of Distomon, radio connection with it was interrupted. It was reconstituted only after the fighting was over.

"Immediately after the mission, the 2nd company was transferred to Lamia for the execution of an operation in the Sperchios Valley and subordinated directly to the regiment. Since the preceding events required a regimental report to the Army Command, the disputed combat report was produced in Lamia by Hauptsturmfuehrer Lautenbach and immediately sent to the regiment. This combat report was received by the battalion only later for information. For the above reasons, I still feel justified in having made the statements appearing in the last paragraph in my report dated 26 June 44 - Br. Diary No. 339/44 Secret."

Then on the next page, is a report from one George Koch, who has been referred to before, to the First Battalion of the SS Panzer Grenadier Regiment 7, dated 20 July 1944, and again enclosed 5 to the Commander-in-Chief Southeast, 1c, No. 5924/44.

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Koch is an under-officer in the Secret Field Police Group No. 510:

I wish to add the following to the events described by me in my report dated 12.6.1944.

"I was unable to make personally all observations of the events described in my report dated 12.6.1944. It was absolutely impossible for one individual to observe everything in an operation executed by two companies, since I myself did not participate in everything nor could I be everywhere at once. That is why by mutual agreement with the members of the company I have used statements and also the combat report of the company as a basis for my report. Neither have I made any observations which would contradict the statement of SS Obersturmfuehrer Weichenrieder which has been read to me since. As explained in my statement dated 2.7.1944, I spent some time looking after our interpreter who was lying in the market place.

(Signed) Koch Unteroffizier" Then there is a personal pencil notation:

"1A IF. In answer to special inquiry [R 19/7](#)" I think that is all we have to say about it.

In looking at this document and the previous one, your Honors will please see the large figure 22 D, on this and other documents. On this one I do not know what it means, unless it is some sort of an identification or number that they put on to connect some of these papers.

The next is on page 25 of the German, page 33 of the English, which is from the Commander in Chief Southeast, Commander in Chief Army Group [F 1c](#)/AO No. 4506, secret, dated 20th June 1944.

Then if your Honors please, this is the file number that we have referred to before, the first time that was used was on page 2 of this book, and it was later used in July on page 1 of this book, and now they are using it again:

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"Events during fighting in Distomon.

"According to the combat report of the SS-Panzer Grenadier Regiment 7, the village Distomon was attacked during fighting with bands on the road Lewadia-Amfissa on the 10.6 and after a mopping up operation of the village, 250 to 300 dead band suspects and band members were counted. In other reports submitted by a Secret Field Police Unteroffizier of the Secret Field Police Group 510 who participated in the action Distomon was reached without fighting. The fighting with a band took place near Stiri (5 km. Southeast of Distomon) and the inhabitants of Distomon were shot dead only after the finish of the operation Stiri and the return of the troops. Accordingly, in contrast, to the report of the troops, it would have been a reprisal measure. Interrogated by the Corps Judge of LXVIII Infantry Corps, the Unteroffizier of the German Secret Field Police fully reaffirmed this report. Corps Hqs. of LXVIII Infantry Corps ordered the commanding officer of the 4th SS-Pz. Gren. Div. to make an investigation of the entire incident because of deliberately false official report.

"The records available up to this point show a striking parallel to the events at Klissura which also concerned Pz. Gren. Regiment No. 7. Supplementary report after submission of the results of the investigation by Corps Hqs. of the LXVIII Infantry Corps is reserved.

"The special plenipotentiary of the Foreign Office who has asked for an explanation of the events has been informed as to the contents of the reports available up to now.

"According to radio Cairo in Greek of 15.7, Hull has commented on the events in Distomon during a press conference."

This is certified to by one, "Harling".

Now on page 26 of the German, and 35 of the English, this is a teletype to Army Group E.

"Subject: Fighting in Distomon".

And this again comes from the Commander in Chief Southeast, High Command Army Group F: "You are requested to request Corps Headquarters of the LXVIII Infantry Corps to submit speedily the results of the investigation re Distomon asked for by the 4th SS Panzer Grenadier Division". The signature here is typed, but at the left is signed, "Certified, v. Harlingm Lt. Colonel". And then the next report-

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PRESIDING JUSTICE CARTER: I believe that this is a convenient time to take our afternoon recess.

(Recess taken).

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THE MARSHAL: Tribunal 5 is again in session.

PRESIDING JUDGE CARTER: You may proceed, Mr. Denney.

MR. DENNEY: May it please Your Honors. Page 24 of the German, Page 35 of the English, Document No. [NOKW-467](#), which is Exhibit No. 484 in evidence, is a teletype from the Commander in Chief, Army Group F and Commander in Chief Southeast, to Commander in Chief, Army Group E, again with reference to the fighting in Distomon. This is another copy of the same telegram which has just been read, and I don't think we need to read it. It bears pencilled notations which are apparent. And then on the next page, Page 26 of the German, Page 36 of the English - this is to the Wehrmacht Operational Staff, and it's from the Commander in Chief of Southeast and again refers to fighting in Distomon, and the reference is 4506, which goes back to that communication on page 2 of this Document Book, which has to do with Kassura. That is the communication of June 20, 1944 from Weichs, as Chief of Staff to the OKW.

"According to the combat report of the SS Panzer Grenadier Regiment 7, the village Distomon was attacked during fighting with bands on the road Lewadia-Amfissa on the 10.6." And this continues, and I believe there's another copy of the same report which we had a little earlier. Yes, this is the same one which was offered as Exhibit No. 483, and I don't think we have to read it again here. And then the next page of the document is all typewritten and is dated 16 July 1944. It says: "Yesterday, British bombers attacked the German flying bomb base in Licour Northwest of Paris. Flying bombs dropped on the area of London and Southern England last night and today." And I don't think we have to read any more until we get down to the bottom of the page, which is Page 27 and 28 of the German and Page 38 of the English, where it says, "In connection with the destruction of the Greek village of Distomon by

the German," and then there is the "Cordell" which should be Cordell Hull, and then as follows: "The execution of the village residents is one more example of the terrorist Reich which the Nazis have brought about in Europe.

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They are getting wilder from day to day because they recognize more and more the approach of the day of retaliation. The Allied Nations will punish the criminals." And then ever on Page 29 of the German, Page 39 of the English, is a letter of 10 July 1944 from Army Group E to High Command, Army Group F, Commander in Chief Southeast, and it bears the receipt stamp of the Commander in Chief Southeast for 12 July, Subject: Events during fighting in Distomon. "Enclosed you will find a report of the commanding general of the LXVIII Infantry Corps with four enclosures as well as a letter addressed to the Commanding Officer of the 4th SS Polizei Panzer Grenadier Division for the purpose of a renewed investigation regarding a deliberately false official report from the SS Panzer Grenadier Regiment 7. Obviously it is a similar case to that which happened at that time near Klisura." Here as there the incidents reports pertaining to the SS Panzer Grenadier Regiment No. 7.

"In connection with the incidents themselves, it is pointed out that the regimental commander has reported that the orders issued from here concerning combatting of bands are known and allegedly were acted upon. The report of the investigation by the commanding officer of the 4th SS-Pol.Pz. Gren. Div. as ordered by the commanding general will be submitted in due course. It does not seem impossible that the statements of the member of the Secret Field Police will be voided by the testimony of witnesses of the participating unit, SS Pz, Gren. Regt. 7. The final result is to be awaited.

As can be seen from the letter of the Commanding General, envoy Neubacher has requested submission of a report of the events. It is requested that envoy Neubacher be informed accordingly from there."

And then it is signed "For the High Command of Army Group E, Chief of the General Staff, Schmidt-Richberg." And the next document Page 30 of the German, Page 40 of the English, is from the Corps headquarters, 68th Infantry Corps, The Commanding General, who was, at that time, the Defendant Felmy, and it's dated 4 July 1944, and is addressed to Army Group E, and it bears their receipt stamp for 6 July.

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"I am enclosing for the Army Group a report on the events during the fighting in Distomon dated 10.6.44. According to it, the SS Pz. Gren. Regt. 7 has submitted a knowingly false official report.

Envoy Neubacher has requested that a report be submitted from the local branch office regarding those events. I have asked the Branch Office to reply to the effect that the report has been submitted to Army Group E."

And this is signed by the Defendant Felmy. And then on the next page is another communication, again from Corps headquarters of the 68th Corps, at that time commanded by the Defendant Felmy, which is dated 4 July 1944. And this is again an enclosure to the Commander in Chief Southeast/Ic, No. 5298, and is addressed to the Commanding General of the 4th SS Panzer Division, "or his official deputy."

"The enclosed combat report of the operations of the 2nd Company SS Pz. Gren. Regt. 7 on the 10.6.44 pertaining to the fighting at Distomen has been submitted by SS Pz. Gren. Regt. 7.

Enclosure 2: This report and the official report rendered therein is deliberately false.

Under Number 1 of the combat report appears the following: . . . Civilians and bandits opened fire on an approaching dismounted platoon. 18 younger men were shot while trying to escape, while we ourselves were rapidly advancing.

The facts are that no one shot at the troops from the fox holes which had been searched, that 6 Greeks who attempted to escape were shot dead and that the other 12 were arrested. Under number 2 of the combat report appears the following: Fire was opened suddenly against the company from the direction of Distomon with trench mortars, machine guns and rifles even before Distomon was reached.

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The company suffered its entire casualties during this first fire attack; 5 men were killed, 18 leaders, subleaders and men were wounded, of whom 4 heavily wounded have died in the meantime at the medical central collecting point. Thereupon, I ordered the opening of fire and the attack on Distomon with all weapons at our disposal. After the mopping up of the village 250 to 300 dead members of bands and men suspected of belonging to bands were counted. Immediately following, the rest of the houses were burned down.

The facts are that Distomon was reached without contact with the enemy and that the troops remained several hours in the village without any action on the part of the enemy.

The fire attack of the partisans took place during a thrust of SS-Hauptsturmfuehrer Lautenbach with a light motorized column from Distomon in the direction of Stiri, about halfway on the road Distomon Stiri. After the return of the troops, reprisal measures were executed on that civilian population which had remained in Distomon. During that time the 12 prisoners who had been brought along were shot dead.

The shooting to death of prisoners is a transgression against the order of the Fuehrer who has determined that all prisoners of war are to be sent to Germany for labor employment. The behavior of the SS-Sturmbannfuehrer and battalion commander Hickert, has not only made the counter propaganda of the Corps Hqs. valueless, which was based on the combat report, but due to it, I no longer have any lever to take steps against the district chief of Lewadia.

Besides, the procedure used by SS Sturmbannfuehrer and battalion commander Rickert does not correspond with the orders issued by the Corps Hqs. Concerning this he says in his report dated 26.6.44 (diary) No.599/44 secret in the last paragraph:

I am acquainted with all orders issued pertaining to reprisal measures and shooting of hostages and I may assume that the superior authorities have confidence in me, that as an officer I will execute my tasks within the framework of these orders:

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the strong accusations which I must make against SS Pz. Gren. Regt. 7 are based on the report of Group Secret Field Police 510 T.B. (daybook entry and the day) as well as on the interrogation based on that report of Unteroffizier Koch of the Secret Field Police 510 by the Corps Judge of the LXVIII Infantry Corps, Oberkriegsgerichtsrat Giesecke.

I request the Commanding Officer of the 4th SS-Pz. Gren. Div. to start an investigation of the entire incident and to report its results to me.

Attached: Enclosures 1 to 4.

(signed) Felmy And then enclosure 1 to this is from the Group Secret Field Police 510, Office No. IV, Diary No. 425/44:

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"Subject: Operation for the purpose of freeing the road LewadiaArachawa on 10.6.44.

"Report.

"The 2nd Company of the SS-Pz. Gren. Regt. 7 with Lewadia as a base, supported by the 10th and 11th Company, with the base Arachawa, executed an operation to free the road Lewadia-Arachawa on 10.6.44. Attached to the 2nd Company during this operation were Unteroffizier Koch and interpreter Theo, who belong to the local unit.

"The fully motorized 2nd Company left their base in the direction of Arachawa at 8:15 o'clock of the 10.6.44. In order to deceive the bandits a civilian detachment of 18 men was employed. This rode in advance of the company on two Greek trucks at a fifteen minute interval. The civilian detachment contacted the units of the 3rd Btl., 7 Rgt, two kilometers west of the road fork Lewadia-Arachawa - Lewadia-Distomon at 0850 hours without contacting the enemy.

Twelve Greeks were arrested who were found in the dugouts situated five kilometers east of the road fork and one kilometer north of Palioklisi while these were being searched. At our approach six Greeks attempted to escape, whereupon they were shot dead.

"After completion of the actual mission SS-Hauptsturmfuehrer Lautenbach, who commanded the 2nd Company, received a new mission from the battalion. Together with the 10th Company he was to thrust ahead for reconnaissance to Distomon. It was not possible to take over the village at the same time. In Distomon the Burgermeister and the priest of Stiri informed us of the appearance in Distomon of about 30 bandits, who had arrived from the direction of Dessina on 9.6.44 about ten o'clock and left again about 1500 hours of the same day in the direction of Stiri. On 10.6.44, about ten o'clock, the bandits were said to have left Stiri in the direction of Kiriaki. Information was further received that the band leader of the 3rd Battalion, 34-Elas Regiment, who was known under the pseudonym 'Mawrojannis', might have been killed in combat near Dessina.

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"The 10th Company having left Distomon about 1430 hours, SS-Hauptsturmfuehrer Lautenbach decided to thrust ahead as far as Stiri for the purpose of reconnoitering the cross country and road situation. He took a light motorized column consisting of two Greek trucks, three passenger cars, and three motorcycles. The headquarters of the local unit also took part in the reconnaissance trip in order to undertake a further reconnaissance of the band situation in Stiri.

"When the head of the civilian detachment was about 700 meters northwest of Stiri - about 1510 hours - the column received strong machine gun and rifle fire from the ridges situated east and northeast of the road. Due to the lack of cover and the insufficient distance between the vehicles, most casualties occurred immediately after firing had commenced. For this reason the immediate deployment of the combat group and the opening of our own fire was not possible. Furthermore no heavy weapons had been taken along. The bandits also employed an 8 cm. trench mortar so that the fire of the bandits covered the entire area in which the combat group found itself. The enemy was in good positions and about 30 to 35 men strong. Alerted by red flare signals and the noise of the fighting, the troops which had remained in Distomon advanced for support. After our own weapons had been fully committed, the bandits took flight in an easterly direction. We followed them immediately. But a continued pursuit of the bandits was considered irresponsible because the combat group had been much weakened if one deduct casualties and medics as well as security troops. For this reason, the losses of the band could not be ascertained. However, it is very probable that the band had suffered losses since numerous traces of blood were found in their positions.

"The company returned to Distomon about 0730 hours. The view prevailed that the population was thoroughly informed regarding the position of the bandits because, oddly enough, there wasn't a human being tilling the soil in the fields situated within the zone of attack.

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For this reason, the twelve prisoners and the population still remaining in the village were shot dead and a part of the houses set on fire.

"Immediately at the opening of the surprise fire, the interpreter Theo of the local unit was heavily wounded by a shot through the upper part of the thigh and stomach. He died from his wounds during the night of the 11th-12th of June. Unteroffizier Koch of the local unit was lightly wounded by a shell splinter.

"The heavily wounded were transferred to the main medical collecting station Amfissa.

"The company left Distomon to Lewadia about 1230 hours.

"Casualties: 3 dead; 18 wounded, of whom 4 died at the medical collection station; 1 Greek truck driver dead.

"Signed: Koch, Unteroffizier and Auxiliary Police Candidate."

And down below is typed: "Read: Signed signature Feldwebel and deputy unit chief."

And next again, which is all typed, and is the second enclosure, is the report of the SS-Sturmabführer and deputy regimental commander, with reference to "Operation near Distomon; Reference: Telephone call today from your Ic".

"To the Corps Headquarters, LXVIII Infantry Corps.

"Enclosed we are submitting a copy of a combat report concerning the operation near Distomon. In connection with it I wish to state that resistance was broken at my explicit order according to which enemy resistance was to be broken with all means at our disposal. All available weapons were employed before the company took the village by assault in order to avoid unnecessary losses above those which had already occurred.

"The descriptions of the prefect of Lewadia are immeasurably exaggerated and are thoroughly characteristic of the peculiar attitude of the person concerned. It is regrettable that innocent civilians lost their lives or were wounded in the skirmish, but in such cases this can not be avoided, particularly if the bandits open fire from ambush with trench mortars, machine guns, and rifles."

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And then the rest is typed.

And then on the next page is the communication from Corps Headquarters, 68th Infantry Corps, dated 2 July 1947, and has to do with the affairs in Distomon, and a statement signed by Unteroffizier Koch of the Secret Field Police Group 510:

"Unteroffizier Koch of the Secret Field Police Group 510 appears by virtue of an order. Having been informed of the object of this interrogation, of the significance of his statement and also the possibility that he may have to swear to it, he states as follows:

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"1) My name is George Koch, 30, Protestant. I am a professional waiter, Unteroffizier with Group Secret Field Police 510.

"2) Subject: the statements I made in my report of 12.6 about the operation for the purpose of freeing the road Lewadia-Arachowa on 10.6, correspond entirely to the facts. I make this report the subject of my interrogation today. I myself participated in the entire operation and was able to observe and follow the individual events.

"A.B.: 1) The Troops were not fired at from the dug-outs which were searched - 5 kilometers East of the road fork Arachowa-Distomon. 12 persons were captured and taken along to Distomon.

"2) Distomon was reached without making contact with the enemy. The troops remained several hours in the village without any action on the part of the enemy.

"3) The fire attack of the partisans took place on the occasion of the reconnaissance thrust on Stiri, halfway on the road between that place and Distomon.

"4) After the troops returned to Distomon, the 12 prisoners who were taken back were shot dead in the market place as reprisal measures, assumedly by order of an Obersturmfuehrer who most likely was present during that incident. Subsequent to that, all people present in Distomon were shot dead where ever they happened to be. At that time, I was at the market place and was looking after our wounded interpreter. As far as I observed events, 60 to 70 persons men, women and children – were killed in the vicinity of the market place. As far as I could see it, all were shot dead. I did not see inhabitants being killed in any other way, i.e. beaten to death by rifle butt, or by pouring gasoline over them and setting them on fire. Detachments were sent out to search for more people in the individual houses. I do not know how many people were killed all together. When presented with the statement that his statements directly contradict the combat report of the unit employed, I can only repeat my statements.

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I have read SS Hauptsturmfuehre Lautenbach's combat report, the statements of which are essentially the same as found in my representation, particularly SS Hauptsturmfuehrer Lautenbach stated that the fire attack of the bandits did not take place before Distomon but only after the reconnaissance thrust between Distomon and Stiri.

"I am ready to swear to the above statements.

Approved Signed George Koch Certified:

signed Giesecke" Signed over at the left -- all this is typed -- "Pauschel and Feldwebel."

And this communication again bears the note that it is enclosure 6 to the High Command Southeast No. 5298/44.

Then on the next page is the copy of the combat report of that SS Panzer Grenadier Regiment No. 7 signed by Hauptsturmfuehrer Lautenbach concerning the employment of the II SS Panzer Grenadier Regiment 7 on the 10th of June, 1944, and this is dated the 11th of June.

"Mission of the company: To push ahead on the road LewadiaAmfissa to Arachowa. To mop-up the bases of the bands which are said to be on that road. Encirclement of the village of Distomon.

"Parts of the Company employed for this purpose: 2 : 12 : 80.

"And in addition: 1 Unteroffizler and 1 Interpreter of the Secret Field Police and 2 Greek truck drivers."

And it is submitted the numbers: 2 : 12 : 80 refer to officers. This is on page 36 of the German, I believe.

JUDGE WENNERSTHUM: Pardon me, Mr. Denney. I seem to have drawn a blank for page 51.

MR DENNEY: Page 51? I am sorry, your Honor, there is nothing I can do about it now. There is nobody here with another book. I will be glad to get your page.

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JUDGE WENNERSTRUM: Page 51 of Book 21.

MR. DENNEY: Yes, sir.

JUDGE WENNERSTRUM: Pardon me, Mr, Denney. Judge Carter calls my attention to the fact the pagination at the top is 31 and it is numbered 52 at the bottom of the page. Maybe that accounts for it.

MR. DENNEY: Well this -- what page do you have, sir? You say you don't have 51?

JUDGE WENNERSTRUM: But it is listed as page 52 at the bottom.

MR. DENNEY: Well, that is wrong. It must be there are two 52's in your book then?

JUDGE WENNERSTRUM: It doesn't make any difference, just so I have everything I am supposed to have.

MR. DENNEY: Your Honor, it is submitted that the figures submitted at the bottom there: 2 : 12 : and 80 men, officers, non-commissioned officers and men.

Then over on page 51:

"Distributed as follows: 1 civilian detachment, numerical strength 4 : 14." Now I would like to call your Honors' attention to that. It says "one civilian detachment, numerical strength 4 : 14."

It figures up about 2 : 12 and 80. Officers, non-commissioned officers and men. One civilian detachment, numerical strength 4 : 14.

"1 interpreter "1 operational detachment, numerical strength 2 : 8 : 66.

"1 uffz. of the secret field police in addition."

Now if you will go back and add these figures up, the totals, it is submitted, two under one operational detachment, numerical strength. Two--that takes care of the two officers. The second figure there, eight, being non-commissioned officers, one operational detachment, numerical strength. Two--that takes care of the two officers. The second figure there, eight, being non-commissioned officers, one operational detachment, numerical strength two and then eight. You add the eight and the four and you get twelve.

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Twelve is the number of non-commissioned officers they list in the parts of the company employed for this purpose.

And the last figures, fourteen, in the civilian detachment, numerical strength and operational detachment, numerical strength, 66--you get 80. So it is perfectly plain from this that they have a civilian detachment, if they call it civilian detachment, which obviously are people just in civilian clothes sent out ahead who are part of their troops.

"Take off of the civilian detachment: 0800 o'clock of the operational detachment: 0815 o'clock.

"At 0850 hours the civilian detachment contacted 3rd Battalion of the Regiment two kilometers West of the road fork Lewadia-Arachowa, Lewadia-Distomon without coming into contact with the enemy.

Single Greek civilians were observed by the operational detachment 5.

"1) kilometers East of the road fork, 1 kilometers North of Paliokisi. There were in 3 small dug-outs with a herd of sheep consisting of about 30 animals. When a dismounted platoon approached the civilians and bandits opened fire on them. During our own penetrating advance, 18 younger men were shot while trying to escape.

"2) In connection therewith, the village of Distomon was to be encircled immediately by order of the regiment, as it was known that heavy skirmishes had taken place nearby on the preceding day and that bandits had been in the area of Distomon during the night and on the morning of the same day. Before Distomon was reached fire was suddenly opened against the company with mortars, machine gun and rifle from the direction of Distomon. This first fire caused the entire casualties of the company; 3 men were killed, 18 leaders, subleaders and men were wounded, of whom 4 were heavily wounded and have died in the meantime at the main medical collecting point. Thereupon I ordered the opening of fire and the attack on Distomon with all available weapons.

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After the mopping up of the village we counted 250 to 300 dead men suspected of belonging to bands or members of bands; immediately following the rest of the houses were set on fire. The company left Distomon at 1830 hours for Lewadia.

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Then there is a list of the casualties:

Damage to vehicles: Two motorcycles and five other vehicles received damages ranging from tires shot through, shot through fuel tank, a broken frame and shot through the radiator, and in view of the documents, which have gone before, particularly the statement of Kock, I should like to call your Honors' attention to the consumption of ammunition:

Light machine gun, 3,050 round; rifle 962 rounds; pistol ammunition 1385 rounds; 33 hand grenades; 44 mortar shells.

And at the end of it there is typed Lautenbach, SS-Hauptsturmfuehrer and Company Commander.

And enclosure 3 to this report and enclosure 5 to Commander-inChief Southeast 5298/44 and the 1st SS Panzer Grenadier Regiment 7, communication of 24 June 1944 referring to Corps Headquarters, LXVIII Infantry. This is addressed to the regiment and it is from the Battalion Commander.

The combat report concerning the operation in the area of Distomon has been submitted to the regiment with pertinent comment. The rumors which emanated immediately concerning at least 1200 dead and the desecration of the dead bodies were denied by me to the prefect of Lewadia immediately after the clarification of the facts.

"A member of the Kopais who himself has a family in Distomen told Dr. Magers that about 270 persons lost their lives during the combat at Distomon. Dr. Magers told me that personally on the 22.6.

"In my capacity as leader of the security sector, I refuse to comment on the rumor – no matter where it has emanated from – that mass executions have taken place in Lewadia or that 300 residents were shot as hostages. I am acquainted with all orders issued pertaining to reprisal measures and shooting of hostages and I may assume that the superior authorities have confidence in me that as an officer I will execute my tasks within the framework of these orders."

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And the next communication teletype, draft which is from the Commander-in-Chief Southeast to the Armed Forces Wehrmacht Operational Staff and again has to do with the Commander-in-Chief Southeast No. 5298. That is the communication of 16 July 1944. which we had earlier in this same document.

"The concluding report of the SS Panzer Grenadier Regiment 7, dated 21.7 of this year shows that the combat report regarding the band operation near Distomon on the 10.6 did not correspond to the actual course of fighting. The Commanding Officer of the SS Panzer Grenadier Regiment 7 has asked for permission to limit further investigation of this case to disciplinary punishment in consideration of the sacrifices of the regiment in the combat area at the time. The Commanding General of the LXVIII Corps has agreed to a disciplinary procedure."

"The special plenipotentiary of the foreign office has been informed of the result of the investigation."

And it is certified to by Commander in Chief Southeast (High Command Army Group F) "von Harling Lt. Col.

General Staff Corps" And down at the bottom again appears this large 22D, and of course the LXVIII Corps Commander at that time was defendant Felmy and the Commander-in-Chief Southeast was defendant Weichs.

Now the next page is a communication dated 3 August 1944 and it is from Army Group E to the Commander in Chief Southeast, High Command Army Group [F having](#) to do with a teletype 5298/44, the teletype of 18 July which was referred to earlier. And again it has to do with the fighting at Distomon:

"Enclosed we are submitting the concluding report of the SS Panzer Grenadier Regiment 7, regarding the events at Distomon. The Commanding General of the Corps Hqs. LXVIII Infantry Corps imparted to the Regimental Commander orally his opinion appearing at the end of this report."

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Then on page 43 the teletype to OKW from the Commander in Chief Southeast, "Events during the fighting at Distomon," and this again refers to 5298, "The concluding report of the SS Panzer Grenadier Regiment 7, dated 21.

7 of this year shows that the combat report regarding the band operation near Distomon on the 10.6 did not correspond to the actual course of fighting. The Commanding Officer of the SS Panzer Grenadier

Regiment 7 has asked for permission to limit further investigation of this case to disciplinary punishment in consideration of the sacrifices of the regiment in the combat area at the time."

And this of course is the same communication that we had earlier. However, this has the Commander in Chief Southeast, High Command Army Group F. Excuse me, this is the same as the earlier communication that we had. There is no need to read it again.

JUDGE BURKE: Mr. Denney, do you have information regarding the present whereabouts of the envoy Neubacher?

MR. DENNEY: I do not, no, sir. I know of no one who does, however, I can make additional inquiries and see if there is anyone who does have information about him.

The next document [NOKW-1715](#) is an affidavit executed in Berlin by one Erwin Lenz. It is offered as prosecution Exhibit 485 in evidence.

DR. LATERNSE: Your Honor, I object to the submission of this affidavit the best evidence should be submitted and if this affidavit is accepted, I would like to ask the tribunal to instruct the prosecution that the witness -- that this man who made out this affidavit should come to Nurnberg as witness for cross examination.

MR. DENNEY: Of course, we will make every effort to get him here as a witness and if we can't get him here for Dr. Laternser to cross-examine him, why the Court upon motion by Dr. Laternser it is to be assumed will order the affidavit withdrawn.

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I might say in connection with the admission of affidavits in these trials that it was originally proposed before Tribunal I by defense counsel, and this affidavit is made in the form which defense counsel have set up and we have no objection at all to trying to get the man here if we can and if we can't get him here, why the Tribunal can give such weight to the affidavit or reject it as they see fit.

PRESIDING JUDGE CARTER: I think the exhibit will have to be admitted on that theory. However, I think the defense counsel are entitled to have the man here for cross-examination if he can be obtained.

MR. DENNEY: Certainly, your Honor, if we can get him down here, we will. It was in May when he gave the affidavit he was in Berlin and if he can't be here, why certainly we don't maintain that we can put affidavits in and not produce somebody to be cross-examined about it.

PRESIDING JUDGE CARTER: All right, with that understanding you may proceed.

DR. LATERNSE: Your Honor, naturally it was always the rule that affidavits could be submitted but if somebody objects, either the prosecution or the defense, then the man who made out the affidavit has to come to Nurnberg for cross-examination, and I should like to have this rule observed also in this particular case.

DR. GAWLIK: Gawlik for the defendant Dehner. Your Honor, it has not been proved who this man Henry Sachs is, the man who took the affidavit, whether he is a person at all who is in the position to take such an affidavit and receive it and in the Tribunal, the IMT, it was the rule that the prosecution had to prove that it was a person who was able and was in the position to receive oaths.

MR. DENNEY: Well, this is similar to the affidavits which have been used throughout these trials. I have no personal knowledge of Mr. Sachs at this time. However, I can assure the Court that he is as qualified to take an affidavit as anybody else that we have had taking them, ever since we have been here.

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PRESIDING JUDGE CARTER: The affidavit will be received with the understanding that if the witness is not produced for cross-examination, that the affidavit may be stricken on motion of the defense.

"I, Erwin Len z, Berlin-Zehlendorf, Hilssteig 7, having been instructed that false statements will be punishable herewith declare under oath voluntarily and without compulsion:

"I was born in Berlin-Spandau on 12 April 1914 I attended elementary and intermediate school in Spandau and the Professional Business School in Berlin. Subsequently, I was employed as apprentice with the Aron-Works (later Heliowalt-Works) in Berlin-Charlottenburg. In March 1937, I was arrested by the Gestapo for Anti-Nazi Activities. On 30 November 1937, I was sentenced to prison (Zuchthaus) for 2 3/4 years. In December 1939, I was released. Having been declared at first unworthy of bearing arms, I was drafted in February 1943 and assigned to the 999th Division in which were many political ex-prisoners. In May 1943, I was sent with my detachment to Greece and from Athens, I was sent by plane to the Airport of Gaddura on the Island of Rhodes. I was attached to the staff of the IV Battalion of 999th Artillery Regiment where I was employed as a surveyor and map maker. At that time our Commanding Officer Major Winter who came from a small town in Hesse.

The unit mentioned above was the only German Artillery Battalion stationed on Rhodes at the time. Consequently, it was not subordinate tactically to any Artillery Regimental Staff but, it was directly subordinate to the staff of "Assault Division Rhodes". - The first fixed garrison of our staff was on the Mountain of Monte di Mezzo in the valley of the Torrente Lutani till September 1943.

"Up to this date the Island was under a purely Italian Command which had the above mentioned German Division attached to it as support. However, when Italy surrendered at the beginning of September 1943, the Italian troops on Rhodes were disarmed and became prisoners of war excepting those who put themselves at the disposal of the Germans as so-called voluntary helpers or voluntary combatants.

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"In June 1944, German soldiers whose names I do not recall who had worked as drivers at the AirPort of Gaddura told me that two senior SS Officers had arrived there by special plane. This fact was particularly remarkable since there were no SS troops on Rhodes. -Other German soldiers whose names

I do not recall either told me later that these SS Officers had called on the Staff of Major General Kleemann (Commander of "Assault Division Rhodes"). There extended conferences had taken place but nothing could be found out regarding them. After a few days however, posters were put up all over the Island in four languages (Greek, Turkish, Italian and German). These posters demanded under threat of punishment that all Jews living on Rhodes move their residence within a prescribed short time limit to certain localities which were situated on the North Coast of the Island. Among these villages were Trianda, Cremasto, Villanova, Belpasso etc. The posters were signed by Major General Kleemann. A short time later, German soldiers told me that the Jews who had been in the above mentioned villages were transported to barracks near the city of Rodi. They were not permitted to leave this building and the entire compound was under guard. Then a few days later, the transport from the barracks to the port of the city of Rodi took place.

"On that day, I went to the Dental Hospital in Rodi and there, I myself observed the following: The Jews (approximately 1200 men, women and children, the larger part of whom were called Egeo Citizens, and Italian designation for the inhabitants of the Dodecaness Islands) had to line up close to the old fortifications facing to the wall. They carried hardly any baggage. I asked some German Soldiers employed to confine and guard them about it and they told me that the Jews would not require any baggage since he wouldn't live much longer. - It was a very hot day. Greek and Turkish civilians who wanted to give drinks and food to the people waiting for the transport were not permitted to pass the blocked area.

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Beyond that, Jews turning away from the walls were instructed in the "correct position" with kicks and rifle butts.

"In the afternoon, they were embarked on several old barges. Anyone could see that they were not fit for an extended sea trip. German sailors standing around in the port area told me when I questioned them that a rather long trip was not intended but that the situation would have been taken care of after a few sea miles. I could not get any more detailed explanation. On the occasion of another visit to the Dental Hospital a few days later, two sailors, stating that they had been on the barge with the Jews, told me voluntarily that the vents on the ships had been opened at some distance from the Island. They themselves had returned to Rhodes on the life boats and the ships with the Jews on board had been left to their fate which means that all passengers were drowned. Unfortunately, I was unable to ascertain the names of these two sailors.

At that time, that is in June 1944, Major Matthes was the Commanding Officer of the IV Artillery Battalion, to the staff of which I had been assigned and which was located in the village of Psito. Before the war Matthes was a Protestant minister in Erfurt and is now a prisoner of war in British custody in Egypt. As far as I was able to ascertain he did not participate in the deportation of the Jews.

"In June 1944, the battalion mentioned above was subordinate to the 677th Artillery Regimental Staff for special purposes which was located in the village of Peveragno. Colonel Weissenburg was the

Commander of this Staff. According to my investigations Weissenburg also does not seem to have participated in the operation described above.

"This regimental staff was in turn subordinate to the staff of "Assault Division Rhodes" mentioned previously. Its Commander was Major General Kleemann who also has been mentioned above (simultaneously Commandant of the Island of Rhodes and Commandant Eastern Aegean.)

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To the Eastern Aegean Sphere of command belonged besides Rhodes the Islands of Skarpanto, Caselrosso, Simi, Calchi, Nisirio, Piscono, Co, Leros, Samos and others. The above mentioned order to the Jews was signed by Kleemann and he may have been primarily responsible for the deportation described, although he may have received orders for it from the two SS Officers. In August 1944, Kleemann was promoted to Lt. General of Panzer Troops and transferred from Rhodes to the Southeast front. The last time I heard of him was in the OKW report of about January 1945 which stated that German troops under the leadership of General Kleemann had repelled thrusts of the Soviet troops in Hungary.

"The "Assault Division Rhodes" belonged to Army Group E, the Commander of which was General Loehr, A few months ago, Loehr was sentenced to death and shot in Belgrade for war crimes committed in Yugoslavia. I doubt that Loehr had ordered the deportation of Jews from Rhodes for as a Luftwaffe General he would certainly not have sent two SS Officers to transmit his orders.

"The soldiers employed to guard and confine the Jews belonged to a battalion of the Grenadier Regiment Rhodes (also Assault Division Rhodes). Its Commanding Officer was a Colonel Schulenburg (or something like that). I can no longer recall the number of the battalion concerned nor the name of its commander. However, Herr Gottfried Spachholz who is now living in Bamberg, Weide 3 will be able to name them, and also many details regarding the deportation. -- Spachholz was also assigned to IV Battalion 999 and, since he is a painter and sculptor by profession, he was detached to the city of Rodi for the purpose of painting pictures, etc. There he lived in the museum. At the time of the deportation Spachholz was constantly in Rodi and he is in a much better position than I am to give information regarding the whole affair.

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Furthermore, due to his good knowledge of Italian, he had good personal connections with many residents and he can surely give the names and addresses of many Italian and Greek civilians who will confirm the events depicted above.

"After the deportation, in order to counteract rumors, German officers and other superiors spread the story that the Jews had not been drowned but had been taken to the Island of Co.

"Though during the following months and later as a British prisoner of war in Egypt, I had asked many soldiers formerly employed on Co regarding this, no one could confirm that Jews from Rhodes had ever arrived in Co.

"As a supplement to the deportation, I should like to make the following statement:

"After a part of the German Occupation Troops on the Island had been evacuated and after the withdrawal of the German troops from Greece in the fall of 1944, starvation began on Rhodes, due to supply difficulties the effects of which also were felt by the German troops still remaining on the Island. The Staff of the IV Battalion of the 999th Regiment at that time was located again in Psito. One day, I found on the desk in the room of our adjutant and Nazi Indoctrination officer, one 1st Lt. Prunsch from Jena, a report comprising a few pages marked "secret". It was signed by Brigadier General Wagner who was a commander of the then existing "Panzer Grenadier Brigade Rhodes" and simultaneously, Island Commandant and Commandant Eastern Aegean. Among other things, in this report Wagner said that he had ordered Lieutenant Guenther to use the property, which had been confiscated and secured several months ago from the Jews who had been deported, for the purpose of exchanging it with the local shop-keepers for food stuffs. However, Wagner pointed out simultaneously that this bartering had to be done cleverly since the International Red Cross at that time supplied the civilian population of the Island with food.

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Furthermore, in this directive Wagner obliged everyone to keep strict silence regarding the origin of the articles to be bartered. Nevertheless, German soldiers employed as drivers told me that such business has been done.

"The former Brigadier General Wagner, according to information received by me, is still in an Officers' prisoner of war camp in Great Britain. I do not know where the former Lieutenant Guenther is at present. However, he will probably still be in British custody either in the Middle East Command Area or in Great Britain.

"After the German Wehrmacht surrendered on 8 May 1945 British troops occupied Rhodes. I myself left this Island on 24 May 1945 and was sent to Egypt as a prisoner of war.

"I have read each of the 8 pages of this affidavit carefully and countersigned it by my own hand. I have made the necessary corrections in my own handwriting and initialed them. I herewith declare under oath that I have told the whole truth in this statement according to the best of my knowledge and conscience.

Signed: Erwin Lenz.

"Sworn to and signed before me this 10th day of May 1947 at Berlin, Germany by Erwin Lenz, Berlin-Zehlendorf, Hilssteig 7, known to me to be the person making the above affidavit. Henry Sachs."

And then turning to page 49 of the German and 64 of the English, NOKW-649, which is offered as prosecution's Exhibit 486 in evidence. These are reports from the military Commander Greece to the Military Commander Southeast for the period June and July of 1944. Political Situation -- the first one is dated 13 July 1944 and covers the period from the 16 of June to the 15 of July, and the author seems to have been anticipating himself by a day or two, but that is the way the original reports reads.

"The attitude of the population is dependent on the same influence as before; the economic and war situation. Since economic difficulties are increasing, and the war situation is judged unfavorable to us, the attitude of the population, even more than before, is partly waiting, partly hostile.

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The obscurity of the overall situation causes wild rumors. The keen fight of the government against Communism as expressed by the propaganda operation from 12th to 22nd of June has not left an enduring impression on the population, because the authority and the area of influence of the government is limited and because the population restrains itself, because it is afraid of communist terror. However, the point of view gains ground that Bolshevism means death for the independent national and economic life of Greece. The proclamation of the Peloponnesus as a Soviet Republic has strengthened that anti-communist front. On the other hand, it proves the growth of the communistic power. It is generally believed that it will not take long before the war has been decided against Germany. The fear of seeing the homeland transposed into a heap of ruins as, for example, in Normandy, dampens the desire for an Anglo-American landing in the Greek area. Further internal disunity. The battle for political leadership did not permit either agreement between the Greek government in Cairo and the Reich Foreign Minister, nor between individual parties and the bands. Opposing views even led to combat between national and communist bands. Notwithstanding all -- the national Eam movement.

"The limited allotment of moneys to the Wehrmacht has the effect of reducing production generally. Concrete: Production decreased Ca. 300 tons to 7,095. Value of production of explosives: 36.150 milliards drachmas. (Previous month: 76 milliards drachmas) Wehrmacht orders in manufacturing plants: 1.17 billions drachmas. (Preceding month: 1.4 billions drachmas). Felled..." That should be 3,000. "3,000 cubic meters of wood, 1.500 cubic meters cut up. Delivered to the Wehrmacht, 600 tons of iron and metal products. 127 tons of iron bars produced in electric furnaces.

"Mined 2932 tons of chromium ore, transported to the Reich 3076 tons.

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230 tons of lead ore was mined. Shipped 700 tons of zinc concentrates. Mickel mining further non-existent because of the destruction of the mine. 2 concrete ships with a displacement of 350 tons put in commission.

"Coal imported: approximately 4,700 tons. Fuel supply of the Elt-factory in Athens for 4.94 days. Production of current in July reduced to a daily average of 327,366 kilowatt hours.

"Export of war essential bottle-neck goods from the Peloponnesus 6 railroad cars of cotton shipped.

"Labor employment "Due to the wage and food situation deteriorating, labor employment causes difficulties.

For the first time railroad employees also show serious unrest. For financial reasons, substitution of additional rations by money impossible.

"Recruitment of labor forces for the Reich territory continues to the same extend as before. 1590 newly recruited labourers and many people on leave were sent to the Reich territory in 3 transports in June. Concurrently a first attempt to send labour forces by compulsion from the Peloponesus for employment in the Reich. About 600 men are ready. Transport will take place in a few days for "Reichwarke Hermann Goering" Iron-ore mines. A final ruling has been made with regard to the care of persons hurt in the services of the Wehrmacht. It is intended to pay full wages and rations if completely disables; minor disablement will lead to a corresponding reduction of wages and rations.

"Replacement situation unchanged.

"Distribution: see draft only". And it is signed "Scheurien."

There is another report dated the 13 of June 44, and it covers the period from 15 May to 15 June; and again it is from the Military Commander Greece, and it is addressed to the Military Commander Southeast.

"Political situation.

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"The crisis in the Greek government was the focal point of the internal political situation. The unavoidable arrest of the Commander of the Evson units, General Detrilis, who was proven to side with the English, further, the resignation of the Minister of the Interior, Tavularis, which had been forced on the Minister President, but, still more it was the search of the Greek Defense Ministry by the SD which caused the Minister President to want to tender his resignation. Since, according to the interpretation of the military commander of Greece, a change in the state leadership was not desirable at this point, the Minister President was made to remain by the special plenipotentiary of the Foreign Office, who was present in Athens during the government crisis. As far as the outside world was concerned, the Minister President took over the leadership of the Ministry of Interior, but in reality, it was under the former Prefect of Patras, Bakojiannis, under the designation of "Director General for the Security". He is an energetic personality friendly to the Germans.

"The declaration of the Peloponesus as a combat zone caused great unrest among the population. This was due to the choking measures which were published by the 117th Jaeger division in the press on 20 May and which would amount to a complete cessation of the economic life. The food for both the population of Peloponesus and for the big cities, Athens, Piraeus, had become problematical by this measure. Furthermore the valuable deliveries of the Peloponesus for the German armament industry would come to a stop. As a consequence, recruitment of labour for the Reich further successful.

"From 1.5 to 1.6.44 inclusive, 1747 labourers were sent to the Armament industry in the Reich in 3 transports. Compulsory deportation to the Reich, in particular from the Peoloponesus, will take place soon in addition to voluntary employment. LXVIIIth Infantry Corps has issued orders to hold in readiness people suspected of belonging to bands and hostages, for deportation to Germany. This labour is em played in Germany in closed working camps.

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"Distribution of 1 million leaflets explaining the measures which have become necessary by declaring the Peloponesus a combat zone.

"Distribution of 11,000 picture posters regarding the murder of 3 Greek farmers for enlightenment regarding communist atrocities.

"Comments of daily events and on special report by radio. Increased use of whispering propaganda which promises success considering the mentality of the Greeks.

"In connection with the propaganda welfare of the members of the Italian Wehrmacht, the propaganda echelon publishes the weekly Italian paper, "Radiofante", which has an edition of 20,000. It publishes the daily information report "Del Fronti e della Patria", with an edition of 3,000. The weekly paper, "Working Greece", published in the Greek language, with an edition of 39,000 has proven the best propaganda medium among the whole working population. It is primarily distributed in factories working for the German Wehrmacht.

"X. Replacement situation: Unchanged."

And then follows a distribution list: Military Commander Southeast; Commander-in-Chief Army Group E; Higher SS and Police Leader; and then certain copies on the premises; and it too is signed the same as was the one before.

JUDGE CARTER: The Tribunal will recess until 9:30 tomorrow morning.

(The Tribunal recessed until 0930 hours, 21 August 1947.)

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Court No. V, Case No. VII.

Official transcript of Military Tribunal V, Case VII, in the matter of the United States of America against Wilhelm List et al, defendants sitting at Nurnberg, Germany, on 21 August 1947, 0930, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain if all the defendants are present in the Courtroom?

THE MARSHAL: May it please your Honor all the defendants are present in the Courtroom.

DR. LATERNSE: Your Honor, the Tribunal yesterday asked the Defense what time was necessary for the defense before presenting the case to chief after the Prosecution has closed its case. Your Honor, I am in a position to give you the answer of the Defense after discussing it with my colleagues last night. I

shall be grateful for being allowed to speak for a couple of minutes in order to explain to the Tribunal the view point of the Defense. Merely telling the time could not be satisfactory to the Tribunal if I could not at the same time share the position of the Defense.

Your Honor, the main source of material used in this trial is constituted by documents in the hands of the United States Army. That this view is correct the Prosecution will be the last to deny. The Prosecution used this material almost exclusively in presenting its case. This documentary material however has the same importance for the Defense. I want to show this importance to the Tribunal by a very brief example which I take it is typical for most of the defendants. Field Marshal List is charged with an order of 5 September. As his Defense Counsel I want to prove that this order was necessary from the military point of view.

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In order to show to the Court the military necessity of this order I have to prove the development of the situation which necessitated such an order but I can only do that if I am in possession of that documentary material which includes those daily reports which referred to the time preceding this order. And, this material is stored in Washington. The ruling of the Court has enabled the Defense to obtain this material in Washington and I hope that the journey may soon start. The trip of the Defense necessitates the necessary time in order not to make it elusory because, your Honor, after the return of my colleagues from Washington the evidence must be looked through by Defense Counsel and must be correlated to the documents of the Prosecution and must be copied, mimeographed and translated.

In order to carry out this procedure the Defense certainly needs four weeks, beginning with the day of the return of the deputies sent to Washington. Your Honor, I certainly see that this will bring a delay in the course of the proceedings here but this is unavoidable. I only want to point out that the Prosecution has prepared its case for at least one year and it only started its proceedings when they had finished their preparations. It only seems just then if the Defense obtains the period of time asked for in order to make preparations on its part which would be an approximate but certainly not an equal ratio of the preparation of the Prosecution. Only then can I carry out my duty as defense counsel in a proper way.

Your Honor, may I point out shortly the following circumstances which also have proven to be obstacles in the way of the Defense:

1. I believe all those concerned in this trial have found out how strenuous the proceedings during the last few weeks have been.

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The Defense Counsel only had the hours in the evening between 1800 and 2000 hours to talk to their clients and because of the heat prevailing the whole time of Prosecution's case it proved of a special hardship to the elder defendants. During the evening hours only those questions could be discussed which followed from the matters discussed during the day. Proper preparation for the defense during that time was made extremely difficult. I believe, your Honor, that the extent of this obstacle can only be properly judged by those who know by personal experience, the rooms in which these discussions are

carried out. These rooms, without wanting to exaggerate, develop the heat of incubators especially in the evening.

2. Already in the beginning of this trial I had pointed out that the defense had difficulties in procuring evidence material because of the fact that several camps have been dissolved, and people interned there have been released and transferred to other camps. Many witnesses had different addresses making it difficult to find out their right addresses. For instance, I had a letter yesterday from a witness who in the meanwhile had been released and a letter sent to him by me in the Middle of July was received by him only on the 14th of August. Witnesses who live in Austria have so far answered in only one case. As to witnesses in Yugoslav capacity I do not know whether they will appear here also this has been approved by the Court. If that is not the case I must try to meet substitute witnesses.

Your Honor, all these reasons which I only summarize will clearly show to the Tribunal the situation in which the Defense finds itself. For that reason it seems fairly justified that the Defense must count on presenting its case at least four weeks after the return of its deputies from Washington.

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That is all I have to tell the Tribunal regarding this point. I assume that one of the other of my colleagues want to say something concerning this problem - I don't know that.

DR. GAWLIK: Your Honor, regarding your ruling about this motion I should be grateful if if you would especially consider my position. For I have only taken over the defense of the defendant General Dehner a couple of weeks ago. Without any preparations I entered these proceedings. I did not make a motion for postponement at the time because I did not want to delay the presentation of the Prosecution's case although I could hardly reconcile this with my duty as a Defense Counsel. Now, however, it is not possible for me to act as Defense Counsel in a proper way if the motion moved by my colleague Laternser is not granted. I now have to acquaint myself with the whole material contained in these proceedings.

THE PRESIDENT: Does the Prosecution have any statement to make? And, in connection with any comments that you might make, Mr. Denney, I think the Tribunal would be interested in knowing what, if any decision may have been reached relative to the ruling as to the production of documents which we here before made.

MR. DENNEY: Well, with reference to the document, that goes through the Secretary General, your Honor. And, as I understood the Tribunal's ruling it varies somewhat from Dr. Laternser said. I understood that there were two primary alternatives, one that the people be allowed to go to Washington, or, two, that the documents which they asked for be brought here. Dr. Laternser throughout his statement this morning, at least as I listened to it, assumed that the people were going to Washington, the people were going to get into G-2 Section of the Pentagon Building.

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That is something we don't have anything to do with. We just don't go to G-2 in the Pentagon Building and that application was made, the Tribunal approved it, and the order was sent to the Secretary

General. As I understand it they are inquiring into the matter now and I would like to clarify it that we can't say, "let them in", and they will let them in. That is something to be decided by them.

JUDGE CARTER: I wonder, Mr. Denney, if you really have the right conception of this. I don't think the submission to the Secretary General is the answer. The Prosecution here has produced part of these instruments and when the Prosecution does that I think it is to be assumed that it is the duty of the Prosecution to produce the whole instrument and unless the Prosecution does that the presumptions referred to in the order will be indulged in and I don't think it's a complete answer that the Secretary General has been asked to pass judgment on it or to see what he can do. I think it is deeper than that. When the Prosecution brings in portions of an instrument I think it's their duty to make available the whole instrument to the Defense and it is the Prosecution's duty to see that this thing is done. I don't see it is contingent upon favorable action by some other group or individual. Do you see what I mean.

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MR. DENNEY: I understand what Your Honor said and I will be very glad to take it up with General Taylor.

THE PRESIDENT: In other words there has been no decision. Is it in the process of being considered what action is to be taken, whether you endeavor to work out some plan or let the chips fall where they may.

MR. DENNEY: As far as I know, Your Honor, they are trying to ascertain what the document is that would be necessary to bring over here, whether or not it can be brought over, or an alternative whether some arrangements can be made to take people over there. I heard last night possibly there may be some microfilms some place in Europe in connection with these documents. I heard it for the first time last night. We have never seen any microfilm copies and if those microfilm copies prove to be here and if they are adequate perhaps arrangements can be made. It is my understanding that they are in the hands of another government. So far as I know, they are doing everything they can to develop that as well as possible.

THE PRESIDENT: May I ask Dr. Laternser another question. If the documents are not brought to Nuernberg or if the arrangements are not made for counsel to go to Washington, how much time do you feel that counsel for the defense should have?

DR. LATERNSE: Your Honor, have I understood you correctly that if we did not obtain the documents and that we could not go to Washington, how much time defense would require, if I understood you correctly?

Your Honor, may I ask you to repeat this question in order to obviate any misunderstanding?

THE PRESIDENT: If arrangements are not made for the production of the documents in question by their being brought to Nuernberg, or if arrangements are not made for counsel representing the defense to go to Washington, then how much time would you feel you should have between the close of the prosecution's case and the beginning of the defense?

DR. LATERNSEER: Your Honor, I must quite frankly say that I have not reckoned on these accumulated refusals and therefore have not thought about the possibilities because I took it to be quite certain that either one way or the other could be taken.

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If those possibilities would be closed to us, first of all I would have to determine whether I would be in the position to continue my defense because I then must arrive at the assumption that if defense and prosecution do not enjoy the same rights the Court in view of the defense can never arrive at a just judgment. In that case I would have to think whether I could continue with my defense at all.

THE PRESIDENT: I think it should be kept in mind, Dr. Laternser, that there was a third alternative in connection with the Court's ruling relative to the matter of the consideration which the Court would give to the documents which have been presented. And, as to your last statement, I don't know what the attitude or responsibility of counsel is in a German court but in an American court a counsel cannot leave a case and we would not look with favor upon such procedure or such an attitude. As has been suggested by Judge Carter in a brief conference here, the third alternative is in the nature of a penalty to prosecution and is really more beneficial to the defense than you apparently appreciate.

DR. LATERNSEER: Your Honor, may I thank you for pointing this out to me. In that case I would have to confer with my colleagues about the third possibility on which we certainly did not count.

THE PRESIDENT: I am wondering if perhaps ten days time after the adjournment of prosecution's case would be sufficient time for you to prepare for the opening of the defense.

DR. LATERNSEER: I am afraid ten days would not be sufficient. In that case, in my view, four weeks would have to be considered.

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DR. SAUTER (Counsel for the Defendants Lanz and von Geitner): Your Honors, I am now considering the third possibility of which your Honor was just talking. I am thinking of the case that the Prosecution cannot procure the missing documents and, apart from that, none of the delegation of the defense counsel can go to Washington in order to obtain the material. I am thinking of the case of the Court's covering the incompleteness and incompetence of the document army evidence of the prosecution on which it has to draw its conclusions; and I am asking myself now, if we consider this third possibility, how much time will be needed in order to enable the defense counsel and the defense for preparing themselves.

Now, we have to consider the following. In view of the fact that the whole case is concerned with happenings in the Balkans, we are forced, to a great extent, to procure our evidence by correspondence with foreign countries. That means tremendous slowing up in the preparation of our case. It goes without saying that we defense counsel worked on this preparation not today and yesterday; that we started on this preparation when the proceedings started the replies from abroad, at least as far as my experience goes, arrive late and an extraordinary time elapses, and experience has taught me that the material which we received from abroad cannot be used in the form it is sent.

Then considerable correspondence starts to and fro because the material sent by the witnesses has to be put into the shape of affidavits and that uses up a great amount of time. We defense counsel, because of our personal interests and the interests of the defendants who have been imprisoned for two and a half years now, would demand that from our side, too, the trial is speeded up as much as possible and were personally would be glad if we could conclude this trial as quickly as possible; but in apportioning the time which the Court will grant to the defense counsel, would ask you to consider these particular difficulties because they result from the peculiarities of our case.

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May I point out something else, your Honors. We all, the Tribunal and we, are interested that the defense of every individual defendant is presented in an absolutely uniform way and complete form. If we hurry the proceedings there is the danger that important evidence is procured. Weeks after the case of List, for example, is concluded, there is a formal possibility to present later on such evidence which arrives later but, in the interests of the matter and in order to make everything as clear as possible, it is not right if the complex of the defense of one of the defendants is torn up in so and so many parts.

For that reason, Your Honors, I believe it would be in the interests of a certain speeding up if in apportioning the time which you are now granting to the defense you would be a bit more generous in order to enable us sooner to present the material to you in a complete way.

THE PRESIDENT: Dr. Sauter, you may have misunderstood me. I did not make any definite ruling concerning a period of postponement. I merely made an inquiry and suggestion. I think perhaps we should have some statement from the prosecution as to when, if at all, they are going to be in a position to state or elect as to what courses they are going to follow.

MR. DENNEY: I believe, your Honors, I can advise the Court, possibly at the beginning of this afternoon's session, with reference to what is planned so far as the documents are concerned.

THE PRESIDENT: I do not know that that early an answer would be necessary. Perhaps by tomorrow morning it would give you more time to confer with the authorities with whom you will have to deal.

MR. DENNEY: Very well, your Honor. I will be glad to do so.

THE PRESIDENT: And with that in mind the court will not make any decision until such time as the prosecution may care to make any further statement.

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We will pass on to another matter at this time and the Tribunal, wishes to read a statement which was presented to me just this morning. It is a communication from LeRoy H. Watson, Brigadier General, United States Army, Commanding the Nurnberg Military Post, Office of the Commanding General.

"Subject: Policy of Confinement of all Prisoners in the Nurnberg Prison.

"To: Colonel E. J. Ray, Secretary General for Military Tribunals, APO-696-A, U. S. Army."

Paragraph 1: "It has come to my attention that you sent a letter to my office with reference to the policy of confining German prisoners in the Nurnberg prison and that in the reply sent to you some of the statements made with reference to our policy in this matter were in error. Furthermore, the reply of this office to your letter was read to the prisoners in one of the cases now being tried and included in the written record of the case."

Paragraph 2: "I am, therefore, writing this letter to you in order to clarify this matter and to make perfectly clear to all concerned the policy regarding confinement of prisoners in the Nurnberg prison. I request that a copy of this letter be given to the judge concerned and that it be read into the evidence of the trial over which he is now presiding in order to correct the error made and to clarify the policy."

Paragraph 3: "The policy is as follows. It is my desire not to place more than one prisoner in a cell except under the conditions stated below:

"(a) If it is necessary to care for more prisoners in this prison than I have cells, obviously I will have to place more than one prisoner in some of the cells.

"(b) If the evidence presented to me indicates or if I have reason to suspect that a prisoner who has been indicted might commit suicide, I will place another prisoner in the cell with him in order to aid in preventing his suicide.

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"(c) Most prisoners do not like solitary confinement. Accordingly, if any prisoner desires to be placed together in the same cell with another, he may submit an application to the prison officer and this application will receive due and humane consideration by me."

Signed: "LeRoy H. Watson, Brigadier General, U. S. Army Commanding."

This communication is read for the purposes of the record.

THE PRESIDENT: You may proceed, Mr. Denney, with the presentation of further documentary evidence.

MR. DENNEY: May it please your Honors, we are still in Document Book 21 and I believe the last exhibit yesterday was 486. The first exhibit today is on page 57 of the German and page 70 of the English and is 1279PS. These are various papers in draft having to do with an order which was ultimately issued from OKW concerning the treatment of foreign military missions who were captured with partisan groups.

The first one is from the General Staff of OKW. That is the operational staff of OKW and is dated 22 July 1944.

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"Subject: Treatment of members of foreign "military missions" captured with partisan groups.

"Minutes of a meeting.

"The Fuehrer has decided that members of Anglo-American and Soviet-Russian so-called "military missions" captured in the partisan fighting in the Southeast arc to be treated in the same way as those taking part in a commando operation and not as prisoners of war."

This is No. 487, your Honors. It is on page 70 of the English, 57 of the German, and the document number is 1279-PS.

"Independently of the above, the AG. Ausl. the following inquiries made by the RSHA-Military Section -- has put forth for decision the question of how British and American soldiers, captured with the partisan groups should be treated.

"The following are the resulting opinions:

"a) Commander-in-Chief Southeast "The members of Allied military missions arc to be handed over to the SD, should the opinion below (b) be inapplicable.

"Supreme Command of the Armed Forces/Prisoners of war general in conjunction with Supreme Command of the Army/Army General Staff/Allied Armies in the West and Armed Forces Operations Staff.

"Treatment as prisoners of war" -- and this is the "b" part here, the one that is in the original. It appears out in parenthesis to the left in the English copy.

"Treatment as prisoners of war in accordance with Order: Armed Forces Operation Staff/OP (Army)" and it gives the date.

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"Treatment as prisoners of war in accordance with Order: Armed Forces Operation Staff dated 8.7.43. which disregards differences of nationality. The only exception made is in the case of commando operations (then they are handed over to the Security Service SD).

"RSHA Section IV.

"Fundamentally treatment as prisoners of war under the directives mentioned in B and c) but a more definite ruling is required to decide whether and in what circumstances they are to be handed over to the Security Service (SD) And then we have the Military Section:

"Considers that the Commando-Order cannot be applied to partisan fighting in the south East, that to do so would be dangerous in that it might imperil those taking part in our own operations (Brandenburg).

"No opinion on the question of foreign missions."

And then the next one:

"Fundamentally, treatment as prisoners of war, that implies that members of missions were taking part in a commando-operation."

And the next one:

"Armed Forces Ops Staff "Treatment as the members of partisan groups themselves, i.e. as prisoners of war if they are in uniform and are captured or surrender in open battle, or executed if they are in civilian clothes or are captured in a sabotage-or commando-operation."

And it is noted at the left: "The whole of this paragraph 'g' is crossed out".

"Opinion and proposal of the Armed Forces Ops Staff "According to the orders issued to date, even for example, the British captured in the "Rosselsprung" operation must be treated as prisoners of war.

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This is especially evident in the Op. Order dated 18.8.43" And then it is noted:

"(This last sentence is put in parenthesis, underlined, Op (Army) crossed out and a large query inserted in the margin).

"The Commando Order has never yet been applied to such missions, its extended application to cover them has not yet been ordered. If the missions are to be treated otherwise than in accordance with the orders to date, it must first be decided whether a foreign mission acting with the partisan groups in the South-East is to be called a commando-operation and therefore treated as such. Such a decision seems to be indicated even if it does not correspond completely to the wording of the commando-Order or to the previous definition of a commando operation (as an especially under-hand and still unusual form of warfare which must be combatted with the appropriate counter measures). The principle must be adopted from the start that all members of partisan groups, even in the South East are fundamentally guerrillas. Indeed they are treated as prisoners of war for reasons of expediency in order to obtain the largest possible number of deserters and workers. There is no reason for this with reward to the members of foreign missions who are not numerous. There is therefore no necessity to treat them, in every case, in the same way as the members of partisan groups themselves. Basically, it would be far more appropriate to consider Anglo-American as well as Soviet-Russian military missions as commando-operations and to treat their members accordingly.

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"The appended Order is therefore proposed".

And that bears the initial of General Warlimont of the OKW Operations Staff.

Now, the next document, which is on page 60 in the German and 72 in the English, is substantially the same as the one we have just read. However, it is dated five days later, 27 July-and the first one is 22 July-and it now has an order number, and if your Honors will look at the original it will be seen that the original bore an earlier number and then that the number of this later order, of 27 July, is inserted in pencil on the first order and then typed on this order, and when we get along a little farther we will have more occasion to refer to The order here, it can be seen, when compared with the earlier one, has certain deletions, particularly paragraph "g", which was crossed out in the original, and other than that it is substantially the same; the first two paragraphs, numbered "1" and "2". "The following are the resulting opinions:"

and then:

"Commander-in-Chief Southeast" (who at that time was the defendant Weichs).

"The members of allied military missions are to be handed over to the SD, should the opinion below (b) be inapplicable"-is the same; and, other than minor alterations in form, which I believe are apparent, it is not necessary to read this order again.

There is one additional fact, that this order of 27.7 is initialed by Keitel, who was, of course, Chief of OKW.

Now, in the copy in the English, there is a note at the bottom of the page 73 which is not in the German, and all this does is refer to the second copy of this order or this communication, rather-of 27.

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7.1944. It's identical--defense counsel may see it in the exhibit -- it's just the second of two copies. Your Honors will notice at the top of the first copy it says "2 copies, first copy, "and the second one is merely the other copy of these two. It has some penciled notes on it. It bears Warlimont's initial, whereas the first copy is signed by Warlimont: and the distribution is to be noted on the first copy, that the Chief of the Supreme Command of the Armed Forces via the Deputy Chief of the Armed Forces Operations, Staff and the Quartermaster gets the second copy. Both copies are here; and then the third is a memorandum dated 22 July 1944 and is a draft again. It bears the original number and then is changed to the later number in pencil, as may be seen in the photostat, and it has the final order number of 009074/44, and the subject again is the "Treatment of members of foreign 'military missions' captured with partisan groups", and this again has been worked over in draft.

The Text is:

"The Special Orders for the treatment of captured members of partisan groups do not apply to members of foreign so-called "military missions" (Anglo-American or Soviet Russian) captured in the fight against partisan groups in the areas under the command of the Cin-C South East and South West. They are therefore to be treated, not as prisoners of war, but in accordance with the Fuhrer's Order on the extermination of terrorist and sabotage troops, dated 18.10.1942 003830/Most Secret).

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This order is not to be distributed beyond the divisional or equal-ranking staffs of the other branches of the Armed Forces. Any papers distributed to Army Headquarters and equal-ranking staffs of the Armed Forces are to be recalled, when read, and destroyed) (This last sentence is changed in the original to 'This order is not to be distributed beyond General Headquarters and equal ranking staffs of other branches of the Armed Forces and is to be destroyed when read).

That can be seen from looking.

And then annexed to this was a distribution list which appears at the bottom, the first copy going to the Commander-in-Chief Southeast, who was the defendant Weichs, and the various other offices listed

there. It is to be noted that Copy 6 went to the Reichsfuehrer SS and Chief of the German Police, Headquarters Staff of the Reichsfuehrer SS for the attention of SS Brigadefuehrer and Major General of the Waffen SS Rohde, also for RSHA, and, of course, the purpose of sending that there is so that the SD could be advised of it.

And the last part of this document is not in the original. However, we are submitting it. That is, it is not in the English, but we are submitting it in the German original.

The, turning to the next document, which is 537-PS, page 75 of the English and 65 of the German, this is offered as 488 in evidence. Again there are some further drafts which we have not put in here. The Tribunal can look at then and see the way it has gone through. The order is finally issued. It is to be noted in the first copy in this second exhibit that it was submitted with a blank date for July, and then the date was filled in, and the final copy which we have here, which is the only one we have reproduced, is signed by Keitel as the Chief of the High Command of the Wehrmacht, and this final copy appears at page 75, and again it has the same order number, 009074/44, and it is dated 30 July 1944, Fuehrer Headquarters.

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"Treatment of members of foreign 'Military Missions' captured together with partisans.

"In the areas of the High Command Southeast and Southwest members of foreign so-called "Military Missions" (Anglo-American as well as Soviet-Russian) captured in the course of the struggle against partisans shall not receive the treatment as speculated in the Special orders regarding the treatment of captured partisans. Therefore they are not to be treated as Prisoners of War but in conformity with the Fuhrer's order are the elimination of terror and sabotage troops of 18 October 1942.

"This order shall not be transmitted to other units of the Armed forces via the High Commands and equivalent staffs and is to be destroyed after being made of record.

"The Chief of the High Command of the Wehrmacht Signed KEITEL" Again the distribution is the same as it was in the various draft copies that were being marked over in the earlier exhibit.

487, the first copy again going to the Commander-in-chief Southeast, the defendant Weichs, and the sixth copy again going to Himmler's units.

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In this connection I should like to direct the Court's attention to a document which has formerly been placed in evidence as Exhibit No. 225. This is the communication of 18 October, 1942, which is referred to here, the Hitler order with reference to the treatment of commandoes and that is at page 28 in the English Document Book 9, and it appears at page 41 in the German Document Book 9. And if your Honors will read the present order, the one of 30 July, 1944, and then refer to Exhibit 225, it is submitted that it is clear what the context of this order is.

I should also like to direct your Honors attention to the date here of 30 July, 1944, and recall to the Court the fact that it was early in June, 1944, at which time the first Allied landings were effected in the west, that is, the operation that commenced with the Normandy invasion.

On page 66 of the German, and 76 of the English, MOKW 1377, offered as Prosecution's Exhibit 489,- this is a directive of the Commander of the Fortress Crete, dated 14 August, 1944:

The subject is reprisal measures.

1.) The numerous raids on German motor vehicles, small detachments, etc. together with considerable own losses in the last period of time necessitate vigorous action by our divisions in order to force our will upon the Greek population and in order to prove that we can assert our power on the whole island. To this end discretion can no longer be observed towards innocent men, women and children. Quick action is the first condition for a successful vigorous accomplishment.

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2.) In case of new raids on German soldiers, the villages concerned which are located in the vicinity are to be fired on by concentrated surprise fire bursts of the artillery. It may be useful to encircle the villages with our own troops sometime after the firing in order to capture the bandits who may come to the rescue from the mountains.

3.) As a further measure the complete evacuation and levelling to the ground of villages with an especially hostile population may be considered. Intentions to this effect are to be reported promptly to the Commandant of the Fortress Crete in order that the economical affairs may be put in order.

Extension of the prohibited areas, the respecting of which is to be guaranteed by severe measures based on random surveys, and which has as its aim the limitation of freedom of movement for the Greeks.

Proposals are to be submitted to the Commandant of the Fortress Crete.

4.) Extension of the curfew, jointly with the District Commandant, is at the discretion of the Division."

5.) "In Short, by quick and thorough action it must be made clear to the Greek population that the terror of the bandits will be answered by still stronger terror in reprisal.

A drive to enlighten the people is being started in the Greek press. By ruthless actions we must succeed in reducing essentially the activity of the bandits. (initial illegible) (signature) Muller."

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The next appears on page 69 of the German and page 78 of the English, and is a series of extracts from daily reports of the OKH. The only part of the first one that we are concerned with is paragraph No. 3. This is dated as of 26 February 1944, and is a situation report. It is directed to the various Army groups, "A", "South", "Center", "North", etc., and here with reference to the Balkans:

"In the area of LXVIII Corps 200 hostages shot dead in reprisal for attack on one of our trucks." The LXVIII Corps at that time was commanded by the defendant, Felmy.

The next entry-

PRESIDENT WENNERSTRUM: It is Exhibit 490 is it not? MR. DENNEY: Yes, your Honor. 490.

PRESIDENT WENNERSTRUM: [NOKW 1557?](#)

MR. DENNEY: 1557, yes, your Honor.

Then turning to page 70 in the German, and 79 in the English, there is an entry again from the OKH to the same addresses, and this is Situation information as of 13 March, and again concerning the Balkans, and then under that, there is a note, "Army Group E" and under that;

"LXVIII Corps; In reprisal for band attack Southeast of Tripoli, a state of emergency was ordered for the civilian population, and 200 Communist hostages were shot dead."

Turning to page 71 in the German, and 81 in the English, both still in the same document, and Exhibit 490, the reports are still from OKH and they are directed to the same people, and this is a report again from the Balkans of the situation as of 23 March:

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"Situation Island of Solta: 264th Division succeeded in landing two companies on the Island. The combing through of the Island has started.

Situation Island of Hvar: Since landing on 22 March, bitter fighting. The enemy has landed apparently 800 men on the South Coast and after Artillery fire from the sea on the Northwest Coast near Starigrad. Our own forces on the Western part of the Island fought their way through in stiff battles to the Eastern part. The occupation Battalion was reinforced by a company (landing Eastern tip of the Island.)

The enemy stopped the advance of the 2nd and 5th Communist Division in Southwest Serbia in face of our counter-measures."

On page 72 of the German text, page 82 of the English, the situation report for 2 May, still in 1144, still from OKH, and still addressed to the same people, again the Balkans, Army Group E, LXVIII Corps, under:

"Army Group E: Enemy losses during the past week: 526 dead, 163 prisoners."

The LXVIII Corps which is still, at that time, under the command of defendant Felmy.

"In reprisal for the killing in action of the Commanding Officer of 1st Fortress Infantry Division, 325 Communists shot dead."

Then I should like to direct your Honors' attention to the first line of that:

"In reprisal for the killing in action", to the words, "killing in action".

Turning then to page 73 of the German, and 84 of the English, still the same source for the document, and addressed to the same people, -- this is for 5 May, 1944, -- there is a note here that 2nd Panzer Army is listed under the Balkans, and then for Serbia;"Situation Southwest Serbia:

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After successfully continued attacks against the remaining elements of the 2nd and 5th Communist Divisions, the mass of the enemy withdraws South having failed in his attempts to break through in the East and Northeast.

According to confidential reports increasing dissatisfaction in the Communist Division Group Koraca because of heavy fighting and losses.

In the remainder of Serbia increased Communist mobilizing activity in central Serbia".

Then on page 74 of the German, and 85 of the English, still on Document [NOKW 1557](#), which is Exhibit 490, this is a report of the situation as of 11 July, again from OKH, and again addressed to the same Army Group headquarters, again a note of the 2nd Panzer Army, again in Serbia;

"In Banat 40 Communists shot dead in reprisal for an attack on a resettlement train".

Then turning to page 75 of the German, and 87 of the English, [NOKW 089](#), is offered as Prosecution's Exhibit 491, this is a typed order of 13 August, 1944. The subject is:

"Kreuzotter" Leaving 4th SS police Panzer Grenadier Regiment in areas now reached is approved until the 20th of August.

Nevertheless, a withdrawal on short notice for other use must be guaranteed. it appears practical to raze the locality of Karpenision to the ground when the German troops finally move out so that it will be out of the question as a bandit strong point.

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Then at the bottom is typed. "Oberbefehlshaber Suedost" (Commander in Chief Southeast) and the order number is filled in, and the date, and over to the left there is a certification by a colonel of the General Staff Corps which is illegible.

Then on pages 76 and 77 of the German, and starting at page 88 of the English, is [NOKW-933](#), which is offered as Prosecution's Exhibit 493--

DR. LATERNER: Your Honors, I do not know, and I am by no means certain of what the prosecutor just read as being the end of Exhibit 491.

MR. DENNEY: What I said about it was, to the left there was a certification that this was a copy and that "Oberbefehlshaber Suedost" was printed; that the order number was filled in, and the date was filled in, and that there is a signed certification to the left in handwriting illegible, by a colonel of the General Staff Corps.

DR. LATERNER: Thank you.

MR. DENNEY: This Exhibit 493 contains extracts from the War Diary of Army Group E for the months of July and August 1944. The first one, up at the top, printed on the cover page of this War Diary:

"1st Copy - Chief of Army Archives "2nd Copy - High Command Army Group E (without enclosure)
"3rd Copy - Wehrkreis Commander, XVII (without enclosure)" What it amounts to is "17th Service
Command, without enclosures". This diary was begun on 1 July 1944 and concluded on 31 December
1944.

Then at the bottom is listed the people who kept the diaries, one, "Councillor Fink" and another,
"Councillor Sokoll".

The first entry with which we are concerned is on page 78 of the German, 89 of the English, under date
of 36 July 1944:

"'Weihe', without contact with the enemy. During 'Eule' in the area of Avlon (30 north of Athens) 17
bandits shot to death, three machine guns and other weapons captured."

Then for 31 July the entry as it is in English says, "22nd Mountain Army". However, I will submit it to
the interpreters and ask them to translate it. That is a mistranslation. Dr. Laternser concedes that it
should be "XXII Corps". The Roman numerals "XXII AK", which appear on page 89 of the English
and on the fifth page of the document.

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The corps numerals are always Roman numerals, at least in the German army and the American army.

"Line repair detachment attacked by hand west of Agrinion. Eight dead of our own, 14 wounded.
Reprisal measure: 71 communists shot to death."

Then for 20 August 1944:

"Combat Group Eberlein scatters hand group northeast of Ardea. Larger enemy losses, a hand village
burned down. Three hundred head of cattle and 50 vehicles with grain captured."

Then again on August 23, 1944, on page 79 of the German, page 90 of the English, it says:

"LXXXXXI Army Corps" -- which is the correct translation -- "In reprisal for hand activity southeast of
Larissa, three villages destroyed, near Platamon 24 hostages shot to death."

And then for the 27th of August 1944, for the operational group Arsakli:

"Transport of Band Suspects.

"Corp Headquarters LXVIII, LXXXXXI Army Corps receives the following order (?) BVtO at 1330
hours:

"On 28 August, 1700 hours, a transport with 1,000 hand suspects leaves for the Reich territory. One
must count on attacks on this transport by the hands. For the units employed for railroad security an
increased degree of alertness is to be ordered."

Army Group E, of course, at this time was under the command of the defendant Weichs, XXII Corps
under the command of defendant Lanz, and LXVIII Corps under the command of defendant Felmy.

Just for the record, I just called Dr. Sauter's attention to the translation which appears in the document as 22nd Army, and he concedes that it is a reference to the XXII Corps, as it involves his client Lanz. I beg Dr. Sauter's pardon for having referred the question initially to Dr. Laternser.

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However, I Believe that it is a matter that is well enough known among any of defense counsel to take it up With them.

Then on page 80 of the German and page 91 of the English, Document NOKW-578, which is offered as Prosecution's Exhibit 493; these are extracts of the daily reports from July to September 1944 of OKH with reference to the execution of communists and bandits in Serbia and Greece, forced labor in Crete and other matters.

The first part with which we are concerned, the rest here, of course has to do with France; we are not in any way concerned with that. The first entry is one which appears on page 83 of the German and page 95 of the English. The heading here is: "Balkans, Army Group E," and under that is "XXII Mountain Corps", which, of course, at that time was commanded by the defendant Lanz:

"The demand submitted by a negotiator to the 10th Zervas Division to evacuate the coastal sector, to release prisoners, and to settle on a line of demarcation was refused by Zervas. The impression remains that Zervas is acting according to an agreement with the English."

Then there is a note with reference to the Second Panzer Army, and then under that, "Serbia":

"For reprisal against an attack on a train filled with people who were being resettled, 40 Communists were shot to death in the Banat."

Then we can pass page 96. The date of that earlier report is 11 July 1944, and it is submitted that it includes some dates prior to that. We may also pass 97, 98, 99, 100, 101, 102, and 103. Over on page 104, again the Balkans, Army Group E, and under that -- the date of this particular report of OKH is 30 July 1944.

Under Army Group E "XXII Mountain Corps", then commanded by the defendant Lanz:

"In reprisal for an attack on line repair detachment in area of Agrinion, eight dead of our own, 71 communists were shot to death."

And then down in Albania--

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THE PRESIDENT: I think we shall take our morning recess at this time.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

DR. SAUTER: Dr. Sauter for the Defendant Lanz. Your Honor, I should like to call the attention of the Tribunal to the following fact. Again today it occurs that the same communication occurs again and again. For example, in this Document 578, which is at present under discussion, 71 Communists are mentioned twice - on page 91 and page 97 - who in the area of the 22nd Mountain Corps of Defendant Lanz were shot. These 71 Communists we heard about today for the fourth time. The first time these 71 Communists were mentioned in Prosecution Volume 20, German version page 12. Today, in Prosecution Volume 21, these 71 Communists are mentioned on the German Page 78, on German Page 97. That is four times, exactly the same shooting. This is of course not meant as a reproach to the Prosecution. That is what the documents say. But I wish to direct your attention to this example, so that you don't get the impression that these are four different cases. That is not the only time; this has happened repeatedly.

THE PRESIDENT: The Tribunal will give consideration to Dr. Sauter's comments and will keep in mind this statement made, and I think the Tribunal is conscious of the fact that there have been repetitious statements in these diaries of the same occurrence from time to time.

DR. SAUTER: Yes, Thank you.

MR. DENNEY: The Prosecution, of course, is aware of that. It is just that we get the same actions reported in different documents from different units and then going out in information reports, and we certainly will not take any figure and multiply it by anything.

Returning then to Document [NOKW-578](#), which is Exhibit 493, on Page 91 of the German and 104 of the English, for Albania, is a note for the XVI Mountain Corps, at that time commanded by the Defendant Leyser.

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This, again, is under date of 29 July: "The 1st Mountain Division, which is being transferred from the area Florina-Prilep to North Albania, is subordinated to the 2nd Panzer Army effective 31 July.

And on page 92, that concerns of the German, 105 of the English.

The next is on Page 93 of the German and 106 of the English, the entry for the Balkans, and this is the period from 26 to 31 July, noted 2nd Panzer Army, and under that Albania: "The attempt of 3 to Communist Brigades to invade Serbia via the Ibar River was repelled by a concentric attack on the part of the mass of the 1st Mountain Division West of the Ibar River. The enemy suffered heavy losses."

And then on Page 94 of the German, 107 of the English: "Balkans, Army Group E: Crete: During mopping-up operations, 50 persons suspected of belonging to bands were shot to death as a reprisal measure."

And then the next report is for 25 August 1944, the last entry on Page 96 of the German, 108 of the English, still coming from OKH: "Balkans, Army Group E: A total of 223 Bandits shot to death during a mopping-up operation on Crete."

And then Document [NOKW-1641](#), which is Page 110 in the English, and 97 in the German, is offered as Exhibit 494. These are daily reports of Army Group E to the Commander-in-Chief Southeast, having to do with--or rather these are reports from the Commander-in-Chief Southeast to OKH for the period 1 to 25 August 1944, and during that time the Defendant Weichs was Commander-in-Chief Southeast.

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These are all on telegraph blanks and bear the various stamps which appear on the English translations, The first one for 31 July, on page 97 of the German and 111 of the English, has reference to the XXII Corps commanded at that time by the defendant Lanz, and this is the one about which Dr. Sauter was just speaking.

"In reprisal for an attack on a telephone repair squad in the Agrinion area (8 dead, 14 wounded) 71 communists were shot."

It is signed by -- that is, it is typed for the Commander-in-Chief Southeast by his chief of staff.

The next one is for 14 August, again to CEE from the Commander-in-Chief Southeast by his chief of staff.

"Crete: During mopping-up in the area of Iraklion and Paleochora numerous arrests made, two band villages destroyed, 20 shot in reprisal."

The next one is for 15 August to and from the same headquarters as those previously read, page 99 of the German and 115 of the English:

"Increased band activity on the island." (Referring to Crete) "'Alarm Stage I' has been given.

"Mopping-up operation at the southern slopes of the Ida Mountains encountered well-established band positions in the area of Kamara. During reprisal measure in the Messara plain 50 band suspects shot."

The next one is dated 22 August, received at OKH on the 23rd, entry on page 100 of the German and 117 of the English, for the 91st Corps.

"During mopping-up in the Ardea area by components of Combat Group Eberlein, one band village and one band hospital destroyed."

And then a note about the 264th Division: "Band activity in the Channel, I and II unchanged. Eleven civilians shot in the restricted zone west of Marina by own reconnaissance troops."

Then for 23 August, again from the Commander-in-Chief Southeast, for Crete: "During mopping-up northwest and southwest of the Ida Mountains no enemy resistance.

"One hundred ninety-one bandits and band suspects shot, one band village destroyed. Fifteen hundred civilians are being resettled.

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"LXVIII Corps:" (commanded at that time by the defendant Felmy) "North of Erseke during local mopping-up one band village was destroyed, 12 prisoners taken.

"LXXXI Corps: In reprisal for band activity in the area southeast of Larissa three villages were destroyed, near Platamon 24 hostages were shot."

And the last one for 24 August, page 103 in the German and 121 in the English: "Crete: During reprisal measures southwest of the Ida Mountains four band villages destroyed, about 200 persons selected for labor service."

And then [NOKW-961](#), which is at page 105 of the German and 132 the English, is a teletype or typewritten, an extract from the Daily Report of Army Group E to the Commander-in-Chief Southeast of 5 September 1944:

"Area of the LXVIII Infantry Corps:" (That is the defendant Felmy.)

"On Euboa, supply convoy of North Caucasian Battalion 843 annihilated by bands south of Kymi. Forty own dead, all weapons and equipment completely lost. For attack upon Luftwaffe convoy (see yesterday's Daily Report) 186 suspects shot."

[NOKW-664](#), which is at page 106 in the German and 123 in the English, is an extract from the War Diary of the Commandant of the Fortress Crete for 12 September 1944. This is typed and has a signature of a first lieutenant on it. It is dated 12 September 1944 and is an addition to the War Diary for the period 13 August-10 September:

"Our own operations took place in the second half of the month as counter-measures against the surprise attacks on truck transports, ration transports, shelters and guard posts in the first half of the month of August, above all in the region of the Ida Mountain Range and in the bandit territory of the western sector. The bandits retreated everywhere and withdrew into their hiding places. Our own operations covered, above all, the areas and villages which were proven to have supported the bandits in every way and in part had also taken part in the kidnapping of Lt. General Kreipe.

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"The following 13 villages were destroyed:" -- and then they list the villages.

"Since these measures of force were used, surprise attacks and acts of terror have almost ceased. On 3 Sep 44 the inhabitants of the towns of Chavia, Rethymnon, Jraklion, and Agios Nikolaos were scrutinized also and therewith numerous arrests of those wanted and persons listed in dangerous lists were effected.

"Enemy propaganda, partly of English, partly of Soviet origin, was used at the beginning of September as demoralizing propaganda. Small handbills were used especially frequently. The speeches of the commanders of the 22nd Infantry Division and the 746th Grenadier Regiment were especially of effect, in our own propaganda. (Signed) Hoffmann, 1st Lieutenant."

Then Document [NOKW-981](#), which is at 107 in the German and 125 in the English, is offered as Exhibit **7. These are reports from the Commander-in-Chief Southeast to OKW and OKH with reference to various activities in Greece and Yugoslavia. They are all teletype blanks and are taken from the War Diary Southeast, or rather from the diary of the Southeast. Daily reports, the first one: "In Nish, Field Gendarmerie raids a recruitment station for German soldiers. Ring leaders and 10 accomplices shot to death." It's dated 15 September 44.

The next one is on page 108 of the German, 129 of the English, "Second Panzer Army:" (This is a report of 14 September 1944) "Chetnik insurrection in Bosnia.

"Headquarters Second Panzer Army transferred to Nostar (five miles northeast Vinkovci).

"Roman 5, SS Mountain Army:" (That should refer to the 5th Mountain SS Corps.)

"In the east and central Bosnia area, Chetniks have started fighting against our own troops. Railroad Sarajevo-Visegrad and Sarajevo-Doboj blocked and destroyed. Considerable number of motor vehicles destroyed;

Page Unlabeled

personnel losses. Our ultimatum: From 13 Sep, 2000 hours, severest reprisal measures against all Pravoslavs."

Then on page 109 of the German, 132 of the English, the report for 10 September, still from the Commander-in-Chief Southeast:

"In Katerini demonstrations by several thousand civilians from the environs of the city broken up by force of arms."

And the report for 10 September, on page 110 of the German, 134 of the English:

"Situation in Bor extremely difficult with over 20,000 foreign workers (including 6000 Jews and 6000 Italian military internees), 1200 wounded, and 1500 Rumanian returnees. Production stopped, no export possibility. Measures have been initiated to evacuate the incompetent ones and the laborers who have been released."

And on page 111 of the German and 136 of the English, report for the 5th of September, still from the Commander-in-Chief Southeast to OKW: "For attack on construction detachment, 186 suspects shot to death."

Then the last page, 111 of the German and 138 of the English, again to OKW, on 4 September from the Commander-in-Chief Army Group F under the Commander-in-Chief Southeast, and again from the Chief of Staff Winter:

"As reprisal measure against kidnapping Hako Glossa, the village of Skiathos destroyed, four sailing boats destroyed.

"Crete: During raids in the capitals up to now about 300 under arrest."

And then what appears as "Roman 68 Army" should be the 68th Corps:

"Withdrawals on Peloponessus up to now according to plan and without contact with the enemy. Attack of strong band on construction detachment south of Chalkis. Losses of our own."

In the last document in the book, which is [NOKW-964](#), is offered as Prosecution Exhibit 498, page 112 in the German and 139 in the English. This is the report for 16 October from the High Command Army Group E to the Commander-in-Chief Southeast, and it bears the receipt stamp for the 16th: 2449 "No report from Salviati group.

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Casualties: Wehrkreis Palanka: Enemy, 250 dead (estimated), own casualties: 1 ; 13 dead, 3 ; 65 wounded, 11 missing." And again I would like to direct Your Honors' attention to the incidence of these figures about officers and men.

"In the rear area, during the night of 15 October, railroad blasting southeast of Skoplje. Traffic interrupted for 20 hours. Northeast of Stip, attack by bands upon supply column. As retaliation, four villages burned down, 160 suspects shot."

And it is typed at the end, "High Command Army Group E," and over at the left is a certification, which is illegible, by a first lieutenant. That, if Your Honors please, concludes the presentation of Document Book 21, and Mr. Rapp will now continue with the prosecution's evidence.

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If your Honors please, we have two films which we would like to show, and we hope to be able to conclude our case by Wednesday of next week. Arrangements have been made, perhaps a little prematurely, to show the film. Of course, if it isn't convenient with the Tribunal, why we will have to make other arrangements, but we would request that the Tribunal sit on Saturday morning to see the film and perhaps a short time longer on Saturday, so that we can conclude by Wednesday. The evidence may go fast enough before then so that we would only have to show the film on Saturday, but perhaps we could have an expression from your Honors with reference to it, because there is a good deal of paper work involved in getting the film set up and operators and people detailed for the various other tasks.

DR. LATERNSEER: Your Honor, the defense cannot agree to having a session on Saturday again. On the contrary, since the examination of the Greek witnesses is concluded or seems to be concluded, I wish to ask that tomorrow there should be no session. I have already pointed out to the Tribunal the difficulties we have in carrying out our work and that only the evening hours are at our disposal to talk to the defendants. On the contrary, I should like to ask not only no to have the session on Saturday but also not to have any sessions on Friday either.

Since the examination of the Greek witnesses seems to be concluded, I ask the Tribunal to consider the position of the defense concerning sessions, because apart from that we have to make preparations.

THE PRESIDENT: I am advised by Judge Burke that he has appointments for Saturday which would make it impossible to have a session on Saturday, so that takes that out of any contemplated session at that time.

Dr. Laternser, I feel that your request will have to be denied so far as a Friday adjournment is concerned. The Tribunal is desirous of giving every consideration to counsel but we must insist upon the matter being carried through as rapidly as possible, and yet such other time as you may feel you need some time, your request will receive consideration, However, the matter of adjournment on Friday will be denied at this time.

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MR. DENNEY: Perhaps the Tribunal might care to indicate when the films could be shown, because one of the films is a 16 mm. film and the only place where they have a projector is in Court Room 1. Would it be convenient, as a suggestion to the Tribunal, if we arrange for them on Friday at 4:30? The two films together will only take an hour.

THE PRESIDENT: Is there any reason why we cannot have them earlier in the afternoon?

MR. DENNEY: Well, the only reason that we suggested 4:30, your Honor, was because we have one more witness in the Greek picture which we are going to produce now, and we thought that perhaps if we could have it at 4:30 that would be at the end of the session, whereas otherwise we would have a great many people having to wait around and we certainly don't want to limit the defense's right to cross-examine him.

THE PRESIDENT: Very well. Arrangements may be made for the showing of them at 4:30 tomorrow afternoon.

MR. DENNEY: And at this time I would like to advise defense counsel that these two films, one concerns Greece and the other one concerns Norway -- I don't know how you can very well give anyone any better notice about a film. We can't submit the films to them for examination, and in other cases the proceeding has just been to advise them, in accordance with the rules, 24 hours in advance.

THE PRESIDENT: I think it should be kept in mind that this date and time, being set for 4:30, should be complied with and all parties concerned be there promptly at 4:30.

MR. DENNEY: Yes, sir. Well, we can adjourn right from here and go over there. Again we will do our best to get it set up on time.

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Case V Case VII The Signal Corps, who so ably handles the transmission system, also is responsible for that, and we entertain no doubts about their being there.

THE PRESIDENT: All right. You may proceed with the presentation of the next document book.

MR. RAPP: If the Court pleases, I should like to request that the Marshal be directed to summon the witness Johannes Sontis.

THE PRESIDENT: Marshal, present the witness.

JOHANNES SONTIS, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q The witness will raise his right hand in order to be sworn.

I swear to speak the truth and only the truth in reply to whatever I am asked without fear and without prejudice.

(The witness repeated the oath.)

MR. RAPP: If your Honors please, the witness is fluent in the German language, and I believe it would solve some of our interpreting difficulties if I could examine him in the German language, and we have the official Greek interpreter standing by in case there should be anything unclear to the witness. Is this agreeable?

THE PRESIDENT: You may proceed along that line.

MR. RAPP: Very well.

BY MR. RAPP:

Q What is your full name, please?

A Johannes Sontis, Dr. Johannes Sontis.

Q When were you born?

A On 14 July, 1907.

Q And where were you born?

A In Monastir, Macedonia.

Q What is your present nationality?

A Greek.

Q What is your profession?

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A I am a lawyer.

Q How long have you been practicing this profession?

A For 16 years. At present, I am licensed to appear before all courts in Athens and in the court of appeals.

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Q. Do you have any other titles or profession apart from your profession as a lawyer?

A. Yes. I am a lecturer at the university and professor at the college for political science.

Q. Where did you study, witness?

A. First I studied in Athens, and after I completed my examination as assessor I went to Germany, to the University of Heidelberg, where I passed my examination after studying for almost seven years.

Q. In other words, you passed the law examination in Germany?

A. Yes, I am a doctor of law.

Q. Witness, where were you between 1941 and 1944?

A. In Athens.

Q. And what did you do when Greece was invaded by Germany? In other words, what was your profession at the time?

A. When the Italians declared war on us, 28 October 1940, I left my office and was put in charge of radio propaganda to foreign countries. This position I held until the German troops entered—

Q. Continue, witness, please.

A. What shall I say? Shall I continue?

Q. You answered the question. Would you repeat your answer, please? I could not hear it due to the siren.

A. Well, I held this position as chief of radio propaganda to foreign countries until the German troops entered Athens.

Q. What did you do then, witness?

A. After Athens was occupied, I resumed my profession as a lawyer, first in Greek courts. At the end of May 1941 the first permanent German summary court martial (Feldgericht) was set up in Athens. It was called Summary Court Martial of the Commander of Air Gau Southeast. If I am not mistaken, that was Lt. General (General der Flieger) Felmy at the time.

Q. Witness, what kind of cases did this summary court martial you mentioned deal with?

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A. This summary court martial dealt with Greek cases as well as with German cases. Greek lawyers were also admitted for Greek cases. At the beginning only three lawyers practiced in this court. Concerning their ability, they were not considered the best in lawyer circles of Athens. This fact came to the attention of the Chamber of Lawyers of Athens and the president of this chamber assigned me to take the necessary steps in order to have other lawyers who were more capable admitted.

Q. Witness, may I interrupt you for a moment? You are now speaking of Greek lawyers, is that right?

A. Yes, I am speaking of Greek lawyers. First of all I went to the president of the summary court martial. At that time that was Oberkriegsgerichtsrat der Luftwaffe Dr. Buckstein. I transmitted the request of the chamber to him. First he hesitated, but after he had consulted the supervisory judge, Oberkriegsgerichtsrat der Luftwaffe Dr. Frohwein, he accepted my request. Other lawyers were admitted to this summary court, including myself. Thus, toward the end of June 1942 I began my work as defense counsel before the German court.

Q. Witness, how many other lawyers apart from you were permitted to practice before this summary court?

A. At the moment I cannot tell you the exact number, approximately 7 or 8 altogether.

Q. And they all spoke German, witness?

A. Yes, more or less.

Q. Now, after you were admitted to the summary court, did you continue with your sideline as well?

A. What do you mean by that?

Q. Did you take other cases which had nothing to do with the summary court?

A. No. I gave up the other cases; I did not have time for them. I was fully occupied in my activity for the German court. This was an assignment by the Chamber of Lawyers.

Q. Now, please tell us what happened then after you were admitted.

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You are speaking about May -

A. The end of June 1941.

Q. And what happened then?

A. This activity lasted almost one year. I cannot give the exact date. It was approximately to June 1942 when this summary court martial of the Commander of the Air Gau Southeast ceased to deal with Greek cases. At that time a new summary court martial was set up, the name was Summary Court Martial of the Commander of South Greece. This court was organized by the lawyer Dr. Frohwein and had jurisdiction over Greek cases only. The other summary court martial only dealt with German cases.

Q. Witness, who was the judicial authority (Gerichtsherr) of this court about which you are now talking?

A. I don't know whether it was General Speidel in the beginning or not. In any case, a few weeks after this court was organized, it was General Speidel as Commander for South Greece.

Q. Now, witness, would you please inform the Tribunal in what kind of cases you appeared before this court?

A. In various kinds of cases.

Q. Give us examples of these cases.

A. Examples? Cases of sabotage, espionage, theft, damage to armed forces equipment, and later, after an order which General Speidel issued (it was the order of 17 June 1943 – that is, one year later), for communist activities.

Q. Now, can you describe a typical or specific case which impressed you particularly, which appeared before this court in which you worked?

A. I could give many such examples. I do not understand what you mean. Do you mean an individual case?

Q. Could you tell me about an individual case which impressed you particularly in connection with your defense or which you remember particularly?

A. In what respect?

Q. I mean concerning treatment, occurrences in the court, sentences.

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and everything that occurred in connection with this court.

A. Here I must give you an introduction. Pursuant to an order which General Field Marshal List gave one lay before the German troops entered Greece, the law to be applied was the German penal code, the orders which the various commanders issued – those were the two categories of regulations to be applied. The German courts had jurisdiction over offenses against these orders.

Q. You are speaking too fast. The interpreter cannot keep up with you. Will you please repeat what you just said?

A. According to the same order, I believe of 5 April 1941, the law to be applied in German summary courts martial for Greek cases was the Reich penal code and the orders issued by the commanders in the occupied territory. On the basis of these orders the German courts were competent--

Q. I'm sorry, but you are still too fast. Please make a pause between sentences. It has to be translated from German into English, witness. Please speak slowly.

A. Shall I repeat the answer?

Q. Yes, please.

A. One day before the German troops entered Greece an order was issued by General Field Marshal List, according to which the penal law to be applied was, first, the Reich Penal Code, and secondly what I forgot before, regulations in effect apart from this law, the Reich regulations, I mean, which were valid throughout Germany, and the orders which were issued by the commanders in the occupied territory. Pursuant to this law, the German courts martial in Greece were competent to judge offenses against these laws by the Greeks. There were cases--

THE PRESIDENT: The Tribunal will be in recess until 1:30 this afternoon.

AFTERNOON SESSION (The hearing reconvened at 1330 hours, 21 August 1947) JOHANES SONTIS - resumed DIRECT EXAMINATION - continued

THE MARSHAL : Persons in the Courtroom will be seated.

The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. RAPP: If your Honors please, I shall continue with the examination of the witness.

THE PRESIDENT: Very well.

BY MR. RAPP:

Q. Before the lunch recess, witness, we were talking about the regulations which were published by Field Marshal List at that time, in connection with the law to be applied. Could you tell us that again in one sentence quite briefly, to summarize, so that we may make better progress from now on.

A. You mean to say I should repeat the contents of this regulation?

Q. Quite briefly, for our own information, so that we will have cleared this subject.

A. As regards the substantive law, according to regulations, it was the Reich Penal Code, the Reich regulations which were also valid alongside the Reich Penal Code, and the orders of the Commanders in the occupied Greek territory. Competent for violations against these penal regulations for issuing sentences regarding these violations, were the German summary courts martial, Feldgerichte, in the Greek occupied territory. This regulation of the commander of the 12th Army was often violated. Shootings, even mass shootings, without a legal trial and sentence became the rule in the course of time. That on the one hand. On the other hand, I experienced many cases where intentionally the rules of international law, as well as the regulations of German military law, were not applied rightly. I might even say they were applied wrongly or against international law.

I cannot mention all the cases here. All of them would take up a lot of time. I can only mention here a few examples, the most outstanding examples which I could observe and follow from my position as defense counsel at those summary courts martial.

Q. Witness, how many cases, in order to clarify this right from the start, did you as attorney defend or were you in connection with?

A. My activity as defense counsel, in summary courts martial, as I said before, started at the end of June 1941. The second summary court of the Commander for South Greece, -or rather, the Military Commander for Greece --as far as I can remember exactly, was in operation until August, 1944. That is, from June 1941 until August 1944, including those cases which I had to conduct before a third court,

for minor cases, that is the summary court of the Field Command post of Athens. I defended about 300 cases.

Q. Thank you, witness. Please continue now.

A. I must first of all relate the most striking example which I know from my post as defense counsel before the first summary court martial of the Air Gau Southeast. I only want to mention one thing. It was, as far as I remember, at the end of April when a few Greek officers were arrested while trying to escape to Egypt. The case did not come before the summary court martial. For instance, a few officers -- 4, 5 or 6, I don't remember exactly, I can only recall three names -- were shot without trial. It must have been at the end of May or the beginning of June 1942. These defendants here, if I am not mistaken, had nothing to do with these murders; for these murders only General Andre is responsible. That example is the first case that greatly impressed me.

Q. Witness, you are talking here about murders and you are talking about the fact that these people were not brought before a court martial, that they were, so to speak, shot illegally. Why does this case represent something extraordinary -- I don't understand the emphasis you are placing on it.

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Can you explain that?

A. I should ask you to hear my view on this in connection with a case I shall mention later on.

Q. As you please.

A. The most striking examples of violation of law -- I repeat, of International law as well of domestic German law --- I experienced as defense counsel before the second summary court martial. I now begin to mention individual cases. The first case is the case of Boros. At the beginning of September 1942 on the Island of Boros the secret field police arrested nine respectable Greeks because they were suspected of making propaganda for England among the population of this island. Communistic activities were not at issue in this case. Even the G.F.P. (Secret Field Police) who appeared before the Summary Court Martial as prosecution witnesses, later, admitted that those arrested were Greek of nationalist views.

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14-1-A-GW-21 Aug 47-Biolsi (Jacobson) Among those arrested were a doctor, a lawyer, a pharmacist, a retired officer, and three civil servants.

Those arrested were taken to the office of the G.F.P. in Piraeus. There they were subjected to examination of a severe nature. We know exactly what severe examination meant at that time. For the benefit of those who did not experience these conditions in my country, and there may be many in this courtroom, I want to mention the following: One of the foremost Germanists, Professor Hans Fehr, in 1923 published a book entitled "Das Recht im Bilde". This book refers to the methods of examination employed in the middle ages. What we see of these methods in the various pictures in this book was recalled to life in the middle of the 20th century by the G.F.P. in Greece as well as, of course, by the SS.

I shall mention only two examples: Tying of the hands behind the back, hanging up with a weight attached to the feet, hanging by the feet for a certain period of time, and other things of a like nature. As regards those arrested on the island of Boros a severe examination took place in the office of the G.F.P. in Pireus--such an examination that one of those arrested, the chief tax official of the island of Boros, later became insane. I personally at that time intervened with the President of the Summary Court Martial of the Military Commander for Greece, who was at that time Oberkriegsgerichtsrat Kirchberger Dr. Kriegsrichter, and asked him to bring about the transfer of this insane person to a clinic and, in fact, he fulfilled my request. The preliminary investigation by the G.F.P. in Pireus took up to the middle of October or maybe a few days later in October 1942, and then the files with the concluding report of the G.F.P. were sent to the summary court-martial, as usual, the military judge dealt with this case, and after issuing the penal regulation the matter came into court on the 30th of November 1942.

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President of this court on that day was Kriegsgerichtsrat der Luftwaffe, Dr. Rattke, and the prosecutor was Kriegsgerichtsrat der Luftwaffe, Dr. Hennich--quite a nice lawyer, I must admit that -- from Leipzig, and not a severe judge as regards the Greeks. When the session started the president stated that the trial would take place in camera, since this was a serious case of espionage. After the court was cleared the examination of the prosecution witnesses began. As prosecution witnesses the G.F.P. officials appeared--two of them who had conducted the preliminary investigation in Pireus. I can only recall the name of one of them. His name was Steierhof. The defense consisted of three Greek lawyers, among them myself. The defense knew from the start that the defendants had been subjected to a severe preliminary investigation. For that reason I put to the first witness the question whether that really had been the case. The president admitted this question, and then the witness gave the following answer: "There is an order according to which in such cases we have to subject those arrested to a severe examination. In this case I only slapped the idea of defendant number one, a doctor of Boros". For one moment my equanimity left me and I asked the witness what his profession was in civil life. He answered: "I am a Municipal judge." My excitement increased. "Witness", I said, "you are an educated man, then. How did you dare to slap the face of an equally cultured man and a doctor who studied at the university?"

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Then he cried out, "I received such a remark, and I went for it." The court was equally excited and asked me to be quiet. After the examination of this witness the second witness testified. The G.F.P. official Steierhof. This time my colleague questioned, the other Greek lawyer. He asked him: "Have you done the same, witness?" The witness answered: "No, I personally did not do any such thing. I left this to my other colleagues." And then his colleague replied in a very excited frame of mind, turning to the Court: "Your Honors, this is a new method. You may call it the "Steierhof Method"." Now excitement and now calls for order. The proceedings began at eight o'clock in the morning and lasted until seven in the evening. At seven O'clock the Court retired for consultation and after two hours it delivered its verdict. The contents of this verdict was that the evidence offered did not suffice in order to arrive at a sentence of the defendants. For that reason the defendants must be acquitted and further legal

proceedings must be quashed. However, the defendants are not to be acquitted because the G.F.P. of Piräus appeared—I don't know his name—and he turned to us, to the three defense counsel, and said this: "Gentlemen, you have offended my men, you will have to pay for that. You will soon hear from me. Please give me your address now." We know what that meant. We went at once to the Archbishop and asked him to intervene in our behalf to the superior authorities. He went at once to the plenipotentiary at that time, von altenburg, accompanied by the military attache von Klemm of the German Delegation in Athens; and by this intervention saved us from falling into the hands of the G.F.P. That, as I said, was on the 30th of November 1942.

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Those acquitted, after the proceedings had been quashed, were not released from custody, as I have already said. They remained in custody for the whole month of December, and in the beginning of January 1943 I decided to turn directly for help to the general. To visit General Speidel was impossible for a lawyer, and for that reason I approached the officer of I-C. The notorious Captain Stoeckle was the only one I could approach in order to make a petition. My request was to release my clients since the court-martial in the field of the general had quashed the proceedings, as the same court-martial did not find sufficient reasons, and as in the last resort, the people concerned were certainly not people who had violated any penal provisions. For the first time I entered this famous Department I-C, and then I understood what this department represented. On the table of Captain Dr. Stoeckle there were heaps of documents, files, copies of the files of the documents submitted to the court-martial; and on every file a red strip had been affixed. Naturally, I could not understand what this red strip meant. I learned this later on. Captain Stoeckle received me politely. He asked for the purpose of my visit and I told him the reason. Suddenly he got up in excitement and told me verbally the following: "Doctor, the court-martial in the field can say what it wants to say. I here possess in these documents proof according to which I can have the defendants shot at once. In any case I will think the matter over." It was about ten o'clock. And it is important that I mention this time that is, the morning of the 4th of January 1943. Dr. Stoeckle promised me that he would think the matter over.

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He certainly thought it over well. Three days later, on the 7th of January three of those who had been acquitted by the ***** German field court-martial-- he sent three of those before the firing squad. At six o'clock on the morning of the 7th of January 1943 they were shot, that is the first case.

Now I am coming to my second case. In the middle of September 1942, by a band of about ten Greek hooligans who represented themselves to be friendly towards Germany--the building of the so-called ESPO, situated near the Romonia Square, the largest place in Athens,--was blown up. A few days later, 14 or 16 people-- I don't remember exactly-- Greeks of national views, were arrested under suspicion of being implicated in this blowing up. The investigation took the course of the G.F.P. For about a month and a half or two months, at the end of October or the beginning of November, I had worked on this case and later the files with the concluding report were sent to the court-martial by the G.F.P. The Judge Advocate dealing with this case ordered that the case was to be quashed without any trial--that is,

the case did not come into court. In this case, too, those arrested were not released from custody since the G.F.P. had ordered protective custody for them. It was on the 7th of January 1943, on the same day which I mentioned in the previous case, at nine o'clock in the morning, when I went into my office, I found a gathering of the relatives of those defendants, mostly women, almost exclusively women of some of those arrested, and they were crying and sobbing, and they told me that this morning the guard of the prison had refused to take the parcels with foodstuffs. We knew, of course, what this meant in such cases. It meant that those in prison were no longer alive.

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At once I went to the palace of the Archbishop. I always did that in such cases, and asked the Archbishop to take some steps. The Archbishop telephoned the guard; he told him who he was, that, as a religious leader of those arrested he was interested in them, and he asked this guard or sergeant to tell him where these Greeks had been taken to. The sergeant answered, "I don't know; at any rate, they took them away early this morning, at five o'clock."

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At the same time we had approached the then director of the Radio Corporation. At that time we had telephoned General Speidel's office, who knew the director of the Radio Corporation very well. In fact, he harried away somewhere, I don't know where he went, and between ten and eleven o'clock he went into the office of the brother of one of the Greeks where, in the meantime, all the relatives had gathered. He took me aside and he told me that, in fact, all seven together who were taken away from the prison, had been shot this morning at six o'clock; that is to say, Greeks were shot who had not been sentenced to death by a German court-martial, and in whose case the German courtmartial had ordered a Quashing of the proceedings.

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We sent the relatives home. We did not want to tell them at once that their people were no longer alive. I must also mention here, what I should have done before, that I talked to the director of Radio Corporation a couple of days before the shooting and I had asked him to intervene either with General Speidel or with Captain Stoeckle. I also asked for the Hungarian delegate, at that time Develich, who had social relations with General Speidel and Captain Stoeckle, to do the same thing. Their efforts were unsuccessful.

Even the director of the Radio Corporation repeated to me the talk he had with Captain Stoeckle concerning this case. I recall this quite clearly because I made notes every evening and at present I can make them available.

Stoeckle on this occasion told the director, "The Greeks must leave us in peace, otherwise I will have recourse even to the upper classes of society the next time." That is the second case.

These two cases I have particularly mentioned, and almost in every detail, because I considered them severe violations, not only of international law, not only of German inner military law, but of

international ethics, and this because people were shot who had been acquitted by the German court martial.

I believe this case is even more serious than the mere shooting of hostages.

Q. Witness, if we have understood you correctly, the shooting took place in the first days of January 1943, is that correct?

A. Yes, indeed, on the 2nd of January.

Q. Witness, was there SS and SD in Greece at that time?

A. There was no SS in Greece at that time.

Q. How do you know that, witness?

A. Well, there is a way of telling. We know exactly that the SS in Greece started its activities in the beginning of October 1943.

Q. Witness, can you give us other examples falling in this period, and which you have taken part in yourselves?

A. After the arrival of the SS? It was only before the arrival of the SS.

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Q. Well then give us those first.

A. A second category of severe violations of international law, and I might even say of international ethics, I experienced as defense counsel before court martial as the Commander Southern Greece the following cases:

Many officers, after the occupation of Greece, Greek officers of the army, of the navy and of the air force, tried to escape to Egypt in order there to unite with the forces still active of the Greek Army and the Greek fleet. Many were arrested while trying to escape in this manner. I have conducted the defense in many such cases before the court martial. General Speidel well remembers those cases.

First of all, that was on the 25th of January 1943. I defended three officers before the court martial, two of the navy and one of the air force. Later I defended a Greek colonel; still later I defended a first lieutenant; and in the spring of 1944, if I remember correctly, I defended two naval officers. In all of these cases the defendants were sentenced to death.

I wouldn't object to the fact that they were sentenced to death if there had been a special directive of the German commander, but that was not the case. They were sentenced to death on the strength of Article 91 B of the Reich Penal Code, "Giving aid and comfort to the enemy".

We know well – that is, the lawyers know well – that giving aid and comfort to the enemy is a crime, or a kind of a crime, which belongs to the category of treason. The provisions regarding treason and high treason rest on a firm principle, on the principle of loyalty toward one's own country. How could they

ask the opponents, or enemy in this case, to be loyal to Germany? That is to be loyal to the enemy. That is against any view. Nobody can deny that.

Secondly, the defendants in these cases were obliged and bound by their military rank or military oath to join forces with those formations still fighting. To the utmost they could have in this case been considered as prisoners of war.

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No, the court martial did not want to hear anything about it. It did sentence, all without exception, to death. General Speidel, of course, could not confirm these sentences in all cases; he did not confirm these cases, but now we are coming to the violation of international law. He did not look upon them as prisoners of war but he simply changed the death sentence to a term of penal servitude.

All of these officers were treated as common prisoners, and taken to Germany. Here they were not kept in a prisoner of war camp but were imprisoned in the ordinary prisons as ordinary convicts.

And that, I repeat, was a violation of international law, and of international ethics, but also a violation of inner German law. As a witness I have not the text before me of Article 91-B, but I know that the crime of aid and comfort to the enemy in a foreign country – according to the German law – can only be committed by a German. Only within Germany also a foreigner can commit this crime. This shows that also the German law has been applied wrongly in these cases.

Q. These things which you have related to us here, witness, in connection with your request – did you mention all of these reasons in order to achieve a mitigation of sentence?

A. I quoted all of these reasons and I knew of such attitude. We had the right, according to the provisions of military penal law – we had the right after the verdict was announced to make known our views to the Supreme Judicial Officer and to ask him not to confirm the sentence, but to mitigate it or to issue a pardon.

All of these reasons we listed, and I will make them available to the Tribunal if it should prove necessary.

Q. Now, witness, to leave this period

A. I have to mention something else.

Q. Yes, please do.

A. I am now coming to the category of the cases of sabotage. It is known to all German lawyers, and to all who understand something of German law, that according to German military law the crime of sabotage

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Q. Witness, tell us the facts and what you did. We do not want to have any lectures from you at this time. Please tell us the facts, and after you have told us the facts, please tell us what you did.

A. The violation of a legal provision is not a legal question.

DR. LATERNER: Mr. President, I want to point out the same thing and join in what the prosecutor has just said. The witness should testify to facts and not make speeches.

THE PRESIDENT: May I suggest to the witness that it is the desire of the Tribunal that you state facts. Perhaps under certain circumstances it may be necessary for you to give some explanations, but, generally, restrict your comments to what you may know and what you may have seen, rather than commenting upon them in detail.

THE WITNESS: I certainly will.

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A. I now come to the third category of the violation of penal law, those cases belong where a summary court martial sentences people to death for sabotage without considering whether in the case under discussion there was an intention of endangering the war potential of the German army or not. In my practice before the court martial, I experienced between 25 and 30 death sentences of this type. That is all that I have to mention.

Q. Witness, when you talk of cases of sabotage here, please give us a typical example of a so-called case of sabotage, which, for instance, took place before your court, where you appeared as defense counsel, without giving any further explanations.

A. Very well.

DR. LATERNER: I object. The question cannot be material. I do not know of a single count of the indictment saying that in cases of sabotage a wrong verdict was given.

MR. RAPP: Your Honor, We submit that it may be of some importance to have two witnesses testify as to the type of offense that was handled by these courts and the ultimate results and/or disposition of those who stood either as defendants or were found not guilty before such tribunals. I believe that this has some bearing on our case.

PRESIDENT WENNERSTRUP: The witness may testify, restricting his comments solely upon the facts that he knows, and as to his observations that he personally made.

MR. RAPP: Very well, your Honor.

A. Example of sabotage cases: Cutting of telephone wires, in order to interrupt the telephone communications of the German authorities.

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That is a typical case of sabotage which we had in Athens, and the defendants were sentenced to death in complete conformity with the law. Also blowing up of motor cars. I also had such cases. Motor cars of the German Wehrmacht. They were legally sentenced to death. Setting fire to a camp. A typical case of sabotage, which I also had the defendant was legally sentenced to death. But a kid goes into a German

camp, steals two liters of gasoline and is sentenced to death for that reason. This was illegal, because it was never his intention to impair the war potential of the German Army.

Q. Very well, Witness, will you continue, from this period of time and relate further facts of your experiences from that time on, during the period of the occupation?

A In spite of the violations which I have mentioned, until September, 1943, I could not assert that we found ourselves in a state of complete lawlessness. In the last analysis, there were cases which came into court, which came into the German court, and in some of these cases the people were shot on the basis of a legal verdict. This state, however, ceased completely after the arrival of the SS in Greece. I cannot speak for the whole of Greece. I am only talking of Athens. The SS, as I have already mentioned, arrived in Athens about the end or beginning of October, 1943. The Greeks, were now hardly over prosecuted by the GFP. The GFP dealt mainly with the minor cases, and the SS took over the major part of the prosecutions, through the notorious SD, Security Service, that is.

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Of course the Summary Court Martial of the Military Commander for Greece did not stop functioning all of a sudden. Some serious cases came before this court martial, but in the course of true this also ceased. I might say that about February or March, 1944, the Summary Court Martial of the Military Commander for Greece had become a shop without customers. It only dealt with minor offenses. The was only carried out by the SS.

The SS, of course, had no court martial, Their tortures, were, of course, a daily occurrence, and the people were not shot on the basis of a legal verdict; they were not ever shot singly, but on masse. 40, 100, 25, 30, etc., There were so many cases that I cannot remember them. Of course I was not an actual eye-witness of these events, but I was an eye witness of a part, that is to say, the following case.

On the 1st of May, 1944, I heard from the Arch bishop's office, -- (I must make here, an explanation). I get the assignments of the arrested Greeks from a department of the office of the Arch bishop of Athens. That is, the relatives went to the Arch bishop's office and the Arch bishop's office gave me the assignment to defend these people, and for that reason I had a connection with the Arch bishop's office). I learned from the Arch bishop's office that a policeman had brought clothes and suits of about 200 shot Greeks to the headquarters of the 21st Police District of Athens.

I went to this office in the Arch bishop's Palace. He sent a motor car, and about 11 o'clock in the morning all of these things were brought to the ground floor of the Arch bishop's Palace. In the meantime the population got to know that on this morning a mass execution had taken place of people who had been brought from the concentration camp at Heidari (?). The relatives, of course at once hurried to the Arch bishop's Palace, as often happened in these cases, and they gathered there.

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The picture was awful. All of these people pushed their way into the ground floor. I cannot describe the crying of the women as they went in and when they started looking for the clothing of their loved ones.

They searched the pockets in order to find some kind of identification, or a letter. The pockets were completely empty.

Suddenly, I saw an old woman from the suburb of Pentelli (?). She had noticed the jacket of her oldest son, and she took it, and she pressed it against her breast, and began to cry.

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After a few seconds she turned around, and this time she found the clothes of her second son. She fainted. That is the only picture of the terror of the SS of which I was an eye witness. This state continued until the end of August or beginning of September 1944 -- Athens had become a hell -- until the liberation. That is to say, until the 12th of October 1944. That is all I have to report regarding facts.

Q. Witness, in order to return quite briefly to the court trials in which you took part, I'd like to ask you how long, on the average, did these trials last -- that is, individually.

A. Mr. Prosecutor, I cannot give you an exact answer. There were cases of trials lasting one, two, or three hours, or even a whole day, when there were more defendants than one. There were cases where the trial took only a quarter of an hour, but that doesn't mean a thing. This was a case of a spy who had been caught in flagranti at the broadcasting station with a radiogonimeter. It was quite clear, and he was convicted immediately. It was quite legal. In any case, whether law was spoken in a proper manner always depended on the judge. In the beginning and, to be just, especially in the case of the court martial of the Military Commander for South Greece, in the beginning there were good court martial judges who came to Athens. There were judges who were professional judges.

Q. Witness, I did not ask you regarding these things. My question was precisely what was the average duration of the three hundred cases in which you took part as a defense counsel.

A. I am telling you, Mr. Prosecutor, there were cases which took one, two, or three hours. I want to tell you that exactly. Later some proceedings -- and that was illegal -- had become "blitz" trials, but I can't say that this was true in all the cases.

Q. All right. Now, the next question: In the cases in which a death sentence was announced, what was the average duration between the announcement of the verdict and the execution of the verdict?

A. Sometimes two weeks, sometimes a whole month, sometimes more than a month, sometimes only three days.

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It was like this: The president of the court always gave a time limit for making an appeal. There were cases where he gave us a limit of ten days. There were cases where in 10 or 24 hours we had to make an appeal for mercy and to give our reasons for it. The execution, of course, there were cases where the verdict was executed in three days, two weeks, a month, and in some cases perhaps even more than a month.

Q. All right. Now, witness, did you at any time personally, in Athens, read or see public announcements which were issued in connection with the taking of hostages?

A. In the beginning such reports were published in Greek papers. In the case of a sabotage it stated so many Greeks will be shot for the killing or wounding of a German soldier. That was in the beginning. Later these announcements stopped.

Q. When you say "in the beginning", can you give the date more accurately?

A. I cannot do that; I don't recall that exactly.

Q. Are you talking of 1941, 1942?

A. Perhaps in 1942 such announcements were still made public, but I don't remember that exactly.

Q. Now, witness, in connection with your testimony you spoke, I believe, about so-called security custody (Sicherheitsverwahrung), is that correct?

A. Yes, that is correct.

Q. What was that?

A. Security custody was, so to speak, a police measure, on the strength of which an arrested person could not be released, but, in fact, the people who were shot without a legal verdict came from this category of people who were in security custody.

Q. Witness, do you mean to say that when these public announcements mention was made of hostages these people were actually people taken into security custody?

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DR. LATERNSE: I object to this question. This is a leading question.

THE PRESIDENT: Sustained.

BY MR. RAPP:

Q. Witness, would you kindly explain to us whether there was a difference between hostages and people in security custody?

A. In fact there was no difference.

Q. What do you mean by "in fact"? Will you kindly explain this in more detail?

A. The fact that all these people who were shot without legal verdicts were taken from these people who were in security custody. There were also shootings without legal verdicts of people who were not in security custody.

Q. Was the word "hostage" as such ever used before the summary courts martial?

A. Yes, before these courts martial hostages could never be mentioned, because "hostage" was an administrative question. That was not a legal question.

Q. Could you kindly explain this in more detail?

A. Well, how can I explain it? For a person to be designated as a hostage does not require a legal verdict. You don't need a verdict for that. That's merely an administrative measure.

Q. All right. Did you ever protest against the fact which you have mentioned to us here?

A. Yes.

Q. That hostages were taken from people who were in security custody? Or that hostages actually were people in security custody?

A. First of all, we could not dare to do that, and secondly as defense counsel we had the right to turn only to the court, and, of course, we would have received the answer that the summary court martial was not competent in this matter.

Q. You said at the beginning of your answer that you could not do that, that is to say, protest.

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Why could you not do that?

A. We could not do that because--- Well, how can I tell you that? Well, of course, from fear of the GFP. Only once I remember when the SS came to Athens, and the cases were not all brought into court. Only once I, together with two colleagues, protested to the president of the summary court, Kriegsgerichtsrat der Luftwaffe, Dr. Kirchberger, and we discussed this state of lawlessness. And we told Dr. Kirchberger the opinion that at least those cases would have to be brought before the court martial which were in direct connection with the interests of the German Wehrmacht. Dr. Kirchberger, at that time, promised us that he would deal with this question, but we did not have any success. That is to say, he did not do anything.

Q. Witness, now to come to a finish. Concerning the shootings or murders carried out by the SS you said that the summary court martial was, so to speak, shelved. Did you try to have these cases brought back before the summary court martial? Can you tell us anything in this connection?

A. We always tried to bring these cases before the summary court martial because we thought if there were only a small -- even if it were only a chance of ten persons, it was always better to have a legal verdict rather than having the people shot without a legal verdict.

Q. Whom did you approach?

A. Dr. Kirchberger. We did not have the right to go to any other authority.

Q. Now, witness, do you know who, at that time, was the highest SS officer in Greece?

A. At that time it was universally known that General Strupp came to Greece first, and then, after about a month, his place was taken by Schimana.

Q. You knew, witness, that the SS carried out these shootings, is that correct?

A. Which shootings are you talking about?

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Q. These shootings about which you told us that took place after October 1943.

A. No. There were also shootings - the execution of the court's sentences, death sentences - for those the SS was not competent - rather the regular army.

Q. I'm talking about the extra-legal shootings.

A. The SS.

Q. Now, why did you approach the summary court martial, which was, after all, a military authority?

A. Would you kindly repeat this question?

THE PRESIDENT: The Court will take its afternoon recess at this time.

(A recess was taken.)

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DIRECT EXAMINATION (Continued)

THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

MR. DENNEY: Your Honor, at this time I would like to distribute to the defense counsels eleven copies in German of various documents which we propose to offer, which are reports of the Greek National war Crimes Office, and it will not be necessary to refer to them further at this time. We are just distributing them for the purposes of getting them to them so that the 24 hours can correctly run.

THE PRESIDENT: Is there any further examination, Mr. Rapp?

MR. RAPP: Yes, your honor.

THE PRESIDENT: You may proceed.

BY MR. RAPP:

Q: Witness, shortly before the recess, you were telling us that you and quite possibly some colleagues of yours had tried to prevent the shootings carried out by the SS or at least to direct them into decent channels or to bring about further trials by the Field Court Martial in order to give an extra chance to your client in this manner and under certain circumstances obtain a milder sentence than the death sentence. Is that correct?

A: Yes, that is correct. That is corrects

Q: Now let me ask you whether these Field Court Martials had an institution -- were an institution of the military?

A: Yes, these Field Court Martials were an institution, a court which came under the military.

Q: But then, why did you address a military department in order to, shall we say, stop these shootings, if the shootings were actually carried out by the SS?

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A: Well, there was a reason for that but what we were trying to do was to ask the President of the court martial to put the whole affair before his superior, and that of course was the Military Commander in Greece. He was of course only a subordinate source, and it was in the police department and we thought that the Commander, that is to say the highest officer in Greece, would act, and might have success with the SS. He could, after all, give them orders.

Q: You say the supreme Commander, the highest commander in Greece, the Military Commander could give orders to the SS?

A: Whether in fact he could do so or not that is a question which I can't possibly answer, but at any rate he was the commander in the occupied territory. He was, shall we say, the highest ranking authority in the occupied territory and he had responsibility for the application of measures of the Hague, land warfare, conviction, etc. And as responsible highest officer, he could even give instructions and orders to the police department.

Q: Did your complaints -- or shall we say your representations actually have success?

A: No, they had no success.

Q: Do you know whether your representations were ever put before the Military Commander?

A: That I can't possibly know.

Q: Upon your representations, did you receive any type of answer at any time?

A: No, he promised that we would one day be able to see the General, that the matter would become a matter for the General to see to.

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Q: But you never had an answer?

A: No we never did.

Q: Would this mean that the existence of Field Court Martials ceased de facto?

A: Neither de facto nor de jure. It merely limited the activities of the Field Court Martials.

Q: After that time?

A: Yes, after that time and gradually step by step not all in one gulp.

Q: What type of cases did the Field Court Martial deal with after that?

A: Usually with minor matters -- bagatelles.

Q: I thought you told us earlier that these bagatelles matters, these minor affairs, had been dealt with by the Court Martials of the Field Kommandantur?

A: Yes, that I did say but the less serious cases, for instance thefts of gasoline, were a matter came before the Field Court Martial of the Commander. Of course, there were some exceptions. There were cases where some serious matters went before the Military Court but they were merely exceptions.

MR. RAPP: I have no further questions.

THE PRESIDENT: Any cross-examination on behalf of defense?

CROSS EXAMINATION BY DR. LATERNSEER: Witness, I have only very few questions to put to you. You said earlier at the beginning that you were a professor at the University at Athens. What lectures did you give?

A: Roman law and civil law.

Q: And you also said that you were a professor at the University of State Science?

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A: Yes, and that is an independent school in Athens.

Q: What were you reading there?

A: Civil law.

Q: You have passably showed to us also that you are an experienced defense counsel and that during the time of the occupation you defended many of your fellow countrymen. Did you -- looking at your activities from a broad point of view, were you successful?

A: Yes. In some of them anyway.

Q: Could you, for instance, talk to your client before the trial?

A: Yes, I could but only after the procedure had been laid down. Before that, no. During the preliminary investigation it wasn't permitted at all.

Q: When you say the preliminary procedure, do you mean the indictment?

A: That is it. That is something different. It is the trial in order to impede punishment. I am talking about the indictment now.

Q: Now during the actual trial, did you have the possibility of stating such facts as you considered necessary as a defense counsel, generally speaking?

A: Yes, and no. If you are speaking generally, then I will tell you that I can't give you an exact answer. That is to say, as I told you earlier, in the case of Boros, there was, shall we say, an excellent system of defense because we could ask the question whether the defendants had been subjected to more severe pre-trial investigation and that we received in answer to that the statement that he had actually been

beaten up during the pre-trial investigation, that they had been subjected to such methods. That of course made an impression on the court.

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It was an excellent means for our defense but it was the last time when we had it at our disposal and could state it. After that, we had been prohibited to put such questions to the prosecutors who were, of course, Gestapo and police officials. This was the last time.

Q: But at that time you could?

A: That was on the 30th of November, 1942 , you know. You have got to think of two more years.

Q: Yes, I know, but I am merely asking you about this case which you have related to the Tribunal. Now did you after the trial had finished and when, no doubt, illegal threats were uttered to you or by the GFP, did you tell that to the President?

A: No, we didn't. We immediately hastened to see the Archbishop and he took the essential steps.

Q: Did you later on tell the President of the Tribunal about that, that you had been exposed to such treatment?

A: He knew it. He was the President.

Q: Did he tell you what he thought about it?

A: I cannot remember that he did. I cannot remember.

Q: Then let me put another -- well a general question to you regarding your defense counsel activities. In developing your defense counsel's work, did you find considerable restrictions being imposed upon you or could you contribute to it that facts were properly investigated?

A: Not in detail. First of all, because time was limited, which was necessary for the preparation of the defense. For instance, we received a telephone call saying tomorrow that such and such a case will be heard. We didn't know it at once. Secondly -

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Q: But if such a call came through -

A: Let me answer your entire question. Maybe that will help you. First of all, that was the first point. Quite suddenly we found ourselves having to defend a case in the morning.

Secondly, in many cases time was very restricted in order to prepare the so-called opinion of ours. That was an important means at the disposal of the defense, in order to prepare for the case and that was often restricted sometimes very restricted, and then we couldn't ask the defendant really when police officials were about. For instance, this question which you as an attorney and defense counsel would put and know the importance of to the defense -- you couldn't tell the judges that such and such means were employed to obtain a testimony. That is an important means for the defense which we however could

not employ at a later stage after this famous date of November, 1942. The Tribunal prohibited us from doing so and I am telling you that under my oath.

Q: Were you expressly prohibited from doing that?

A: What do you mean "prohibited?" You Germans often use the word "prohibit" and "forbid". Maybe it was a recommendation but we considered that recommendation to be a prohibition.

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Q Well then, I had asked you or rather I would like to ask you whether in the trials which were pending, the facts, the evidence, was investigated?

A Yes. How can you arrive at a judgment without investigating the facts?

Q Quite. I just wanted you to tell me that.

A They were investigated as far as was possible in this restricted period.

Q I have no further questions, Mr. President.

BY DR. WEISGERGER:

Q Dr. Weisgerber for Speidel. May I call you colleague and Mr. Witness? I just want to continue from the last question put by my colleague, Dr. Laternser. You told us that during 25 to 30 sabotage cases you acted as the defense counsel. Now were these -- or shall we say was that the total figure of cases where death sentences were imposed?

A Yes, those are the death sentence cases. And above those, there were other cases of life and 15 years' penal servitude and the least matter, say two loaves of bread -- there, even there a prison sentence was imposed.

Q Now before that when you described in detail the activities of the German courts and when you also described the attitude you had adopted with regard to the type of justice used, particularly in the sphere of sabotage, you said that you quite frequently missed it, that the Tribunal took into consideration the intention to damage Germany's armed force and didn't ascertain it for certain.

A I wasn't talking about damage done to Germany's armed strength. I was talking about sabotage, and sabotage is a general conception, as you know. These are cases of sabotage which appear in the nationalist period too. Let me mention Professor Muggler's name who, as you know, has written about the law of warfare. There he says sabotage never has a political character, never lost its political character.

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Q Well, let's not go into this chapter too much. I am just going to ask you with regard to a case during which you, as far as I know, acted as defense attorney very successfully. Do you remember this following case? Immediately before the Action Crete, carried out by the German armed forces, had started, that is in May 1941, there was a Greek aged about sixty who was indicted because he had stolen

a field cable from the airport at Athens which he had cut out. Do you remember that you defended him at that trial?

A Yes, I was the defense counsel.

Q Now can you recollect that on the part of the prosecution a motion for the death sentence was submitted?

A Yes, I remember that.

Q And may I ask whether you remember what punishment was actually given -- thanks to your defense?

A Four years I think.

Q Well, was it four or was it even less?

AAAs far as I remember, it was penal servitude but that was before the Field Court Martial of the air force district Southeast. May 1941 -- it was at the end of June that the trial started, Mr. Attorney, and it wasn't the Field Court Martial of the Commander South of Greece; it was the Field Court Martial of the General Voeln? I think after that time, and I will tell you exactly when the new jurisdiction began which was in November, 1942.

Up to that time, the Field Court Martial always demanded the existence of a subject momentum. The argument for the damage from the jeopardy of Germany's armed strength. In those days, jurisdiction was correct.

Q Well, you will probably be able to admit, won't you, that the judgment, the sentence of the Court was just considering the entire circumstances? I don't think we will have to go into this case in detail. I just thought I would refresh your memory.

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A Let me answer your question with one word. In this case, it turned out during the trial that uneducated people were affected, an uneducated man who did not have the intent, could not have had the intent, who was not able to have such an intention.

Q I see. Now, Mr. Colleague, surely in the course of more than three years which you spent working with German Field Court Martials in Athens, you had contact with individual judges?

A Yes.

Q Could you -- or shall we say was the contact such that if you had any special request you could go to see the judges, that you could go and tell them "I have this and that suggestion to make"? Was that usually complied with?

A Before I answer that question, Mr. Attorney, I would like to ask you what you mean by contact. Do you mean personal -- do you mean that we have the possibility to visit the judge and discuss the case with him? Is that what you mean?

Q Yes, yes.

Q Well, we could but as far as requests were concerned, you have talked about -- that is something which I couldn't state. A German when he had orders to give and when he had orders he strictly adhered to them and I did not know that perhaps because I had beautiful eyes Dr. Rattke might in this case help me along. That certainly wasn't so.

Q Well, when I said request, I didn't mean that.

A Well, that is what I understood.

Q What I wanted to say, if you intended to call numbers of witnesses with regard to the case, could you previously go and talk it over with him?

A Do you mean the witnesses?

Q No, I mean the judge. So could you tell the judge "I have the intention of calling this and that witness" or so and so?

A A In practice, this is how it was, Mr. Defense Counsel. Before the trial, we put a piece of paper before the judges as was the custom before Greek courts containing the names of defense witnesses and usually I must admit the Field Court Martial would say "All right, I will let this witness testify and that has been the same everywhere.

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During peacetime, if I have ten defense witnesses for a case or fifteen, then of course the Tribunal won't admit them all, but we could discuss these matters, yes, with the Field Court Martial judges but of course there were hard ones, severe ones, and milder ones; that depends upon the personality of the judge.

Q Were you in touch with Froheim, the Supreme Court Martial Counsellor?

A No. I once met him, personally. Incidentally, he was the supervising judge. He was not the president of the court. That was Dr. Kirchberg.

Q Now, esteemed Colleague, you know that for instance edicts appeared ordering the discontinuation of proceedings and that they were put before the Supreme Judge for signature?

A Yes.

Q And that his signature influenced the position whether the proceedings would continue or were quashed or whether proceedings would actually take place. Now who was -

A Excuse me, please, Mr. Defense Counsel. As far as I remember, though I can't tell you with exact certainty, I think the Field Court Martial Judges who would deal with the case -- they signed the indictment or would sign on behalf of the president to discontinue proceedings but I can't say that for certain. It is my impression.

Q You are quite right, witness. They signed on behalf of their superior judge, but at that stage, both in order to serve an indictment as well as to discontinue proceedings, the signature of the Supreme Judge was necessary.

Page 2,492

A No, not of his. To discontinue proceedings, he did not have to sign, no.

Q Confirmation?

Q All right.

A All right, we agree on that; that is something different. If, for instance, in the case Boros, the Tribunal had passed judgment up to that time, the Tribunal had an idea of what was going on but that judgment requires the confirmation by the Supreme Judge and that is the General. For that reason, we asked in our opinion to have it confirmed. That was the point not to have the judgment which had been passed confirmed.

Q And you knew that your opinion, your plea, your final plea would be put before the supreme authority?

A Yes, we did.

Q Well then, can you remember whether, on the strength of your plea, you had successes in mitigating the sentence?

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A. Yes, yes I remember that General Speidel in some cases either changed the sentence or did not confirm it and at an unfortunate moment meant the case to be reheard or the punishment not carried out. But, I am not certain to whom we owed it. For instance, in certain cases which General Speidel will undoubtedly remember which concerned two Naval officers, Sazosch and Mithakis, there was for one of them, as far as I remember, clemency and I am sure General Speidel will remember, not thanks to me, but thanks to the Archbishop.

Q. You are speaking about the intervention of the Archbishop. May I put this question to you?

A. May I interrupt, Mr. Defense Counsel. I admit to you it was due to argument on the part of defense counsel. That is something I can't deny.

Q. It was therefore, due to the argument of the defense counsel which the Supreme Judicial Officer acted upon?

A. May I ask you to repeat.

Q. The confirmation of a judgment was, therefore, partly due to your argument?

A. Yes.

Q. It was put before the Supreme Judicial Office and it was agreed upon?

A. Yes, and there were other interventions from higher sources.

Q. That intervention included those put forth by the Arch Bishop of Athens?

A. Yes, those are just the ones I mean.

Q. Do you know by any chance whether Archbishop Damatinos at the time turned to General Speidel repeatedly in order to ask him for clemency on some favor?

A. Yes.

Q. And did the Archbishop have success?

A. Such cases which I know where he was successful were due to the Archbishop's intervention.

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Q. You also mentioned that certain defects had developed particularly late in 1943, as late as October 1943, shall we say. When the SS came to Athens?

A. Yes.

Q. Did you ever discuss with the Judge from Field Court Martial this development I am talking about?

A. Well, with regard to the steps we took in connection with Dr. Kirchberger we did discuss the matter because a responsible high ranking Judge like Dr. Kirchberger, you can't tell exactly what he thinks about the SS, and can't state an opinion about the SS. He announced we would be the subject of a report to the General.

Q. Did you think he meant he himself would report to the General?

A. He couldn't, he wasn't responsible.

Q. The way I understood your previous testimony was that you were saying Kirchberger promised you that yourself would be able to report to the General about this.

A. No, you misunderstood me or probably it was due to the translation. We were going to be the subject of him to the General.

Q. Kirchberger promised you that on the strength of the information you furnished him and your fellow defense counsel.

A. There were two others. Probably three who took the stand. May be there were more but I think it was three.

Q. You also mentioned it that quite often you attempted to deal with matters in the hands of the SS or SD by bringing them before the Field Court Martial.

A. Well, I wasn't saying I went to the SS.

Q. I understood you to say that you tried to persuade the Field Court Martial to use its influence to have these matters handled by them, is that what you meant?

A. You don't understand. You misunderstood me. It was our wish as defense counsel to put the matter before the Field Court Martial if we had a chance, whether small or big. I would rather be shot on the strength of a Field Court Martial than without any judgment at all. And it was because of this we went to Kirchberger at the time about this ugly boy I was telling you about.

Q. Then your point was that the supreme judicial officer up to a certain date in 1944 was General Speidel. Now you have told us in a number of cases you obtained from him a reduction and changes of judgment and sentences. Now, upon a question put by the Prosecution to the effect whether General Speidel couldn't have given orders to the Police you announced, "I don't know what the jurisdiction in question was." You said your impression was he as the highest military officer in Greece, was also superior who could give orders to the Police.

A. If you will permit me I will give that more in detail. What I wanted to say was this. Greece was occupied territory, who is responsible for the observance of the Hague convention and the maintenance of order and justice no other than the superior.

Q. That was your personal opinion?

A. That is my personal opinion. I am now speaking about myself because I am questioned as a jurist and I am giving you legal argument. He was responsible for maintenance of order in the occupied territory as the highest authority.

Q. When taking this case wouldn't you say that this was a surprise on one side; General Speidel, as supreme judicial official give you a number of successes?

A. First of all ask me how many death sentences there were.

Q. Well let me ask you, can you tell us?

A. I admitted it. I had successes - 10 to 15. I am not going to argue with you about that.

Q. Now, witness colleague, let me call upon you to ask you this.

Earlier you said that in 25 to 30 sabotage cases in which you officiated there were death sentences. Can you tell us how many of those death sentences were confirmed and how many were not.

A. In sabotage cases confirmation nearly always came.

Q. But in a number of sabotage cases the sentences were changed?

A. Once, or twice -- hardly more. "Kaüm", if I can use the German word.

Q. You can't actually remember.

A. The details, no, but I am telling you I can tell you the cases where I succeeded in getting clemency plea. In 8 cases of officers sentence was not confirmed or was there clemency.

Q I don't think we need to waste the time of the High Tribunal with details. You did score successes with the supreme judicial authority in a number of cases and this same man who held the highest judicial authority permitted the Police to become active in the form you described to us?

A In the Boros affair, and other affairs, certainly.

Q Do you believe that one and same man would act once like this, and once like that?

A No, Mr. Defense Counsel, the soldier as you know has to only according to his purpose, maybe in one case he thinks it useful for his purpose have people shot as a warning to others this may not seem suitable to him under other conditions. He does not act on the basis of a legal principle, he acts from the practical point of view.

Q Witness after October 43, among your colleagues as is customary in lawyer circle, discuss the fact that these shootings were being carried out by the Police, SS and SD or did you just say General Speidel does that?

A The rumors circulating among the population differed. We said of course, at that time already that the shootings were carried out by the SS, shootings without preceding judgment, we have to make this difference. Shootings without proceeding verdict were executed by the SS. But as lawyers we said to each other, who is after all responsible for this state of lawlessness in the occupied Greek territory.

Q Of course, you were in Germany for a lengthy period. Just want to put that on the record. But in spite of that I do believe that the Police conditions in Germany as they were up to 1945 were unknown to you.

A I left Germany in 1936.

Q You had told us earlier that persons who had been acquitted by a Tribunal or whose proceedings had been quashed had been handed over to the SS.

A No. The SS was not there at that time. I was talking about the period of January 1943. At that time no SS was there.

Q To whom were they handed over?

A To the Secret Field Police - a military authority - no SS authority.

Q Did you ever talk to a Judge of a Field Court Martial about the question how it happened that a Tribunal considered a man innocent and didn't begin proceedings against him whereas on the other hand the same supreme judicial authority did not object that these people remained in prison.

A That was a Police matter, not a matter of the Field Court Martial and in such the judges used to discontinue the conversation, and they were right.

Q Did you ever find any clues indicating that the instructions given to the Secret Field Police or rather from which source these instructions were given to the Secret Field police?

A Yes, Department I-C.

Q I-C, have you any indication showing that this department I-C did not receive its instructions in turn from another source?

A I know nothing about that.

Q Mr. Colleague, earlier you dealt with the case of several Greek officers who were sentenced because of helping the enemy. Are you aware under which terms the capitulation of the Greek Army was accepted by the German Armed Forces, particularly what provisions were made with regard to the release of Greek officers by the German Army.

A. Yes, I can answer that question but let me tell you this first. Naturally you have more experience than I have in such matters because you have worked before the big IMT, but I am afraid I will have to give you a lawyer's answer to your question regarding the application of paragraph 91b.

Q. I think we can be quite brief. I merely wanted you to tell me what you know about the negotiations.

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A. The Greek officers were not released on parole.

Q. What do you mean by that?

A. Parole -- that he will not try to join the forces of his country which are still in the fight. That is parole -- the promise to remain in the occupied territory -- and they would not give it when the capitulation occurred.

Q. Then when individual discharges of Greek officers took place they did not give their word of honor they would not go against Germany?

A. That is what I just answered. Released subject to parole, i.e. subject to word of honour; this is the proper German expression (word of honour -- Ehrenwort).

Q. Your Honor, I have no further questions.

THE PRESIDENT: Any further cross examination?

Any re-direct?

MR. RAPP: There is no re-direct examination, Your Honor.

THE PRESIDENT: The witness may be excused then.

(The witness was excused.)

May I now inquire of Prosecution as to whether or not there are any further Greek witnesses to be called.

MR. DENNEY: No, if Your Honor pleases, that's the last one which we plan to call and I must say we anticipated that defense counsel would be considerably more lengthy in their cross examination in view of some cross examination that had been conducted before and I certainly appreciate their effort to expedite the proceedings. Perhaps we could -

THE PRESIDENT: Let me interrupt further, Is there any desire on the part of any German counsel or defendant to further question these Greek witnesses?

DR. LATERNSEER: Mr. President, we agree to the release of all of the Greek witnesses.

THE PRESIDENT: Upon the statement of Dr. Laternser that it is agreeable to all German counsel and to all defendants, the Greek witnesses who have been called will be discharged from the case and released as witnesses.

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That is the order of the Tribunal then.

MR. DENNEY: Perhaps the Secretary General could tell me the number of the last exhibit. I believe it is 498.

THE ASSISTANT SECRETARY GENERAL: Yes, sir.

MR. DENNEY: I have just handed your Honors three copies in English of the portion of the document which I gave to the defense counsel. I have already distributed copies to the interpreters and the reporters, Defense counsel have a German copy. How many do you require, Mr. Stone, in English?

THE ASSISTANT SECRETARY GENERAL: Three English, two German.

MR. DENNEY: We are distributing to Your Honors, three additional copies in English. These are the three English and the two German copies for Mr. Stone.

I would request that the loose pages, the ones that are not contained in the folder -- there are 39 pages -- headed "Official of the Greek National War Crimes Office and Atrocities Committed in Greece" be marked 499-A for identification.

And the certificates can be placed at the end momentarily and that the document which says "Greek Document No. 1" be marked 499-A 1 for identification. That is a letter dated Athens, September 14, 1945, together with 9 pages annexed thereto. And, then the next document in the folder which is Greek Document No. 2 -- it is requested that that be marked 499-A 2 for identification. This is an interrogation of 3 pages. And then the last document, which is 26 pages, which is the translation of Greek Document No. 3. It is a decision dated 3 December 1946. It is requested that this be marked 499-A 3 for identification.

And the last part of the document in the folder, which is 5 pages, Greek Document No. 4 -- this is a translation of the sub-titles that accompany the Greek film. It is not what we are familiar with as a talking film but a list of sub-titles and we are submitting them in advance. It is requested that this be marked 499-A 4 for identification.

And there is an additional document which we do not have at this time.

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However, in order that things may be kept in order, I would ask that the certification by Dimitrius Kissopoulos be marked 499-A 5 for identification. Your Honors will note in the certification that there is one document which is not present at this time.

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That, if your Honors please, concludes the evidence with reference to Greece except for the offer of these documents which have just been finally prepared and submitted and the film. We perhaps might ask defense counsel tomorrow to waive the 24-hour rule but we certainly don't want to do it now. We have just handed them the documents.

In connection with the matter under discussion concerning the inquiry by the Tribunal this naming, with reference to what progress has been made in connection with the order of the Tribunal concerning the notion by the defense counsel for the purpose of investigation of documents, the matter -

THE PRESIDENT: Mr. Denny, let's have it understood that it was a ruling in which we made certain statements in the alternative.

MR. DENNEY: Your honor please, I was just about to recite the ruling. I submit that I may state how the ruling was arrived at. I believe this was made as the result of a motion made by defense counsel and the Court's rule was that:

(a) They be allowed to go to Washington or (b) That the documents be brought here or (c) In the event those things didn't happen that certain conclusions would be drawn by the Tribunal.

In that connection I have examined the rules and discussed the matter with General Taylor and would like to say this at this time.

Defense counsel have made a motion for the production in Nurnberg of a large number of documents presumably located in the Pentagon building in Washington D.C. or, in the alternative, for permission to send two of their number as representatives to Washington to examine the documents.

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The tribunal has granted this motion in the alternative.

Rule 12 of the Uniform Rules of Procedure, Military Tribunals, Nurnberg, describes the method by which the defense counsel may apply to the Tribunals for the production of witnesses or documents.

Paragraph "C" and "D" of Rule 12 describes the methods by which documents and witnesses can be obtained if such application is granted by a Tribunal. These provisions are clearly applicable to the present situation and provide as follows:

"(C) If the application is granted by the Tribunal, the Secretary General shall promptly issue a summons for the attendance of such witness or the production of such documents and inform the Tribunal of the

action taken. Such summons shall be served in such manner as may be provided by the appropriate occupation authority to insure its enforcement and the Secretary General shall inform the Tribunal of the steps taken.

"(D) If the witness or the document is not within the area controlled by the United States Office of Military Government for Germany, the Tribunal will request through proper channels that the Allied Control Council arrange for the production of any such witness or document as the Tribunal may deem necessary to the proper presentation of the defense.

The prosecution is advised by the Secretary General that immediately after the Tribunal granted the motion in question he took steps to secure the execution thereof as provided in Rule 12.

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The Secretary General has informed the prosecution that he has been in communication with the director of the Legal Division, Office of Military Government for Germany, United States, Berlin, and has transmitted to him a copy of the court's ruling on the application, together with full information as to the location and quantity of the documents in question.

The prosecution is further informed that the director of the Legal Division, OMGUS, is taking steps in connection with this matter and will communicate with the authorities of the United States War Department in Washington to determine whether the documents can be transmitted to Nurnberg or whether representatives of the defense counsel can be transported to the United States and admitted to the Pentagon Building to examine the documents.

It appears, therefore, that the matter is being handled strictly in accordance with the Uniform Rules of Procedure of the Military Tribunals, Nurnberg, and that the authorities are moving with all possible expedition.

The prosecution constituting the office of Chief of Counsel is subordinate to the Office of Military Government for Germany, U.S., Berlin, and through that office to the United States War Department in Washington. The prosecution does not control and can give no directions with respect to the transportation of the documents from Washington to Nurnberg nor with respect to making arrangements for the transportation of representatives of the defense counsel to the United States or with respect to the admission of the representatives of the defense counsel to the Pentagon Building. The prosecution has been endeavoring to assist the Secretary-General in every possible way in connection with the Tribunal's order and will continue to do so. However, the prosecution cannot assume responsibility for the action of both authorities to which the prosecution is itself subordinate and to which it is powerless to give directives or orders.

Rule 12 of the Uniform Rules of Procedure of the Military Tribunals, Nurnberg, imposes no such responsibility on the prosecution and clearly sets forth the channels for the production of witnesses or documents on behalf of the defense.

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In view of the limited time remaining, Your Honor, I wonder if perhaps we could adjourn now.

THE PRESIDENT: Judge Carter wishes to speak on behalf of the Tribunal.

PRESIDING JUDGE CARTER: I thought I made it clear this morning when we were discussing this matter the nature of the ruling of this Tribunal in regard to this matter. This matter does not come under Rule XII, and the Tribunal so held and, as a member of the Tribunal, I resent the attempt of the Prosecution to come here and overrule the holding that we have made.

When the Prosecution brings in excerpts from exhibits they are producing the records, and by the very use of them they are bound to present the whole record here, It isn't a matter of getting evidence in support of the Defense. It is a rule of law that when one produces a part of the exhibit, he is bound to produce it all for the other side to examine.

I thought I made that clear, and when you come here and say that it applies to matters of evidence pertaining to making the Defense, it is clear outside the scope of the Tribunal's ruling. It has nothing to do with it, and I think, from talking to the other members of the Tribunal, that they are in agreement that insofar as the exhibits offered by the Prosecution are concerned and the parts of them that have been offered here, that the responsibility is on the part of the Prosecution and no one else to produce the whole instrument.

Now it is true that the Prosecution is probably in administrative matters subordinate to military government here in Germany; but this Tribunal is not, and when the Prosecution appears here, they appear as officers of this Tribunal, and in that capacity, and I say, as the order previously hold, that the responsibility rests upon the Prosecution to produce or make available the balance of those exhibits or the alternative therein set forth will be invoked.

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Now, I hope I have made myself clear on that. Now, I am speaking for myself, and I think for the rest; if they have anything to add I am perfectly willing that they should do so.

THE PRESIDENT: Judge Carter has expressed the sentiments of this Tribunal, and there is no necessity of any further comments by the other members of the Tribunal.

The Tribunal will be in recess until nine-thirty tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until nine-thirty o'clock tomorrow morning.

(The Tribunal adjourned until 22 August 1947, at 0930 hours.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 22 August 1947, 1000-1730, Honorable George J. Burke, presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats. The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

JUDGE WANNENSTRUM: Marshal, will you ascertain whether or not all defendants are present in the Courtroom?

THE MARSHAL: May it please Your Honors, all defendants are present in the Courtroom.

JUDGE WANNENSTRUM: Judge George J. Burke will preside at this day's session.

PRESIDING JUDGE BURKE: You may proceed, Mr. Denney.

MR. DENNEY: I should like to inquire from defense counsel whether or not they received last night, through the information center, the German copies of the section numbered 6 of the Greek report. If they did not, we took it up there.

This is the part of the Greek report to which I referred yesterday, which was not stencilled at the time. He are handing up three copies in English for Your Honors.

We will mark this, if Your Honors please - this Document No. 6, which is an interrogation - as 499-A-6.

The case has gotten along somewhat faster than we had thought, and I would appreciate it if defense counsel would waive the 24 hour rule. With reference to the documents which I presented them last night. I realize that it is perfectly within their rights to stand upon it, and if they do choose to stand upon it, I will make no issue of it, but I would ap predate it, if I could proceed with the offer of 499-A for identification.

Page Unlabeled

PRESIDING JUDGE BURKE: What is your reaction to the proposition, Dr. Laternser?

- 2507 a

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DR. LATERNSEER: We agree.

PRESIDING JUDGE BURKE: Dr. Laternser has indicated that the proposition is accepted by defense counsel.

MR. DENNEY: Thank you, Your Honor.

The certificate in connection with the report, which is 499-A/5 for identification, is offered first - I will take it a little bit out of order. That is the certification, Dr. Laternser.

This is offered in evidence as 490 B-5. I think perhaps it is easier to maintain the number and just change the letter, if that is agreeable with Your Honors.

JUDGE WENNERSTRUM: Why not offer it with the same number and leave it the way it is?

MR. DENNEY: Just because, "A" has always been for "identification", Your Honor. That's all, and every time we have had something to identify and that is received in evidence, we drop the "A", and change it to a "B". Or, we can just drop the letter and offer it as 499 slash 5, if that is agreeable.

JUDGE WENNERSTRUM: I think that would be better.

MR. DENNEY: We will just drop the letter and call it 499 stroke, or diagonal 5, whichever is easier.

The certificate:

"I, Dmitrius Dissopoulos, do hereby certify that the attached documents, Greek Document No. 1 (Vatikiotty Report with reference to my experiences in Haidari Concentration Camp); Greek Document No. 2 (Interrogation of Karamanos Athanasios); Greek Document No. 3 (Decision No. 3 of the Special Court Martial for War Crimes in case against Friedrich Wilhelm Mueller and Bruno Oswald Brauer) and Greek Document No. 6 (Interrogation of Ionnis Leuca Zizis) are original documents from the files of the Greek National War Crimes Office, Athens, Greece."

Page Unlabeled

It is certified to by Dimitrius Kissopoulos, Director, Greek - 2508 a National War Crimes Office, and then the seal and the date.

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The first document to which reference is made there is 499 A/1 which is offered as Exhibit 499/1. This is the affidavit of Constantine Vatikiotty.

DR. LATERNER: Your Honor, I object to the submission of this document. First of all it is not an affidavit at all. It is just a written document, a statement. Also the signature has not been certified to. I do not know whether in the offer of it at this time, I do not know whether the document will be accepted in that case. I would like the author of this document to come to Nurnberg and cross examine him.

PRESIDING JUDGE BURKE: It is not, of course, an affidavit, and subject to the prior decision of the Tribunal, it will be accepted at this time for what it may be worth, under the prior ruling.

The members of the Tribunal are interested to know whether it may be possible to produce this witness.

MR. DENNEY: I shall inquire, Your Honor. I am not advised at this time whether it is possible or not.

PRESIDING JUDGE BURKE: You will, in due time, inform the Tribunal?

MR. DENNEY: I shall, Your Honor. It is my understanding that at this time the witness is at present serving in a foreign country, as the Ambassador in Rome, and whether or not he will be available I am not presently informed. However, I shall inquire and advise you.

PRESIDING JUDGE BURKE: Very well.

MR. DENNEY: The first page, Athens, September 14, 1945;

"Dear Sir:

"I have the honor to submit a full report of my experiences during the period I was detained by the Germans as a hostage in the Haidari Concentration Camp (near Athens).

"CONSTANTINE VATIKIOTTY" Then the report follows:

"On the 26th of October 1943, members of SS police appeared at my apartment, No.10 Plutarch Street, and peremptorily ordered me and my wife to show them our identification papers. At the same time they began to search the apartment. They sent away my servant and took over the keys, and upon my asking them the reason for these actions, their chief pointed two pistols at me and covered me with blows, stating that there were accounts to be settled between us.

"Then they ordered me to get ready and follow them. They also arrested my wife, upon whose Polish homeland they heaped the vilest abuse.

"We were taken to the Merlin Street Headquarters of the SS., whence after answering a few routine questions, we were removed to prison. I remained in the Averoff prison for forty days, after which without further examination, I was taken, together with other prisoners, to the Haidari concentration camp. Ten days later, my wife was also brought to Haidari and shut up in solitary confinement in a cell in Building No. 15 of the camp. Two months later she was removed to building No.6, where in time, the number of women imprisoned grew to 300.

"Immediately upon our arrival at this notorious camp the Governor commanded that we be searched. Amid showers of blows and abuse, we were divested of our belongings: blankets, watches, rings, and everything that we possessed. Some of the prisoners had their shoes and even their garters taken from them. In this half naked condition we were thrown in the cellar of one of the buildings, where for several days, during the bitter cold of mid-winter, we lay in the bare pavement. It was only a fortnight later that we were allowed to communicate with our families and permitted to replace the necessities among the articles of which we had been robbed.

" My first contact with the terrible prison was a tragic one; for, on that day, I witnessed the first execution which took place within the camp walls.

"As we were leaving the Averoff prison the car in which we were riding stopped at the entrance of the outer gate of the prison yard, and the guard threw into our midst the chained, bruised body of a man in rags. The man was a Jew from Janina, and a Lieutenant Captain during the afternoon roll-call, the Governor called the interpreter and handed him a paper; he then ordered the unhappy prisoner, who stood next to me, to advance towards him. After lashing at the prisoner's face with a whip, he turned to the interpreter and told him to read aloud the written order.

"The interpreter read as follows:

"The Governor of Haidari, Major Radomski, will personally execute before you the prisoner named Levy, for attempting to escape on the day of his arrest. Beware! 'The game fate awaits you in such a case!!!

"A shudder of horror went through us all. The terrible Governor then proceeded to carry out his threat. He drew his revolver and fired at the unhappy man, who crumpled to earth in a bloody heap. His German assassin then calmly ordered us to remove him. But, before we had had time to lift the man, the Governor fell upon us and began to lash at us with his whip. Then, tearing his victim out of our hands, he fired at him once more and ordered us to remove the man's shoes. They were now and, consequently, a good prize. Under the supervision of the Sub-warden, we carried the man to a garbage pit, and there as we had neither spade nor pick, we buried him with our hands. The poor fellow was still alive when we covered him with the earth of Haidari.

"On the following day, I became acquainted with the nightmare of life at the camp. A nightmare which lasted nine long months.

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"We arose at five, and from 6 o'clock to sunset we were employed at forced labor. We carried stones made barbed wire netting, filled and emptied ditches pulled down walls etc., under the eye of furious and raving guards, who urged us on with lashings and kicks and harsh shouts of "Los, los".

"The fobs at which we were employed had no practical purpose. They were merely forms of punishment for the prisoners. On one day, while I was with a group of men carrying stones, the Governor approached for inspection and, claiming that my pail was not full enough, he whipped me in the face.

"Serving as Governor of the prison was the above mentioned Radomski, about whom it was rumoured that he had been a porter in Hamburg. He was a sadist, a drunkard a veritable brute. He stalked about the camp ground using his whip, which he usually aimed at the face and eyes of his victims, and often his revolver. A few months later he was succeeded by Lieutenant Karl Fisher a cold blooded, vindictive-infernal hypocrite.

"Our sub-wardens were sub-lieutenant Franz Loeffler, and adjutant Techt, who distinguished himself by his inhuman conduct. Our other tormentors were all simple soldiers, most of them Hungarian. I recall the name of some of them; Richard Weiss, E. Hirschmann, Niklaus Schmitzer, Jakob Suneritch (The camp's executioner) Schmitzer, A. Melzer, Jakob Murgesan and the worst of all, Emmerich Kowacz.

"Amid snow and mud, without overcoats, (the Governor forbade it) under a driving rain in Winter, or beneath a blazing sun in Summer, always bareheaded, and barefooted most of the time, the prisoners toiled and counted the hours until the moment came for them to withdraw to their cells. But even then how could one rest? There were no beds and not enough bed coverings, for the Governor only allowed us one or two ragged blankets. Sleeping conditions were awful. Owing to lack of space we were packed

like sardines, and we were covered with lice. All during that Winter, water was distributed at rare intervals, and we had to depend on the arrival of the water wagon from Athens for a little water.

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But there was no gasoline, and the waterwagon rarely made the trip. One can well imagine the condition of the latrines. The sewers were rarely emptied, and the prisoners were often forced to relieve their physical needs in the halls and staircases.

"Those among the prisoners who were ill had no possibility of receiving treatment, for the only doctor in the camp a prisoners, as well as the rest of us had no medicines whatever to dispense. Besides, there were always very few patients in the infirmary, for sick leave permits were issued by the Governor, and he, as a rule, refused to grant such permits if the patient had a temperature of less than 104. A sick prisoner was not even allowed to remain in his cell without special leave. Each prisoner was required to be present at morning roll-call in any case, and those who were too sick to walk were carried on the shoulders of the rest.

"On our way to and from work, we were forced to sing (*Arbeit und Freude*) even though that day might have witnessed execution of some of our comrades on penalty of being deprived of mess.

"I was once held for three days in solitary confinement, in a cell where I had to stand all day. My food consisted of 25 grams of bread, and once a day, a few beans boiled in water, which - to add to hunger the torment of thirst - was saturated with salt. It was only several hours later that I was allowed to drink a little water.

"The most insignificant infringement of prison rules brought on the most serious consequence for all the prisoners. Smoking was forbidden and so was the reading of books and newspapers, (German reading matter not excepted) We were also forbidden to bring in food from outside. Whenever any infringement of the above laws was discovered, the prisoners were exposed to the fury of the Governor. They were forced to do the "Serpent crawl" on the ground, while the guards beat them, and the camp's specially trained police dogs attacked them with tooth and nail. Or they were made to run about the camp, with huge stones on their shoulders, until they fainted.

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"Sometimes a punishment was inflicted for no special reason or justification other than the desire to terrorize and torment the prisoners. Thus, one day, the Governor ordered the guards to throw all the prisoners' belongings out of the windows. Blankets, overcoats, suitcases, baskets, underwear, mess-kits, were tossed pell-mell in the courtyard. A special roll call was then ordered, following which the Governor confiscated whatever articles were new or in a good condition. While we were impatiently awaiting to be told to remove the rest of our belongings, we suddenly saw the guards piling up our things into heaps and setting fire to them. These bonfires made up the belongings of thousands of prisoners - many of whom came from provincial areas and would be unable to replace them - kept on burning for several hours while the Governor, like a modern Nero enjoyed and sight and laughed and joked with his guards.

"Every morning at roll call, we were disposed into groups of a hundred and the Governor received a report of the number of prisoners then serving in the camp. Following this a certain number of prisoners' names was called out. The number of names of prisoners to be released was usually very small; rarely exceeding four or five at a time. Owing to the lack of system and coordination between the different services of the SS., it often happened that men, who had been ordered released by Headquarters but whose bills of release had not been received at the camp, were detained in prison for a longer period of time while on the other hand, it happened that names were called for release of prisoners who had been sent to Germany or executed.

"Those who were called for questioning were taken to the SS, headquarters on Merlin Street. They were usually returned to the prison camp on the evening of the same day, unless they were kept at Merlin Street. Sometimes they disappeared altogether. The bodies of some of them were found later, at various points about the capital.

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"In the Merlin Street building there were chambers with special installation where those undergoing questioning were often subjected to the most refined methods of torture. This lasted for hours, and often for days. At Haidari I saw prisoners with broken limbs, with bodies all black and blue from the blows they had received (The Germans used four kinds of whips), or bearing the marks of terrible burns made by applying burning torches to them. I saw others whom the questioners had hung up by special pulleys, with their hands tied behind their backs. As they swung in midair, the guards beat them with wire whips or iron rods. Those who had suffered this kind of torture had their arms wrenched from their sockets and were unable for many weeks to make use of their upper limbs. I saw prisoners who were brought back from Merlin Street in a half-dying condition and who were allowed to expire without being permitted to receive medical aid. My wife saw women prisoners who had been made to sit on a lighted electric range, or who had been beaten to such an extent that they were not able to move for days.

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"Many prisoners were transferred to the camp after spending one, two or even three months in solitary confinement cells in prison. These men bore the appearance of skeletons; some suffered from tuberculosis, others had been driven half-mad.

"Loneliness, despair, and the constant fear of execution wore on men's nerves and broke the strongest constitutions. One afternoon, during the period allowed for prisoners in solitary confinement to circulate in the yard before the prison buildings, we suddenly saw one man leaving his place in line, and coming towards the camp, gesticulating wildly. The unhappy man had obviously suffered a mental breakdown. He had not had time to advance a few steps when the sentry at the opposite end fired, and the prisoner dropped to the ground. The Governor, being notified, arrived and searched the prisoner's clothes, after which he finished the man off with his revolver and departed, after kicking the lifeless body. For several hours the victim lay unburied on the step where he had been assassinated.

"Another man cut his own throat with a razor, while we were lined up before the Governor. In the women's wards, a woman cut her wrists and was allowed to bleed to death, the doctor not being permitted to attend her.

"The camp rule was that all prisoners should have their hair shaven close. No one was exempted, not even Greek Orthodox priests, despite the protests of the Archbishop.

"The Germans had turned some of the camp buildings into workshops. Here the prisoners repaired furniture - confiscated from Greek homes - and manufactured goods which were intended for various services of the SS or were shipped to Germany.

"All the prisoners in the camp were considered as hostages, and were liable to execution in reprisals for any act committed against the Forces of Occupation. For every German soldier killed, fifty prisoners of Haidari were executed. During the nine months of my stay in the camp about two thousand prisoners were executed at various intervals.

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Among those executed were 25 women.

"During the last months I worked together with other prisoners in a storeroom where the Germans brought goods stolen from Greek homes and shops to be sorted and made into packages. This storeroom was situated near Building 15 of the prison, and from the storeroom windows, we were able to witness the gruesome scenes taking place before that building.

"Those who were to be executed, and whose names were usually called out at morning roll-call, were taken to the ground floor of the building. A little later, one or two cars full of soldiers, and another empty truck stopped before the main entrance. The Governor stood at the door and called out the names of the prisoners who, halfnaked and barefoot, emerged one by one and mounted the truck. During the short distance from the door to the car, the doomed men were mercilessly beaten by their guards, and covered with blood they were packed face downwards in the truck and driven to the place of execution. We witnessed this scene many times. On the following day, the clothes of the executed men were turned over to our storeroom to be sorted and stored away.

"Sometimes the proceedings followed a different pattern. Thus, one evening, there was an extra roll-call. Thirteen names were called out, and the men answering to them were informed that they were to be released on the following morning. The men passed the night in singing and celebrating their coming liberation, but, on the next morning, they were taken to a hill outside the camp and executed. At another time, the Governor invited those who were in need of antisyphilitic treatment to report to him, as they were to be transferred to the Syngros Hospital. Several men presented themselves, among which there were some who were not sick, but who found this a good opportunity to get some rest in the Hospital. This group, too, was executed outside of Haidari.

"During the first days in May, about four hundred prisoners were executed.

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Of these, one hundred were rounded up one evening at an extra roll-call and spent the whole night awaiting their doom in the company of jeering guards, who cheered them with the words "Morgen kaput".

"Other prisoners of Haidari were used as hostages on German trains. In groups of fifty they were penned up in open wagons, which were placed before the locomotive ready to be blown up in case of a partisan attack on the train.

"In the month of April 1944, the Governor of Haidari decreed that all prisoners should undergo a thorough medical examination, and that a list should be made of those in good physical condition. He did not explain the purpose of these measures.

"A few days later, at a special assembly, the prisoners were all ordered to sit down on the ground. In the sentry boxes were double rows of guards with machine-guns aimed in our direction. Noting our anxiety, the Governor hastened to state that this was not to be a wholesale execution, it was merely a question of transferring a certain number of prisoners to another camp. He then proceeded to call out the names of 1200 men prisoners, to which were added those of one hundred women. It dawned on us suddenly that these men and women were to be sent to Germany. Sure enough, on this very same day, these "enthusiastic workers" were piled into trucks waiting before the camp entrance, and shipped as they were, without extra clothing or shoes, to Germany, where they were put to work regardless of profession or social status. So far as I know, none of them has ever been heard of again.

"Another way of "recruiting" workers was through the famous system of "blocks", i.e. the wholesale rounding up of citizens in various sections of the capital. Hundreds of these men were led to Haidari, subject to a physical examination, and, following a few days stay in the camp, were packed off to Germany. Those who were not considered physically fit, were released. This "block" system went on all during the Summer.

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Its purpose was to make up for the failure of voluntary presentation of workers. From the provinces the Germans also brought to Haidari hundreds of women, especially young peasants, who were sent to Germany, I ignore for what purpose.

"Then came the Jewish drama.

"Thousands of men, women, and children were torn from their homes in the provinces and later in the Dodecanese, and taken to Haidari, where, after being stripped of all their belongings, they were mercilessly beaten and subjected to unspeakable torture, and whence they were finally shipped to Austria and Czechoslovakia. The women, especially, were subjected, during the search on their persons, to the most atrocious humiliations.

"From early morning to late at night, these unhappy victims of German brutality were forced to remain out of doors, without food or water. When they had at last been checked and listed, they were shut up in unfinished, roofless buildings, and packed, in groups of five or six hundred, into rooms where there was barely space for two hundred. They were not permitted to circulate in the yard; medical care was

denied them; those who were ill died. The other prisoners were strictly forbidden to hold any intercourse with them, and those who attempted to approach them and offer them a little water were beaten by the guards. During the listing of these Jews, the soldiers robbed them of their luggage, of their money, of all their valuables, and many of the prisoners threw away their money or buried it in the earth to avoid handing it over to the Germans. Following the departure of the Dodecanesian Jews, we beheld the soldiers, with the Governor at their head searching about for hours to retrieve the abandoned money and jewelry. Thousands of gold pounds were picked up from the ground on that particular day.

"From our cell windows we were able to watch the whole Jewish drama. We saw the terrible beatings, the transporting of sick or dying old men in blankets, the crushing of small children. We saw the German soldiers beating the women with the butts of their guns and stripping them of their clothes.

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We saw the Governor of Haidari, Karl Fisher, using his whip against little children, who writhed on the ground in an agony of pain, with one hand, while caressing his dog with the other.

"A number of Haidari prisoners who had been sent to the Rouf Railroad station to prepare the wagons which were to transport the ill-fated Jews, described, on their return, the terrible conditions under which they were to travel. One hundred prisoners were to be pened in wagons containing barely room enough for half the number.

There were no windows to the wagons, and the only food given the transporters was a handful of raw broadbeans. The wagons were so crowded that mothers bore their babies on their shoulders to save them from suffocation.

"The International Red Cross commission was not permitted to approach these unfortunate people, who – as is well known – were never to reach their destination.

"Any prisoner who spent a term at Haidari, especially during the governorship of the notorious Major Rademski, can testify that all the facts I have reported are an understatement of reality.

"I might add that those arrested by the SS had no means of defense, and were never tried. They were sent to Germany, shot, or released, without further formality. Many prisoners were never examined, and some were executed never knowing the reasons for their arrest.

.....

"On the 13th of February 1944, that is about four months after my arrest, I was taken from Haidari to Marlin Street for questioning. But the examiner did not turn up that day, and I had to stand motionless from morning to night in one of the corridors with my face turned towards the wall. I was given no food, and, to my plea that I be given a little water at least, I received the answer that there was none. I was returned to Haidari that evening, and was summoned to Merlin Street two days later.

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Until that time I was ignorant of the reasons for my arrest. A few days later my wife was also summoned for questioning. We were both charged with pro-British feelings, espionage, making out lists of collaborators, writing articles for the Underground press, and, in general, with hatred against the conquerors. Let it be noted that the search in my apartment had yielded no evidence whatever to support the above claims, and that the examiner had assured us that we should be set free in a few days. We were, nevertheless, kept at Haidari six months longer.

"On the 22nd August 1944, after almost 10 whole months of imprisonment we were finally released. Not, however before signing a statement that we would divulge nothing of what we had seen or heard of Haidari, on penalty of death.

"We later heard that at the beginning of September, a few days before the SS left Greece, the Germans had executed in the basement of the Merlin Street building, all those prisoners of Haidari suspected of espionage.

"When I returned home, I found the furniture intact, but most of my household effects had disappeared.....

CONSTANTINE VATIKIOTTY."

DR. LATERNSE: Your Honor, I must ask for an explanation on the part of the Prosecution. Against whom is this unofficial report meant, and against whom is it being submitted?

MR. DENNEY: If your Honors please, that's part of the report against the Defendant Spiedel, as Military Commander Greece, against the Defendant Weichs, as Commander in Chief Southeast, at that time, and Commander in Chief of Army Group F, and against the Defendant Foertsch, his Chief of Staff.

DR. LATERNSE: As defense counsel I would like to contradict this, and I would object to bringing this report in connection with the said defendants. I am looking forward to the proofs to be submitted.

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PRESIDING JUDGE BURKE: You may proceed. May we request the Interpreter to speak somewhat more loudly, please?

INTERPRETER: Yes, sir, your Honor.

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MR. DENNEY: The next is 499A for identification, is offered as 499/2, this being an interrogation of the Witness Athanasios Kavamanos at Tripolis on 5 May 1945.

DR. LATERNSE: Your Honor, I object to the submission of this document as well. There is no connection of this document with any of the defendants.

PRESIDING JUDGE BURKE: For the same reason assigned by the Tribunal for Document No. 499-A-1, it will be received for what it may be worth.

MR. DENNEY: I don't think it will be necessary to read this into the record, Your Honors; however, it is offered against the Defendants Weichs and Foertsch -- the Commander in Chief Southeast and the Chief of Staff at that time, and also against the Defendant Felmy, whose troops were in command in this area.

PRESIDING JUDGE BURKE: I think the Tribunal should point out that it lacks very many of the elements necessary to constitute valid proof.

MR. DENNEY: And the next is 499-A-3, for identification, the decision of the Special Court martial for War Criminals, which is offered as 499/3. The first page contains a recitation of the composition of the Court, and the second paragraph sets up its being "convened in public sitting in accordance with Const. Act 90.1945 at the Central Hall of the Court of Appeals at Athens," and it convened on 23 October 1946, holding in custody the listed defendants: "1 Friedrich Wilhelm Mueller - General of the Infantry; 2. Bruno Oswald Braeuer - General of the parachutists; 3. Fritz Schubert Sergeant. The above-mentioned were sent to this Tribunal by Decision No. 16/1946 of the Judicial Counsel composed according to Const. Act No. 73/1945, to be tried for the acts enumerated in the Decision, i.e. murders, arson, rape, systematic terrorism, torture etc. The President called the names of the accused and the following two were present and without handcuffs. They answered as follows to the questions concerning their identity put to them by the President.

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Because the accused declared that they had no knowledge of the Greek language; their answer was communicated through interpreters nominated according to Law." And then there is the personal information with reference to the Defendant Braeuer and with reference to the Defendant Mueller. "The President called the names of the lawyers, appointed by him ex-officio, according to the rules of Const. Acts for each of the defendants." And then the list of the lawyers -- two for the Defendant Mueller and three for the Defendant Braeuer.

"The defendants refused to accept these persons as counsels, stating that they requested the Ministry of Justice by written demand, to appoint as their counsels the lawyers used in the trial of War Criminals Ravalli and Caltsef. Finally they demanded the lawyers of Athens, Const. Tsoukalas, Ilias Microuleas, George Tsilithras, St. Ioanidis and George Antoniadis, as their counsels. Oroly G. Tsilithras and St. Ioanidis were present and said they accepted their nomination as defense counsels for the defendants.

"The President, to complete the number of defense counsels required for each of the defendants nominated the lawyers of Athens, Ath. Krystallis and John Zygalakis as defense counsels for the defendants.

"The defense counsels said that they would perform their duty faithfully and conscientiously and the President asked the King's Counsel express his opinion regarding the defendant F. Schubert who was absent. The King's Counsel proposed that the case the defendant F. Schubert be separated from the present trial according to Law.

The defense counsels said that they had no objections to this. The Court discussed the matter secretly and. decided unanimously as follows: Where as, according to art. 7 B of Const. Acts 13/1945, it is not permissible to try War Criminals in absentia, if on the occasion of a trial some of the accused are absent; the case of those absent must be separated and only those present must be tried. THEREFORE, the Court orders that the case of the absent Fr. Schubert be separated, and the trial proceed with the case of the defendants who are present, namely, B. Braeuer and W. Mueller.

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"Following this, the President ordered the secretary to read decision No. 16/1946 of the Judicial Committee. Thereupon, the following persons gave notice that they would be represented in the trial to ask indemnity for moral pain.

And thereafter is listed the names of the people and the indemnity which they requested: the first "for the murder of her husband and the burning of her home," the next "for the execution of his brother and the burning of his house," the next "for the execution of his father, two brothers, and the burning of his home," the next "for the murder of his father," and the last "for the shooting of his brother." And then in the next paragraph on Page 4:

"The defense Counsels speaking in turn asked for the rejection of the a.m. demands for indemnity. The lawyers of those demanding indemnity, asked that objections of the Defense Counsels be rejected.

"The King's Counsel demanded that the objections of the Defense counsel be rejected.

"The Court discussed the matter and decided as follows: "Whereas it has been ordered by Law 1699 every person sustaining damage as the result of a punishable act, has the right to ask for indemnity from a Criminal Court for the moral pain which he suffered from the act. The Court Martial, according to art. '40 of the Military Penal Law, does not have the right to decide on this indemnity as ruled by Law 1699. Whereas, by art. 932 of the Civil Law it is ordered that a pecuniary indemnity for moral pain, is a civil matter which does not have the character of a punishment. According to art. 240 of Law 2803 the Courts Martial try only criminal acts and never civil matters, and the civil demands are sent to the civil Courts. Therefore the pecuniary compensation cannot be tried by the Court Martials.

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And then there is further recital with reference to that. And the last, the next paragraph on Page 5, gives the list of the witnesses. I think then we can turn over to Page 8.

PRESIDING JUDGE BURKE: I think we'll take the usual recess at this time.

(THE TRIBUNAL RECESSED AT 1100)

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THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

PRESIDING JUDGE BURKE: You may proceed, Mr. Denney.

MR. DENNEY: May it please your Honors, this starts at the top of page 8 in the English. I am sorry I don't have the German page. However it is -- I guess I can find it. It seems to be on German page 9.

"Where is is accepted internationally that some restrictions should be observed in the attitude toward the population of the occupied country. Though it is true that the war crippling the resistance of the enemy yet the belligerents do not have an unrestricted right with respect to the choice of means whereby damage is to be done to the enemy, as is formally stated in art. 22 of the Hague agreement to which Germany has acceded. In instances, where no provision is made by International treaties, the population remains under the protection of the general principles of International Law as they emanate from their international customs, from the Laws of humanity and the demands of public conscience, as is stated in the preamble of the Hague Convention. But art. 46 of this agreement declares that life and property of the population should be spared. And though these were no sanctions provided by international treaties, except by the Treaty of Washington of Feb. 6, 1922, yet it is in accordance with an expressed international conscience and with the spirit of Justice that the transgression of the fundamental principles of humanity should not remain without punishment. It follows from the above that in so far as such transgressions come under the heading of crimes as provided by the Penal Codes of civilized countries, transgressors can be subjected to trial on the basis of the local laws of the country in the territory of which he is found, which determines establishment of competent Tribunals and their procedure.

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they are then considered as having violated the common Penal Code and simultaneously by virtue of their deeds as having transgressed the rules of International Law."-- Then a reference to Art. 3 of the Treaty of Washington -- "Besides this the declaration of the United Nations of Jan. 13, 1942 specifies that transgressors of the Rules of International Law will be punished by the Organs of International Justice. This declaration is a principle of justice, at least, as regards the competence of the Courts of the countries occupied by the Axis forces.

Whereas it is contended that the defendants have committed in Greece, contrary to the International Law, acts punishable by our Criminal Code, they fall under the jurisdiction of the Greek Courts in accordance with art. 1 of the Penal Procedure which states that the Greek Criminal Courts are competent to judge all crimes committed in Greece either by Greek, or by foreigners.

Whereas the defendants Braeuer and Mueller Generals of the German Army have served as military commanders in Crete (Greece) during different times of the period 1941-1945 when Greece was in a state of war with Germany and occupied by its forces, and the crimes they are charged with, of murder, terrorism etc. are among those acts which are considered as war crimes by art. I par. 2 of the Const. Act. 73, and consequently it is lawful that they should be tried by this Tribunal.

Whereas the following appears from the depositions of the witnesses and the affidavits of the witnesses who were not present, and especially from the orders and notifications of the defendants published in the newspapers "Herald of Crete" of Heraklion and "Spectator" of Chania, which were the official organs of the German Command, and from the pleas of the defendants:

"The defendant Braeuer went to Crete at the head of his regiment of Parachutists during the operations aiming at the capture of the Island(Crete) in the last days of May 1941; he did not leave Crete before 4 June 1941.

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He then returned to Crete on September 1942 as Military Commander and then as Commander of the Fortress Crete, remaining there until June 1944. This late date is evident from his proclamation of June 29, 1944. Defendant Mueller went to Crete as C.O. Of the 22nd Division in Archanes (Crete) on October 1942, he was away from October 43 to January 1944 and then again from the middle of March to the beginning of June 1944. From June 25, 1944 to the end of October 1944 he was the Commander of the Fortress Crete.

Whereas in the first days of the occupation of the Island on the Hersaklion area, the German parachutist killed many (over 100) Greek civilians, among whom the names of Aschimaendrite Theodosskis and Prefect Tsatsaronakis are included. Many articles of furniture and clothing were stolen from the houses of Heraklion. Some of these crimes such as the murder of Tsatsaronakis were committed after 4 June 1941 during the absence of Braeuer and consequently he must be not held responsible for these.

As for the rest it has not been proved that they were ordered by him and therefore he is not responsible for same. The other defendant Mueller, not being in Crete at that time, bears no responsibility for these crimes. Consequently both defendants must be considered of these crimes.

1. On 5 July 1943, by order of the Commander of Fortress Crete 40 people detained in the Prisons of Heraklion, Rethymnon and Hania were shot to death. A proclamation relating to this was published by Braeuer Comm. of the Fortress of Crete, in issue 520 of the Newspaper "Spectator" of Hania.
2. On 24 August 1944, 25 persons detained in Agia Prison were shot to death.
3. On 16 September 1944, 50 persons detained in Agia Prisons were shot to death, and a proclamation relating to the incident was published in issue 940 of the Newspaper "Cretan Herald" by Braeuer.

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These shootings of 5 July 1943 were ordered by Braeuer and the rest by the then Commander of Fortress of Crete, Mueller. In all three cases the shooting was ordered as reprisals for acts of sabotage against the German Army. The victims were all innocent of these acts.

4. After a fight which took place in Symia (Vianos) between German troops and the unit of Captain Badouvas on 10-12 Sept. 1943, the 67th Regt. of Mueller's Division started on Sept. 13 an enterprise against the villages of Vianos and Ierapetra areas; they surrounded the villages and on 14 Sept. and the days which followed they arrested all the inhabitants of the villages. All the arrested men were shot to death, except the 147 men arrested in the village Sycologos; a total of 471 men and few women were shot, their names were mentioned by the witnesses examined." --And then follows the names of the witnesses examined and the numbers of persons mentioned--."The remainder of the arrestees, mostly women and children were detained for some days in the Concentration Camp in Rethymnon and then

were sent to other areas. At the same time the Germans took away all the cattle and whatever else they could carry and then set on fire the houses and buildings destroying them totally. The following villages were completely destroyed." And then they list the villages which were destroyed and some which were partly destroyed.

"During the burning down of the afore-mentioned villages, several women were burnt alive in their homes; these deaths could have been foreseen and prevented by the Germans. All the aforementioned enterprises and crimes were on such a big scale that they could not have been done without orders of the Commander of Fortress Crete, Braeuer admits having issued such an order and Mueller admits having suggested and executed this order.

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They both pretend that this enterprise was a military one against armed forces of the resistance during which the Germans suffered 4-5 casualties, but the depositions of the witnesses and the way the enterprise was carried, exclude such a claim. With reference to this, a proclamation of the Commander of Fortress of Crete was published in the newspaper "Cretan Herald" on 5 September 1943, saying that a measure of reprisal a certain number of communities ceased to exist. This publication bears the date 12 Sept. but was published on 15 Sept. and refers to the aforementioned events, because at that time there were no other similar happenings. The publication of the proclamation at the same time that the reprisals were carried out proves that they were premeditated.

5. On 4 September 1943, ten persons were arrested by Germans in the area of the village Agios Mamas Mylopotamou and were shot to death on the spot, under the pretext that they were arrested on forbidden areas. The next day 20 persons with a priest, went to that spot to bury the murdered people; the Germans seeing them opened fire and killed them all.

6. On 3-5 May 1944 units of the 22nd Division went to the villages of Heraklion District "And then the villages are listed. "-and shot in Camares 5 men and arrested another 15, they arrested in Margaritari 11 men, in Sachtouria 28, and in Icchia they arrested 8 and shot 2. Fifteen of the arrested men were shot in September and the rest disappeared. At the same time they took away all private property and destroyed completely all the houses and buildings of the aforementioned villages by fire and explosives. A proclamation for these events was Published in the newspaper "Cretan Herald" on 6 May 1944."

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At that time, Mueller was not in Crete and consequently is not responsible for these crimes. But the Tribunal is convinced that those crimes were ordered by the Commanding Officer of the 22 Dw., on Braeuer's orders, who Braeuer confesses that he had given to his Divisions a general order to act on their own initiative in cases like the present one, accepting in advance, the measures of mass executions, arrests, looting and executions of hostages which were the German system.

"On 7 May 1944 a German unit kidnapped from the village Dougi Monofatsiou, 9 men who have since disappeared.

"On 9 May 1944 a German unit kidnapped from the village Samona 3 men who have since disappeared; the village was looted and then completely destroyed by artillery fire. One child was killed. The Tribunal thinks that (these two cases, i.e., 7.8. cannot be attributed to Mueller who was absent from Crete nor to Braeuer because it was not proved that he ordered them).

"In August 1944 units belonging to the Division of the Fortress of Crete surrounded the district of Kissamos. By 27 August they arrested and shot 60 men in the village Malthyrou, 26 in Kakopetron, 19 in Palea Roumata, 11 in Kalathenes and an as yet undetermined number in the villages Kouneni - Syrikari. At the same time they set on fire the villages of the same district Limni, Elos and Floria. They burnt part of the villages Kouneni where three children were burnt alive.

"In the same month, August 1944, the German Division of Heraklion surrounded the district of Amariou, they arrested all the men they found in the villages, and they shot 46 men in the villages Gourgouthi, Kardaki, Dryges, Vrysses, Smidai, 42 in Ano Meros, 55 in Gerakari, 35 in Krya Vryssi and they deported the rest of the population to other areas.

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At the same time they looted completely all the aforementioned villages and completely destroyed by fire and explosives all their fountains, buildings, houses, churches, schools, and cemeteries.

"On 17th of the same month another German unit went to the village Sokara, destroyed a large part of it and shot 27 men.

"On 13 August 1944 a strong German unit went to the village Anogia, arrested all the inhabitants who happened to be there, shot 50 men, sent the women and children to other areas and the men to prisons and then completely destroyed the 940 houses of the village. Next day they shot in the village Gergessi 18 men, and in the village Pyrgos 4.

"On 14 August 1944 another German unit shot 11 men and 20 women in the village Skourvoula.

"On 13 August 1944 another unit arrested 35 men in Sarchos, shot 15 of them, used the others for forced labor and later shot them.

"On 14-19 August another unit shot 12 persons in the village Gonjes Malerizou, 7 men in Kalesia and 4 in Moni; on 20-22 Aug. they shot 7 in Digortynow and 22 in Asteraki.

"On 21 August 1944, 34 persons were shot in Damasta and 109 houses of the village were destroyed.

"At the same time, while the German troops were retreating to the West of the Island, the village Thrapsanos was set on fire and a woman and a child were burnt alive.

"With respect to all these crimes committed on August 1944, a proclamation was published in the newspaper "Spectator" on Aug.

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27, 1944. It was issued by the then Commander of Fortress Crete Mueller and stated that 489 persons were killed, 599 arrested and many thousands deported to other areas. Relative to these is the order of

Mueller 13 August 44 for the destruction of Anogia, the issue of which he does not deny, saying only that he ordered the execution of 30-50 men only (this order is in the file). All these crimes of murder, arson, looting and deportation were executed by the Heraklion Divisions on the basis of orders issued by Mueller. Braeuer not being in Crete at that time is not responsible for these.

"On orders of Braeuer Commander of Fortress Crete, a unit comprising many criminals (German and Greeks) was constituted in 1943 under the orders of Warrant Officer Fritz Schubert. Schubert was ordered to pursue the criminals and search for arms. By this order Schubert was allowed to use whatever means he chose. In the Execution of this order Schubert committed murders of more than 200 men; Schubert went also to village Callikrati Sfakiou where he arrested and shot to death on 8 October 1943, 24 men and 9 women, whose names were stated by the witnesses. Braeuer, knowing the previous criminal activities of Schubert and learning of their continuation by the commission of atrocious crimes, approved and kept him in the job to which he had appointed him.

"The defendants say in their defense that they had to obey orders of the Supreme German Command whereby they were obliged to order reprisals against the non combatant population for every act against the German Army.

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But mass execution of innocent people not charged with any concrete act, and the arson on masses of towns and villages, are acts which are contrary to humanitarian feelings and cannot be justified even by an order of a supreme authority; such orders could not even be considered as orders in line of duty. And what is worse, the unlawful character of these orders is proved by the fact that the recipients of these orders were advised to destroy them immediately after reading them. Besides the Court is satisfied that even if these were such general orders for applying reprisals, the defendants had the discretionary right to choose the kind of means and to determine whether or not they should be applied. But no such means were applied by the Commander of Fortress Crete, when 17 Germans were killed in Omales after a fight with the Andantes, nor when in Nescla 7 members of Schubert's unit were slain, nor when General Kreipe was kidnapped. The defendants not daring to try to justify themselves for the mass executions, suggest that all these deaths of Greek people occurred during fights between Germans and Greek resistance groups. The excuse of military necessity could be justified in case other means were applicable as reprisals, but under no conditions for the killing of innocents. It is true that the Germans in Crete felt that they were living in hostile surroundings and that it was in their interest not to be disturbed by the population in case war activities were to be extended on Cretan territory. They aimed therefore at crippling the morale of the population in order to enhance their security; therefore, they used inhuman means such as mass execution and the systematic burning down of villages thus changing whole areas into a desert.

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Such means can be accepted, still less as the justification for an indirect military interest. Whereas irrespective of the question of the applicability of Const. Act 73 to the criminal acts described therein,

and which are not provided for in the Criminal Code because of the rule "Nulla poena sine lege" the defendants must be acquitted with respect to the acts provided by Const. Law 73.

"Consequently Bruno Braeuer must be declared guilty for having ordered the following acts:" -- and therewith they list the various murders and shootings and burnings with the dates, the first in July 1943 and the last in September of 44, the September 44 note being the third one from the bottom, the last one being one of August.

And then, turning over to the next page, 19 in the English:

"Therefore, the Tribunal declares as guilty A. Bruno Braeuer because he served the military forces of the enemy as Lieutenant General of the German Army in Chania during the war 1939-1945 and as commander of the Fortress 'Crete,' he knowingly ordered others to commit war crimes under threats of severe punishment in case of disobedience and particularly for the following reprehensible acts which his subordinates carried out:"

And thereafter on the balance of that page and the first two numbered paragraphs on the next are the acts listed in more detail which are referred to on the prior page.

Then, over on page 20:

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"Mueller, because he served the military forces of the enemy as Lieutenant-General of the German Army in Chania (Crete) during the war 1939-1945 and as commander of Fortress Crete, he knowingly ordered others to commit war crimes under threats of severe punishment, in case of disobedience, and particularly for the following acts, which his subordinates carried out."

And then they list murders and the dates and places in August and September 1944, and then on the next page is a further list of persons who were killed and continuing for August 1944, the bottom of the page, the setting on fire, by explosives, the villages, and their destruction: and on the next page are listed the villages which have to do with the third paragraph under "Mueller"; and then the 4th count which again applies with reference to Mueller: the next one which applies to Braeuer and Mueller for the executions which are listed on the following page; and then the last paragraph on page 23 lists the confiscation of property from the villages; and the first paragraph on page 24 sets forth the further burnings and also the execution of people as a result of these burnings in the villages which are listed there.

And then follows a paragraph with reference to certain events wherein there is an acquittal:

"Since the Tribunal has doubts concerning the guilt of the defendants with respect to the rest of the criminal acts of the indictment, as described by the Penal Law, they (i.e the defendants) must be acquitted on those counts. This is especially true for the act of putting 300 Jews on board S/S 'Damae' and later or sinking it; it was not proved that Mueller or Braeuer had anything to do with this, Therefore, this act ought to be attributed to the Higher Command of the German police of Athens or Berlin.

"Whereas the acts for which the defendants were found guilty are provided for and punished" -- and then it sets forth the section and code of the Penal Law.

And then on page 25:

"After reading the decision the king's counsel asked the death penalty for both the defendants. The defense counsel asked that the minimum penalty be given to the defendants. The President then ordered the removal of the defendants from the Court Room and the Tribunal withdrew to the Council room where, having discussed in the absence of the King's Counsel, returned again in the Court Room and announced it's decision."

And then follows the findings of guilty and the sentencing to death and the publication of the decisions on 9 December 1945, signed by the President and the Clerk and certified as a true copy; and the executions of these two men took place in May 1947.

PRESIDING JUDGE BURKE: The observation made by the Tribunal at the introduction of the previous exhibit will apply equally to the exhibit just read by counsel.

The next part of 499, which is No. 4, does not have to be read at this time. It is furnished merely for the convenience of the defense counsel and the Tribunal and has to do with the subtitles of the Greek film; and when the film is shown, of course, the subtitles will be read concurrently. However, it is offered as 499/4. We have already offered 499/5, which has been received as 499/5, and 499A6 which is an affidavit or is, rather, an interrogation of a witness at Distomo on September 25, 1955, is offered as 499/6.

The first question: "What is your name, and so forth:

"Ioannis Louca Zizis. I was born and am resident at Distomo, aged 58, farmer and Christian Orthodox.

"(He took the oath on the Holy Bible in accordance with Arts. 121 and 124 of the Penal Code)."

And then the next question and his reply:

"On June 10, 1944 I had gone, together with my two sons, to my village which lies close to the spot where the guerillas were lying in ambush. At the first shots, I took my sons and went away. My sons started together towards the seashore of Distomo without passing through Distomo, while I made my way to the village to my house. My house lies close to the village square and adjoins the house of the murdered priest; it is situated between the houses of Spiros Malamos, of the Sfunturaioi, of Lucas Sifiras and Chrestos Papanicolaou and looks towards the square at the point where the worst doings happened.

"Shortly after my reaching Distomo, there arrived from Stiri four lorries, of which one was loaded with dead and wounded Germans who were at once placed on a hospital lorry which left immediately for Livadia. Two other lorries were filled with German soldiers who as soon as they had dismounted, broke

up into small parties and at once placed sentries at various points of vantage around the village. The fourth lorry contained the 12 detainees. Shortly afterwards, all the German lorries went back.

"The Germans soon after they arrived at Distomo, made the twelve hostages get out of the lorry and executed them with volleys from their automatics.

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At the same time they executed Ioannis P. Sfunturis, Dimitrios Kailis and Nicolas Sfunturis who happened at that very moment to be returning from their fields. Another party of Germans arrested Ioannis Skutas, Aristides Sfunturis and Panagiotis Vassileiou whom they took to the top of the knoll and executed. These events convinced me that a general massacre had been ordered, so I made haste to jump out of the window and hide under an elder-tree situated behind my house from which I could see both in the direction of the Malamos house and of the house of the Sfunturaioi and Sideras I had hardly had time to hide when I heard Germans coming up to the house of the priest whom they at once arrested and gouged out his eyes, after which they killed him and cut off his head. At the sight of these doings, the women and children inside the house where they had taken refuge began to weep and scream, (the Germans) fired a few volleys at after which there was silence. At the same time a second party of Germans entered the house of Spiros Malamos in which many women and children had taken refuge and killed them all. They then opened the stops of the barrels and set fire to the hayrick nearby. After that they went up to the house of Loucas Malamos, took a few clothes and set fire to the house. The fire fortunately did not spread. They then jumped over a garden wall passing quite close to me and entered the house of L. Sideras where other women were hiding and threw a hand grenade inside killing Sophia, wife of I. Anestis, and seriously wounding Anthoula, wife of Loucas Sideras. As they were coming out of the Sideras house, they met Panagiotis Marios and my nephew Nicolas Zizis and killed them. Another band of German soldiers went to the house of Charalampos Sfunturis who was ill, while his wife was hiding in the yard. They at once set fire to the house, thus obliging his wife to come out of her hiding place. They then threw her alive into the flames, thus the two occupants were burnt alive together with their house. Night was beginning to fall when I heard a voice calling upon all those who had remained alive and were still hiding to come out as the Germans had gone away.

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I omitted to mention that the wife of the priest who was wounded in the arm jumped from a small window and came up to me. I bound up her wound but she was half distracted, so that we nearly gave ourselves away. After hearing the voice, I emerged cautiously from my hiding place and came out in front of my house. I found lying dead in the yard my boy Athanassios A. Kailis, aged 8 and Ioannis Papanicolaou's boy aged 6, and the priest's head with the eyes gouged out. I entered the priest's house where the bodies of the women lay one upon the other and the whole floor was covered with blood. I hastened to leave the house. On going to the square, I found it covered with the corpses of men and women who had been executed as they were returning from the fields. I went up to the house of my niece, Fotini, wife of Loucas Liaskos, whom I found with her head crushed and clothes torn, while in the cradle lay her baby disemboweled and also the corpses of her eldest child together with that of her

old father-in-law. The sight of the victims so tragically massacred, horror and fear made me, despite myself, go outside the village where I remained in hiding, together with the other survivors from my village for about four months as we were afraid to return to the village.

"On June 26 1944 the Germans made a fresh inroad into the village which they found completely empty of inhabitants. On that day they took whatever they had not already taken or destroyed on the day of the massacre and their previous raids. They set fire to houses, poured out the wine, and literally pillaged everything.

"Q. Did you happen to learn the names of the Germans commanding the detachment on the day of the massacre?

"A I was informed that during the encounter at Stiri, a German called Teo was killed and that it was to revenge his death, so they say, that the German officers gave orders for the massacre of all the inhabitants and for the burning of the village which they would have completed, had they not been in a hurry to leave owing to the late hour of the day.

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The names of the German officers must be known to the lawyer at Livadia, Mr. P. Karamertzanis, who at that time was employed by the Germans as interpreter.

"I have nothing else to add and I can read and write."

"(The above was read to him and is duly confirmed and signed).

"The witness" and "The Examining Lawyer" and "The Clerk of the Justice of the Peace of Distomo."

DR. LATERNER (Counsel for defendant List): Your Honors, should the Tribunal see any connection between this document and any of the defendants, as the prosecution is trying to prove in this case, I would apply that this witness should be put in the witness box.

PRESIDING JUDGE BURKE: It is thought of the Tribunal that in the absence of more formal proof directly connecting the affidavits and other documents read that at the end of the trial, upon application by defense counsel, they will be stricken from the record.

MR. DENNEY: And the last part of the report of the Greek National War Crimes office is the one which was yesterday marked 499-A. I believe your Honors have it.

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DR. LATERNER: Your Honor, I wish to object strongly against accepting this report. These reports are similar to the ones submitted by the Yugoslavian Commission, but this case is even clearer. The Tribunal is able in connection with Article 20 of the Regulations of the Tribunal to accept them. I maintain that the reports now to be submitted are not really reports which would come under Article 20. A report is something which tries to establish facts. The report now submitted by the Prosecution, the Tribunal can see by looking into it is a mere Prosecution indictment, something which is maintained but should be proved. If the Tribunal would be in a position to accept this as evidence, then, for

example, the Office of Chief of Counsel for War Crimes could simply submit reports which would then become evidence. If this report could be accepted as evidence the procedure would become improvised, so it does not concern a report but an indictment, the contents of which have to be proved first. But even if the Tribunal holds the opinion that Article 20 could be applied, the application of Article 20 would not apply owing to Article 20 itself.

(Int. Hildesheimer) According to Article 20 the Tribunal may accept Governmental documents or reports to the United Nations, Furthermore it may accept reports submitted before to a Commission of councillors or to an appointed party of councillors of the U.N. for the investigation of War Crimes.

As becomes evident from this report, however, this report or statement can only be made during the proceedings itself, because on page 9 of the report and on page 14 this Tribunal is being talked about. It is therefore not a report which has been examined by an inquiry commission, or at least before this trial within the framework of the United Nations.

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It is not a report which has been submitted before to a commission appointed by the United Nations. From this report it becomes evident that the prosecution's statement cannot be accepted as probative material, but merely and exclusively as a document of the Prosecution if it proves their contention. If, however, the Tribunal is going to accept this report then I, as defense counsel, shall apply for more material and documents in order to object to the content of this material.

Your Honor, I am just being told by one of my colleagues that possibly I have not been understood correctly, partly because I perhaps was not clear and possibly because the translator did not follow.

JUDGE BURKE: There appears to be no ambiguity in your statement, Dr. Laternser.

Since his appears to be a matter of some importance, and doubtless Mr. Denney may desire to make some suggestions about it, and the Tribunal desires to make a just and proper ruling, we will take a recess at this time until 1:30 p.m., and at that time if you wish to make any further comments about the matter, Mr. Denney, you may do so, and the Tribunal will then make its decision.

(Thereupon a recess was taken until 1:30)

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AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

JUDGE BURKE: Without the necessity of further discussion the Tribunal is prepared to rule upon the matter submitted at the close of the morning session.

The Tribunal has given consideration to the objection made by defense counsel to the admission of Exhibit 499-A. It is our opinion that in its present form the offered exhibit falls far short of the essential qualification to justify its admission for any purpose of probative value. It moreover offends against all properly recognized rules for the admission of evidence, in that it assumes to indicate responsibility on

the part of various individuals involved in the hearing now in progress, and such findings, conclusions and presumptions having been made not in the presence of the interested defendants.

With this definite statement of the attitude of the Tribunal as to the competence of the Exhibit it may be admitted for what, if anything, it is worth.

You may proceed, Mr. Denney.

THE PRESIDENT: Before we proceed further, Mr. Denney, at the time Court convened there were two of the German counsel present, and now five of the 11 are present. Possibly there is a good reason or excuse for the absence of the other counsel. The Tribunal feels that it has some responsibility in connection with this matter. Purely by way of suggestion at this present moment we respectfully call the attention of the counsel that Court convenes usually at the time stated, and that they should be present, at least for the interest of their clients if not out of respect to the Tribunal.

JUDGE BURKE: You may proceed, Mr. Denney.

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MR. DENNEY: If Your Honor pleases, the Exhibit 499-A for identification becomes Exhibit 499 in evidence; and that concludes the presentation of this document, and at this time Mr. Rapp will continue with the Norwegian phases of the proceedings.

MR. RAPP: If Your Honors will permit, before I turn to Document Book 22 I would like to make a few general remarks.

We are now turning specifically to Court 29-A of the indictment. These are charges pertaining solely to the defendant Rendulic only. Charges which we submit in his capacity as the then commanding general of the 20th Mountain Army in Finmark, which is a Northern Province of the State of Norway. For the Court, the defense counsel or defendants, and also my own information, I have taken the liberty of putting a map of Norway on the wall. It is not being offered in evidence. I don't think we have to give it an exhibit number. It is merely put there because the Tribunal might, at their convenience and liberty like to glance at it occasionally to locate the places we mention in the document.

I would also like to call Your Honors attention to two charts contained in the basic information booklet. The one chart I have reference to is Chart G, and the other chart I have reference to is Chart E, and that chart is a schematic presentation of the Northern part of Norway. It does not claim to be true to scale. We are not too much concerned with that. Chart G, Your Honor, however, will give you a general order of battle description of the units, or of the main units I should say subordinate to the 20th Mountain Army at sometime during its campaign. We do not submit that this chart is 100 per cent, correct. We have tried to ask various German experts to try and make it for us as well as they can, but it seems there are no two people who can agree on it exactly, but for our purpose I believe it will help us in the presentation.

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And now with Your Honor's permission I would like to turn to Document Book 22. Your Honors, turning to page 1 of this document book, we are offering [NOKW-1776](#). May I inquire from the Assistant Secretary General what the number is.

MR. STONE: Exhibit 500.

MR. RAPP:[NOKW-1776](#), being offered as Prosecution's Exhibit 500. The first document we have, Your Honors, is a priority teletype message. The entire message is being offered in evidence. However, we have only extracted page 3 of the original, which we shall read into the record at this time:

"WFST/Op. Stamp, Top Secret. Fuehrer Headquarters, 4 October 1944, 17 copies," this being the 8th. "Official stamp, Officer only. Priority teletype. To: 20th Mountain Army."

Then a distribution of other units where it went to, a distribution list, rather, and "for information Naval Command, Norway, and Reich Commissar for Sea Traffic, Attention Gauleiter Kaufmann." That is for information only.

If Your Honors will turn to page 2, still on page 1 of the German book, under paragraph 6 of this particular instrument it reads:

"6) Evacuation and Destruction:

"All installations which might be of use to the enemy are to be destroyed thoroughly, particularly roads and railroad lines, port installations, airports and other installations of the Luftwaffe, industrial plants, Wehrmacht billets and camps. All snow barriers on the through roads are to be burned in time.

"Rations and other Wehrmacht supplies are to be destroyed unless they can be transported.

"The entire population of Norway capable of bearing arms is to be taken along as far as marches permit and to be turned over to the Reich Commissar Norway for compulsory labor employment.

"Finnish hostages are to be taken along as the situation requires.

"Signed, by order, Jodl, OKW/WFST/Op Nor. 77 3608/44 top secret, official."

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DR. FRITSCH (For defendant Rendulic): Your Honors, my attention has been drawn to the fact that the word "allocation" of labor is not translated properly. May I please ask the translator, the interpreter, to retranslate this word?

PRESIDING JUDGE BURKE: That may be done.

DR. FRITSCH: The last paragraph in the German text, the third line from the bottom of page 2 in the English text, where it says, "for compulsory labor employment," Your Honor, the translation is not very good. It should be "allocation of labor".

PRESIDING JUDGE BURKE: I am interested in that error in translation. I have observed the certificate that it has been translated from the German to the English language, and I am a little concerned about the apparent discrepancy in the word "compulsory" and the disposition of it.

MR. RAPP: I quite agree, Your Honor.

PRESIDING JUDGE BURKE: It is inexcusable to me that there should be such a variance in such an ordinary, simple matter of interpretation.

MR. RAPP: Your Honor, I was just about to suggest that we might possibly ask to have the main translation department give us a ruling on the translation of that particular word.

PRESIDING JUDGE BURKE: Very well, that may be done.

MR. RAPP: Your Honors, turning to page 3 of this same document, you will find the distribution of this order, part of which I have just read into the record.

If you will now turn, please, to page 4 of the English document book and page 3 of the German document book, we are offering [NOKW-114](#), Prosecution's Exhibit 501. This is a teletype message from the Commander-in-Chief of the 20th Mountain Army, at that time the defendant Rendulic, and signed by him, to the Corps Headquarters of the XIX Mountain Corps, which was a part of the 20th Mountain Army in Norway.

It is dated the "4th of October 1944, Top Secret, Very Urgent, Officer Courier," and it reads:

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"Corps Headquarters, XIX (Mtn) Corps.

"Ref: Corps Headquarters, XIX (Mtn) Corps, Ia, No. 62/44 Top Secret of 4 Oct 44.

"In the given case, all the military installations, industrial installations, architectural structures, etc. in the former Finnish Petsamo territory are to be destroyed. This area is to be devastated. Preparations for this are to be made through reconnaissance, preparation of explosives (therewith making use of bombs, etc.) and organization of corresponding demolition and blockade forces.

"Cunning mining (blocking the march) render difficult and *e*** enemy movements considerably.

"The same measures are to be reconnoitered and planned for the Norwegian territory. There too the carrying out of destructions as in the Finnish Petsamo territory is to be reckoned with.

"20 (Mountain) Army, Ia, No. 422/42 Top Secret, Sgd (Rendulic), (Rendulic) General."

The next document, Your Honor, you will find on page 6, [NOKW-097](#), being submitted as Prosecution's Exhibit 502.

JUDGE WENNERSTRUM: May I inquire as to Exhibit 501, [NOKW-114](#), as to whether the signature of Rendulic is a typed signature?

MR. RAPP: It is a signed signature, Your Honor.

JUDGE WENNERSTRUM: In his own handwriting?

MR. RAPP: In his own handwriting.

JUDGE WENNERSTRUM: May it be handed to the Tribunal?

MR. RAPP: Very well, Your Honor.

(Document handed to Court)

May I continue, Your Honor?

PRESIDING JUDGE BURKE: Yes.

MR. RAPP: [NOK W-097](#), Exhibit 502, this is a teletype message to the OKW operations staff, asking for the destruction of industrial plants and the nickel works in Kolosjoki, signed "Rendulic, Top Secret, Handwritten: WB 228. Handwritten: Enclosure 68.

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"Teletype, 5/10/44. By officer only. Stamp, Top Secret, Urgent.

"To: OKW/WFST Chefsache, Armed Forces Hqs Command/Operational Staff. Reference OKW/WFST/Op. No. 773634/44 --

PRESIDING JUDGE BURKE: Just a moment please.

Thank you, you may proceed.

MR. RAPP: "Top Secret Chefsache.

"Army (A.O.K.) considered the following immediate measures necessary in order to insure a coordinated leadership of the operation:

"1) The tactical and supply subordination for the LXXI Infantry Corps under 20th Mountain Army as far as required in the preparatory and introductory withdrawals leading toward the Lyngen positions.

"For the time being, the leadership of the fighting around the north Norwegian coast must remain in the hands of the commander Polar Area under the headquarters of the Wehrmacht Commander Norway.

"2) The regulation of the removal or of the destruction of the Coastal Artillery (including the Army Coastal Batteries) by the Military High Command Norway in agreement with the 20th Mountain Army.

"4) Permit to destroy all war important industrial installations in the north Finnish and the north Norway area; in particular that of the nickel works Kolosjoki and its "subsidiary electricity works and of the Syd-Varanger plant on the basis of the orders to be issued by the 20th Mountain Army.

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"5. Appointment of the O.Qu. of 20th Mountain Army "Evacuation Commissar" of the entire theatre of operations, east of the Lyngen position. This requires particularly the subordination of all Wehrmacht units and of all non-military organizations because combat and movement of the 20th (Mountain) Army including the LXXI Infantry Corps stands in mutual relation to the evacuation.

"6. The cover name for the withdrawal on the Lyngen position "Nordlicht " (Northern lights).

The Commander in Chief North Finland la/OP.

No. 424/44 top secret Chefs.

signed Rendulic, Colonel General Certified a true copy:

(signed) UBELHACK (Ubelhack)Lt. Colonel G.S.C."In this particular case, your Honor, the signature is typed, and not handwritten.

However, the signature of Ubelhack is handwritten.

The next document, your Honor is 754-PS, being submitted as Prosecution's Exhibit 503. This is the basic order dated 28 October 1944 from the High Command of the German Armed Forces, signed, "Jodl", to the 20th Army for the evacuation of Finnmark. It reads:

" 28 October 1944 Top Secret 6 copies" This is the 5th copy "Priority - Teletype "1. 20th Mountain Army "2. For information:

KB Norway "3. For Information:

Reich Commissar for the occupied Norwegian territory.

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"4. For Information: Naval High Comman/Naval Operation Staff (Koralle) "Due to the lack of willingness on the part of the North Norwegian population to evacuate (the territory), the Fuehrer has agreed to the suggestion of the Reich Commisar for the occupied Norwegian territory and he has ordered, in the interest of its own security, the compulsory evacuation of the entire Norwegian population eastward of the Lyngen Fjords, and the burning down and/or destruction of all habitable dwellings.

"Commander-in-Chief North Finland is responsible for the ruthless execution of the Fuehrer. Only in this way can we prevent the Russians - equipped with strong forces and supported by habitable dwellings and the population which knows the locality - from following our withdrawal movements in the Winter and in a short while appearing before the Lyngen positions. Compassion for the civilian population is uncalled for.

The troops carrying out (this order) must be made to understand that within a few months the Norwegians will be grateful for having been saved from Bolshevism and that the barbarian methods of the aerial war against the German homeland and against its cultural places have brought a thousandfold suffering over our people. The human methods of evacuation and the destruction of habitable dwellings of North Norway are necessary for our warfare and will have to be paid with blood of German soldiers if they are not carried out.

In addition the population of fishers in North Norway disposes over sufficient shipping space enabling them to withdraw with the mass across the water. A large part of the Norwegian small-ship space,

which at present is concealed, may be used for this purpose and may later be used for our own transportation needs.

The peril of a formation of Norwegian bands does not seem to be apparent if the bands no longer have the support of shelters.

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signed Jodl (signature) OKW/WFst/Op (H) North No. 0012887/44 Top Secret" Distribution :Chief WFSt. 1st Copy Deputy Chief War Diary 2nd Copy Op (H) Op (H) 1 each 3rd and 4th Copy Qu and Ic 1 each 5th and 6th Cop."

There is a note of the translator which says:

"Faulty construction of German original should be noted". I am merely passing this on for defense counsels' information.

The next documents, Your Honors, are on page 10, [NOKW 086](#), being submitted as Prosecution's Exhibit 504. This is the order of the 20th Mountain Army, dated the 29th of October, 1944, signed in handwriting by the defendant, Rendulic, passing on the order of the OKW/WFST which we have just read, to the troops subordinate to the 20th Army. It is top secret, teletype:

"29.10.44 To 1. Corps Headquarters XIX Mountain Corps Urgent(KR) 2. Corps Headquarters LXXI Infantry Corps Urgent " 3. Corps Headquarters XXXVI Mountain Corps Urgent " For information 5. Corps Headquarters XVIII Mountain Corps Urgent " 6. Commanding General of the German Luftwaffe in Finland Urgent " 7. Admiral Polar Coastal Area Urgent " 8. Wehrmacht Commander Norway Urgent " 4. Reichs Commissioner for Occupied Norwegian Territories Oslo Urgent " 9. Naval High Command/1st Naval Operation Staff (Koralle) Urgent (KR) Subject:

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Evacuation of North Norway:

1. Because of the lack of willingness of the north Norwegian population to evacuate the country voluntarily the Fuehrer has ordered the compulsory evacuation of the population East of the Lyngenfjords in the interest of the security of the population, which is to be preserved from Bolshevism and that all houses be burned down or be destroyed. It is the responsibility of the Commander-in-Chief of Northern Finland that this order is carried out ruthlessly so that the Soviets supported by dwelling places and a population which knows the country will be prevented from following our withdrawal with strong forces. Pity with the civilian population is out of place.

2. The men will understand the measures to be taken if it is explained that the barbarian methods of the air war against the German homeland and its cultural places have brought a misery on our people surpassing by far that which will follow in the wake of the measures which must be taken now in North Norway in order to prevent an early thrust by the Russians, according to plan.

3. "The evacuation staff North Norway" subordinate to the O.Qu. in his capacity as evacuation commissar is formed as the competent "Page 11 authority." Leader: Colonel Herrmann, Commanding Officer of the Grenadier Regiment 310. Corps Headquarters XXXVI Mountain Corps is to detach Colonel Herrmann immediately to Army/O.Qu.

SS-Obersturmbannfuehrer Neumann joins the evacuation staff as representative of the Reichs Commissar for Occupied Norwegian Territory.

4. The Commanding Generals of the XIX Mountain Corps and of the LXXI Infantry Corps are charged by me with the responsibility of the carrying out of the evacuation. Corps Headquarters XIX Mountain Corps will evacuate the territory East of the East coast of the Porsangerfjord (excluding the fjord).

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Corps Headquarters LXXI Infantry Corps will evacuate the area Porsangeyfjord, (inclusive) - Lyngenfjord (inclusive) 5. Execution of the Evacuation:

- a. The entire evacuation area is to be emptied of people.
- b. Evacuated settlements are to be destroyed unless they are to be used by troops marching through (that is, at the latest by the rear guards).
- c. The operation must be a sudden one and the officers of the Reichs Commissar of Norway must participate and Norwegian authorities must be harnessed for it; the latter, however, only from the beginning of the operation.
- d. The seized population is to be led to the nearest ports under military guard (also small ports with docks suitable for cutters).
- e. Local and district commanders are to erect reception camps in or near these ports.
- f. Men capable of working and marching and in the western districts women capable of marching also, are to be coupled to the marching units furthest in front and to be taken along.
- g. Inasfar as the population still has small ships available they are to be used for the deportation of the evacuees. Military cover.
- h. All ships used by the Wehrmacht (freighters and Army transports) are to be loaded additionally with as many evacuees as possible.
- i. Columns on Reichsstrasse 50 to be formed only to an unavoidable degree; invalids, women and children to be assisted by loading them on trucks. Only men really capable of marching to join the march columns.

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k. Transportation of all evacuees first into the area west of the Lyngenfjords, from there further control by Corp Headquarters, LXXI Infantry Corps in direct agreement with the Reichskommissar Norway.

l. In the area of the Corps Headquarters XIX Mountain Corps the operations will start immediately; in the area of Corps Headquarters LXXI Infantry Corps on 1-11-44.

m. Mission to be accomplished:

(1) By 9.11.44. in the area Eastward of the line Kistrand - Billejford - Lakselv - Skoganvarre - Karjasjok (including these villages).

(2) By 12.11.44 in the area East of the line Talvik Kautokeino (including these villages).

(3) By 15.11.44 in the remaining area.

Norwegians found in the respective areas after that period are to be arrested and to be brought to the nearest town headquarters. Directives will be issued concerning their further treatment.

6. It is requested that the Reichskommissar Norway will make available as much shipping space as possible as otherwise numerous casualties among the Norwegians will be unavoidable during the evacuation.

7. I request all offices concerned to carryout this evacuation in the sense of a relief action for the Norwegian population. Though it will be necessary here and there to be severe, all of us must attempt to save the Norwegians from Bolshevism and to keep them alive."

Then on page 13, illegible initials. Signed "Rendulic". "Rendulic, Colonel General. Roman Ia/Op. No. 1682/44 top secret."

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MR. RAPP: The next document, Your Honors, is on Page 14 of the English, Page 12 of the German Document Book.

DR. FRITSCH: Dr. Fritsch for Defendant Rendulich. Your Honor, I object to the submission of this document. It is a teletype of the Supreme Commander of the Navy. I may perhaps ask first the Prosecutor how far the probative value of this document is against the Defendant Rendulich.

MR. RAPP: Does the Court permit me, at this time, to state this in the nature of argumentation?

PRESIDING JUDGE BURKE: If it may be stated as a factual outline of what you propose to prove, we have no objection.

MR. RAPP: At that time the Province of Finnmark, in which the 20th Mountain Corps

PRESIDING JUDGE BURKE: Just a moment. Apparently there's some difficulty with the reception.

MR. HILDESHEIMER (COURT GERMAN ENGLISH INTERPRETER): Shall I repeat? Can you hear me?

PRESIDING JUDGE BURKE: Judge Carter is unable to get it. Very well; you may proceed.

MR. RAPP: Your Honor, we submit firstly that this document comes from the Chief of Staff of the Armed Forces of Germany, at that time.

PRESIDING JUDGE BURKE: Are you referring now to.....

MR. RAPP: Document No. C-48.

PRESIDING JUDGE BURKE: C-48?

MR. RAPP: It has not as yet been offered so we have not given it an exhibit number. Signed Keitel, it is a directive of Keitel to the Commander in Chief of the German Navy in Norway and Denmark, and at that time part of Norway, that is the Province of Finmark, was under the jurisdiction of the Defendant Rendulich. As part of the evacuation, the part of the German Navy needed in the evacuation or in the accomplishment of his mission was under the command of the Defendant Rendulich.

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As part of the evacuation, the part of the German Navy needed in the evacuation or in the accomplishment of his mission was under the command of the Defendant Rendulich, we allege. Therefore, we believe that this order has a definite bearing because it pertains both to the Army and the Navy.

DR. FRITSCH: I shall explain my attitude to this when my case comes up.

PRESIDING JUDGE BURKE: Very well.

MR. RAPP: Your Honors, we submit C-48 as Prosecution's Exhibit No. 505. It's a teleprint message to Commander in Chief of the Navy, received 30 November 1944, secret. It is a copy of such message, pertaining to the sabotage in Norway and Denmark.

1) C-in-C, Armed Forces, Norway and C-in-C, Armed Forces, Denmark are charged with effecting the proclamation of an order at the offices of the Reich Commissar of the Occupied Norwegian territories, or at the offices of the Reich Plenipotentiary in Denmark, and its carrying out by the BDS (Commander of Security-Police). This order shall provide that employees, and if necessary, their families (relatives' liability) (Sippenhaftung) are also held responsible for cases of sabotage occurring in their works. Every ship-yard worker, etc. must know that every case of sabotage occurring in his sphere of work entails the gravest consequences for him personally, and, if he disappears, for his family.

2) C-in-C, Norway, and C-in-C, Denmark, will re-inforce the protection against sabotage which up to the present has been carried out by police, special detachments of the Navy and the Reichs Commissar for shipping. They will re-inforce it with all available means by guard contingents made up of personnel of all arms of the service, in collaboration with (Commander of Security-Police). In Southern Norway, the substantial accumulation of troops in the area around Oslo should be drawn upon for this purpose. If the numerous troops available in this accumulation and the rear units in Oslo and in Denmark too are energetically made use of, the guard can be tripled.

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I can, moreover, not allow acts of sabotage of this kind to be accepted as acts of God and inevitable, without the authorities responsible for security being called to account. Troops of the Armed Forces

employed on protection against sabotage are to come under the tactical control of the competent Commander of Secret Police.

Chief of the Supreme Command of the Armed Forces Keitel Field Marshal Supreme Command of the Armed Forces/ Armed Forces Ops Staff/Qu 2 (North) NR 00139/72/44 Most Secret.

On Page 15 is the distribution of this particular document, with copies to the Naval War Staff Ia, Naval War Staff Ib, and then received 30 November 1944, a rubber stamp; no signature. If Your Honors turn now please to Page 16, Document No. [NOKW-090](#) is being submitted as Prosecution's Exhibit No. 506. This is a document classified "secret":

Supplement 5 Army Headquarter, 25 Nov.

44 War Diary High Command 20 (Mountain Army) (O Qu./Evacuation Staff No. 31/44 Secret The Evacuation of Northern Norway.

I. Mission The intention to induce the population of Finland and East Tromsø to evacuate these territories voluntarily, failed because of the limited willingness to support this demand.

Accordingly, the Fuehrer ordered the forced evacuation of the territory East of the Lyngenfjord, in order to protect the population from Bolshevism. The Fuehrer-order to the Wehrmacht commander, in Chief of North Finland contains the following demands:

1. The territory is to be emptied of human beings so that the enemy cannot rely on the working potential and local knowledge of the population.

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2. All quarters, traffic and economic installations are to be destroyed so ruthlessly that the enemy is deprived of every possibility of living in this area.

3. What ever can be evacuated in important goods, is to be salvaged.

The initial time period set for evacuation, Porsanger territory by 9 November, Alta/Hammerfest territory by 12 November, and East Tromsø by 15 November 1944 could be prolonged until 20 November 44 as a result could be prolonged until 20 November 44 as a result of a change in the situation.

"Accordingly a salvaging of economic goods in excess of the first planned amounts was possible.

The territory to be evacuated corresponds to 1 and ½ times the size of Denmark. The distances on the single National Highway 50, amount to 1,000 kilometers from Kirkenes to Narvik and from Hammerfest to Tromsø 599 kilometers. Furthermore this highway was occupied by the Marching movement of the Army, so that first of all the sea lane came into the question with regard to deportation." If Your Honors permit me, I would like to show you on this map (Pointing to a wall map), this particular highway, because it will be, we believe, of some importance in this particular phase that we are concerned with.

PRESIDING JUDGE BURKE: In the absence of objection, you may do so.

MR. RAPP: (Pointing with pointer to map) This highway here Highway 50---. I have tried to trace it in red.

PRESIDING JUDGE BURKE: Indicate in the general direction of...

MR. RAPP: Here's the Province of Finnmark, and the troops came from Finland to Finnmark and proceeded in a westerly direction. In other words, the movement is something like this, generally speaking (indicating movement by means of pointer).

PRESIDING JUDGE BURKE: In a westerly direction?

MR. RAPP: In a westerly direction. And once they have reached this crest it is probably what you can call a westerly and southerly direction.

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Accordingly a salvaging of economic goods in excess of the first planned amounts was possible.

The territory to be evacuated corresponds to 1 and ½ times the size of Denmark. The distances on the single National Highway, the National Highway 50 amount to 1,000 kilometers from Kirkenes to Narvik and from Hammerfest to Tromsø, 500 kilometers. Furthermore this highway was occupied by the marching movement of the Army, so that first of all the sea lane came into the question with regard to deportation.

For the purposes of the execution an evacuation staff was formed with the High Command of the 20th (Mountain) Army, to which a representative of the Reich Commissioner for the occupied Norwegian territories was added.

II. Means 1. The possibility was merely offered as far as the sea lane was concerned to utilize the unused transport space on ships of the Reich Commissioner for Naval Transport (German Commercial Glad) and on ships of the Navy (Reich Service Flags and Reich W&R Flags). Beyond that, Norwegian local ships and numerous cutters were utilized.

2. On land, the population wandered off individually with their own trucks (trucks, omnibuses, and horse drawn vehicles). The young folk also made use of bicycles frequently, for the march to Narvik.

III. Execution:

1, The inadequate records of the Norwegian resident register were the basis for the seizure of the population. According to them, the territory to be evacuated, including the nomadic Lapps had before the war a population of about 62,000. The (apparently very restricted) number of those persons who fled the evacuation can accordingly only be estimated.

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2. On account of lack of time the order to the population for evacuation could only take place in the form of an appeal decreed jointly by the Commander & Chief of the 20 (Mountain) Army and by the Reich Commissioner for the occupied Norwegian territories.

3. Assembly points for the deportation by sea were erected in Billorfjord and Homningsvaag for the area Porsanger and East Finland, in the Hammerfest for the Island territories, and in Alta-SopnesBurfjord for the territory Alta with Kaugoekino.

The felder Traffic took place with trucks and omnibusses, from the sea with cutters, or from the Islands and the wastal localities in North Baranger, by units of the Navy.

Deportation from the Porsanger area took place in the main through two mass transports with 1700 and 1060 persons on the Steamers "Karal A-rp" and A-dolf Binder" from Billefjord. In Alta, through a mass transport of 750 persons on the supply ship "Dithmarschen". Deportation for the rest, with Norwegian local ships and cutters.

4. Rounding up organizations were set up through civilian offices for quarters and further transport of the deported population in Tromso, Narvik, and Harstad.

Forwarding to Mosjoen and Trondheim took place with ships of the Norwegian "Huttigrute". Besides them, the following ships were utilized: the steamers "Brabant", "Dronning", "Sigurd Jarl", "Stella Polaris" as well as the hospital transport ships "Lofotes", "North Star", and "Polar Ice". This forwarding was finished by 25 Nov. 44.

5. Supplies, including quarters and medical help could not be guaranteed by the civilian sector in this wide area to a full extent. The Wehrmacht helped accordingly on a generous scale:

a) through the provision of rations where supplies could not be managed in such bulk by the civilian sector. In the reception stations on land as well as on board the German ships warm rations were given out from field kitchens.

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b) through the provision of barrack camps as quarters at the assembly points, Billefjord and Sopnes.

c) through the help of the unit during transport to the coast, as well as during embarkation, especially by assisting families with children.

d) through large-scale care of sick, injured, pregnant women, and mothers with small children by doctors and medical installations. Admission of women for confinement into hospitals, further transport on hospital ships, provision of small children with milk.

The transport of sick and injured from outlying Homes for the Aged and Homes for tubercular cases whose evacuation was necessary, in order not to afford the enemy propaganda material, required and especial regulation. The deportation from Karasjok, Boersely, Kautokeine, and Talvik and/or Korsfjord took place under the responsible leadership of Oberarzt Dr. Gaebler with medical trucks of the Wehrmacht and our own boats used for this.

The population could only take what baggage they could carry, on account of the restrictions of the transport space. The cattle had therefore to be taken over by the Wehrmacht against memoranda receipt, as far as it could not, in individual cases, be taken along.

After extension of the evacuation time an extensive salvaging of important economic goods was also ordered for the civilian sector. Here the execution was the responsibility of the Wehrmacht. Furthermore, a final search was carried out by the Norwegian police detachments on the islands and outlying localities. Destruction will accordingly only be ordered by the subordinate sector commanders (Unterabschnittskommandeure) and/or rear guard officers in agreement with the evacuation commissioners when the salvaging of valuable economic goods (especially fishery equipment) is finished, or impossible.

Salvaging of the reindeer herds took place by an order to the Lapps to drive their herds to the west over Kantokeino-Holligskogen into a reception territory in Tromsfylke.

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A retreat to the South was prevented by a blockade on the Swedish border, a lock at Helligskogen made possible the driving through of the reindeer herds by the march movements of the unit on to the highway Finland-Skibotn. This action cannot be finished yet, since on account of the slight snowfall, the expedition of the Lapps, could not be put into operation yet to full extent. Where a herd could not be transmitted farther, part of the animals were taken over against memoranda receipts by the Wehrmacht; the Lapps were nevertheless left the minimum necessary for existence, IV Results In the reception organization, including the fishermen already settled on the Lofotes 36,914 persons were taken all together.

About 5,000 persons migrated before the start of the evacuation up till October from East Finland. About 1100 persons have migrated by means of self-aid without passing through the reception organization a smaller residue of workers of the Wehrmacht is to be moved off later with the unit.

About 10,000 persons have remained in the area of Kirkenes, as a result of the war events. In West Finland and East Troms only 8,500 persons, in the main Lapps, are left behind, whose deportation was only of interest in connection with the finding back of reindeer herds.

The evacuation in the territory between Lyngenfjord and Porsangepfjord could therefore be carried through almost completely. Even voices of the Swedish press had to admit the success of the action and speak of an almost 100% evacuation of the population.

The success of the action was made possible through the excellent cooperation of all participating offices of the Wehrmacht, the Reichs Commissioner, and the Norwegian administration.

Experiences Orderly evacuation under the conditions imposed is only possible if an orderly method of seizure is present in the hands of an administrative medium.

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Both were not at hand. The Norwegian citizens were partly the first to leave their realm of their own accord. The administration in Hammerfest and in Talvik worked well.

Even in short periods for evacuation, a frictionless development is possible, if a calendar is also at hand in civilian offices for the evacuation of important goods. Idleness and avoidable losses of important goods result from improvising.

It contributes in any case to the quieting of the population, if every family can have at their disposal a memorandum with the individual orders for carrying out the evacuation. Such a memorandum was to be issued by Minister Lie according to the suggestion of the Army Hq, but came too late, to have any great effect on the population.

Some untoward events, such as the execution of the "Law concerning hand and span services" with the separation of the men from their families to be deported and with guarding like prisoners, burning down of houses in the presence of the inhabitants even where an immediate destruction was not necessary and shelling of the locality Kjellefjord by units of the navy, hinder the readiness of the population to follow the officially prescribed way.

(sgd) Herrmann Col and Leader of the Evacuation Staff Distribution:

In draft

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MR. RAPP: On page 23, Your Honors, is a breakdown of evacuations as of 25 November 1944. It is an enclosure to the document I was just reading into the record, and it gives a breakdown of people who have been evacuated and people who have not been evacuated, and also how many remained. These, then, added together on page 24 in a grand total of those to be and those which have been evacuated amounts to 62,000 persons; however, there is a better breakdown, if Your Honors turn to page 25. This particular document by itself, [NOKW-090-a](#), which is being offered as Prosecution's Exhibit No. 507. This document shows "Table of Evacuation as per: 25 November 1944; number of inhabitants to be evacuated on 9 April 1940: East Finnmark approximately 25,000, West Finnmark approximately 27,000, Trom, Eastward Lyngenfjord approximately 10,000 amounts to 62,000. And then Execution of Evacuation: Evacuees: Evacuees reported via Tromsø to the south 29,014, via Narvik approximately 3400."

PRESIDING JUDGE BURKE: Mr. Rapp, I don't quite understand the expression "Execution of Evacuation--Evacuees," Paragraph 2, [NOKW-090-a](#), Exhibit 507.

MR. RAPP: That is right, your Honor, what it pertains to is the population to be evacuated in this operation, based on a count of the population made on the 9th of April 1940. It's probably in somewhat awkward translation.

PRESIDING JUDGE BURKE: Yes, it seems a little ambiguous.

MR. RAPP: In other words, they used the official count of the population of the 9th of April 1940 to reach the figure of 62,000. That is the number they were concerned with an intended to evacuate.

JUDGE BURKE: Very well.

MR. RAPP: And then below are the figures they have actually evacuated, listed under Execution of Evacuation, I won't read all these figures into the record. It amounts to about 36,914; and then there are a few left, and then it says "Wehrmacht workers, evacuated with the troops, 285, and it amounts to about 43,300 persons, and then under paragraph 2, they have a number of persons which weren't evacuated; Unable to leave East Finnmark in time, approximately 10,000, and then the number of Lappanders remaining, and refugees avoiding evacuation, and both totals together amount to the grand total of 62,000, which was given at the beginning of this document.

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The last document, Your Honors, is an excerpt from a War Diary. It is not signed. Under the entry of 1115 hours, it says: Orientation of the Commander-in-Chief on the situation by the Chief of Staff in the presence of the Ia and Ic.

1.) Report on the situation at the Corps and this is stated in plural. Measures of the Army are approved by the Commander-in-Chief

2.) Nickel Mine Kolosjoki:

The Commander-in-Chief requests that Director General Baron Wrede be informed that transporting and loading of the entire Army will require about 5 - 6 weeks.

Mining the ore during this period is of far-reaching importance to us." "In case difficulties occur, in view of the

PRESIDING JUDGE BURKE: Have you found that document?

MR. RAPP: I'm referring to 2026.

DR. FRITSCH: Your Honor, I object to the submission of this document. I have here before me the photostat copy, and on this photostat copy no notes become obvious at all. There are just two typed notes-slips of paper-which at sometime or other were made by some authority or other, and this proves absolutely nothing, and it does not prove that it is part of a War Diary.

PRESIDING JUDGE BURKE: Is that in reference to Exhibit No. 507 or No. 508?

Dr. FRITSCH: The document which was just read by the Prosecution.

MR. RAPP: It has no reference to Exhibit No. 507 or 508; it has a reference to a document which I was about to put in as an exhibit.

PRESIDING JUDGE BURKE: [NOKW-064](#)?

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MR. RAPP: 064; that is right.

PRESIDING JUDGE BURKE: And your objection, counsel, is what?

DR. FRITSCH: The document 508, Your honor, [NOKW-064](#).

PRESIDING JUDGE BURKE: And will you repeat your objection?

DR. FRITSCH: Your Honor, this is a matter of two typed pages on which there is no reference to any War Diary, to anything coming from a War Diary. The photocopy has not been signed. That has been emphasized already and it also has no head. In my opinion, your Honor, it can have no probative value whatever as such documents can be made any time. Perhaps I may submit this document to the high Tribunal.

PRESIDING JUDGE BURKE: The objection at this time will be overruled.

MR. RAPP: Your Honor, this Document [NOKW-064](#) is being offered as Prosecution Exhibit 508. Under the entry at 1115, it states:

"Orientation of the Commander-in-Chief of the situation by the Chief of Staff in the presence of the 1a and 1c.

"1) Report on the situation at the Corps (plural).

"Measures of the Army are approved by the Commander-in-Chief.

"2) Nickel Mine Kolosjoki:

"The Commander-in-Chief requests that Director General Baron Wredo be informed that transporting and loading of the entire Army will require about 5-6 weeks.

"Mining the ore during this period is of far-reaching importance to us.

In case difficulties occur in view of the importance of the plant for the war effort the Chief of Staff proposes to seize Baron WREDE circumstances permitting, and to force him, under threat of being shot to death to issue orders for the handing over of the plant.

The Commander in Chief gives his approval."

This, your Honors, concludes Document Book No. 22. would like to inquire from the Tribunal if it would be convenient for the Tribunal, possibly, to recess at this time. We are trying to call a witness and I felt we then would not be interrupted in his testimony by the recess if this is agreeable to your Honors.

PRESIDING JUDGE BURKE: I have always been quite arbitrary in the matter of proceeding right up to the allotted time, but I will make this exception and recess at this time.

(A short recess was taken).

THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

PRESIDING JUDGE BURKE: You may proceed, Mr. Rapp.

MR. RAPP: Thank you very much, your Honor. I have a document before me which we would like to submit at this time, for identification only. It is the script of the Norwegian film which we shall see at four-thirty and then in order not to violate the twenty-four hour rule, we will then ask Monday morning that the document as such be admitted in evidence without having to read the whole script again into the record, which all of us will see this afternoon as part of the picture. I have taken this matter up already with the defense counsel and I believe that defense counsel is agreeable to this.

PRESIDING JUDGE BURKE: Is defense counsel in agreement with the statement made by counsel for the prosecution?

DR. FRITSCH: Fritsch for Rendulic. Your Honor, it only concerns the Defendant Rendulic whom I represent. I have no objection against this decision on the part of the prosecution.

PRESIDING JUDGE BURKE: It is agreed.

MR. RAPP: Your Honors, this is called Document Norway 13-B and it is offered for identification only as 508-A.

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If the Court pleases, I should like to request that the Marshal be directed to summon the witness Ferdinand Jodi.

PRESIDING JUDGE BURKE: The Marshal will summon the witness, Ferdinand -

MR. RAPP: Jodl.

PRESIDING JUDGE BURKE: Ferdinand Jodl.

You will raise your right hand, please, and solemnly swear that the testimony given in this matter will be the truth, the whole truth and nothing but the truth so help you God.

You solemnly swear that the testimony that you give in this matter will be the truth, the whole truth and nothing but the truth, so help you God.

(The witness repeated the oath.)

You may be seated.

You may proceed, Mr. Rapp.

MR. RAPP: With your Honors' permission, I would like to examine the witness in the German language.

PRESIDING JUDGE BURKE: There being no objection you may proceed.

FERDINAND JODL DIRECT EXAMINATION BY MR. RAPP:

Q Please give us your full name?

A My name is Ferdinand Jodl.

Q When were you born?

A On 28 November 1896.

Q Where were you born?

A Outside Landau in Palatinate.

Q Are you a German citizen?

A Yes, I am a German citizen.

Q What was your profession, witness?

A I was an active officer.

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Q Since when did you have this profession?

A I entered the Army on the 2nd of August 1914.

Q And when were you relieved or when did you retire?

A I retired from the Army on 11 June 1947.

Q Are you married?

A Yes, I am married.

Q Have you any children?

A Yes, I have two children.

Q Were you ever a member of the party or it's affiliations?

A No, I was never a member of the Party or any of it's affiliations.

Q Where do you live now, witness?

A I live now in Wiesbaden. However, I retired to Gummersbach in the Rhineland within the British Zone.

Q Are you now free?

A Yes, I am free now.

Q Where were you as prisoner of war at the end of the war?

A I was an English prisoner of war.

Q When were you relieved?

A On the 11th of June 1947.

Q When did you come to Nurnberg?

A. I arrived at Nurnberg about ten days ago. That was the first time. The second time was this morning at 4 o'clock.

Q During the first day in Nurnberg how many times were you cross examined, interrogated, I should say?

A When first I was in Nurnberg I was three times interrogated.

Q And how long did you stay then on the whole?

A Perhaps five days. I arrived on a Friday and I stayed up until Saturday or Sunday. Sunday we did not work and I stayed another three or four days.

Q Can you describe to us your military career in a few short ters. Witness, you can take your ear phones off because I think you will probably understand me without them.

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A In 1914, I joined the Army as an NCO in Augsburg, the 4th Bavarian Artillery Regiment. I became a lieutenant and I left the Reichsheer as a lieutenant. During the first World War I served only in the West and only with this regiment at the front. After the end of the First World War I entered, after a short interval, the Reich Army, the Reichswehr; until about 1922 I served at Landsberg as a 1st and 2nd Lieutenant in the 7th Reichswehr Artillery Regiment and then a short time in Munich.

From 1927 to 1929 I was on a Fuehrer's assistance course in Westphalia. From 1929 to 1934 I was in the Reichswehr Ministry as an assistant Fuehrer. Then afterwards in the Department of Foreign Armies. I was in charge of the Russian group. In 1934 until 1935 -

PRESIDING JUDGE BURKE: Witness, a little slower, please.

A 1934 to 1935 I was Battery Chief in Ansbach. 1935 to 1938 I was a teacher of War Tactics at the War Academy in Berlin. 1938 I joined Command of the 12th Corps as Ia to Wiesbaden. In this position I was still when the war broke out. Then, according to my memory, in May 1940, I became of this particular corps. For about 14 days during the offensive in Yugoslavia I was appointed Chief of the General Staff of the 49 Mountaineer Corps and Chief of the General Staff of the 12th Corps -- I was only in the West, as the Chief of the General Staff of the 49th Corps, I was at various points; that is, in France about a fortnight in the Jugoslavian offensive and then, just at the beginning of the Russian campaign I was in Slovakia and also in Poland in the area west of Lemberg-Lwow as Chief of the General Staff of the 49th Mountaineer Corps.

I participated in the offensive against Russia. My unit was at that time in the Donetz Basin and in the vicinity north of the Asow Sea. Approximately on the 10th of January, 1942 I was appointed Chief of the General Staff of the then Army High Command - Lappland which was later the 20th Mountaineer Army. I arrived about the 20th of January, 1942 in Rovanjemi which is in Finland and I remained there and in the same position until the end of February 1944.

Effective the 1st of February, 1944 I was appointed into the Leader Reserve of the OKH and I was transferred and taken to Wiesbaden, which is my native town, and to wait for further orders for my future command.

At the beginning of April the order reached me there to the effect that I should go back to Rovanjemi in order to take over the leadership of the 19th Mountain Corps at the Ice Sea Fron. On 20th April 1944 I took over the leadership of this particular unit. In September 1944 I was appointed commanding general of the Corps. In this capacity I was in the defensive war against the Russian attack on 7 October 1944 where we only succeeded under heavy sacrifices in saving my unit from being kept in a pincer movement by the Superior Russian forces and I managed to take my corps back to Norway.

Then, until the final capitulation, I hold the same position, being the officer in command of this Corps. Then approximately at the end of November 1944, I was given the tactical leadership after being in charge of operations of the Army Department Narvik which consisted, apart from my own units, also of the 71st Corps.

Q. Witness, within what larger unit did the 19th Corps fight? Outside of the 19th Corps, what was subordinated to the 20th Mountain Corps and who was the Supreme Command or of the 20th Mountain Army?

A. The Supreme Commander in command of the 20th Mountain Army was at first General Dietl and later on General Rondulic and in the end it was the General of the mountain troops Boehme.

Q. Witness, did you know General Rondulic? Did you know him personally?

A General Rondulic I met first, as far as remember, in Finland.

Q Did you know him personally, witness?

A Yes, I know him personally.

Q Can you recognize him in here in court?

A. Yes, yes.

PRESIDING JUDGE BURKE: You are overlapping the questions and answers. Space the timing between the question and the answer.

Q Witness, will you please leave a small interval between my questions and your answers?

PRESIDING JUDGE BURKE: And more interval between and the next question.

MR. RAPP: Very well, your Honor.

Q Witness, can you point out to us the then General Rendulic, now the defendant Rendulic?

A Yes.

Q Where does he sit?

A General Rendulic is sitting here opposite me,

Q In figures -- speaking in figures, where is he sitting from the left?

A He is the sixth.

Q Thank you. Witness, did your army corps under your command take part in the evacuation, or the so-called evacuation of the province of Finmark?

A Yes, my army corps took part in this.

Q Witness, when did you hear for the first time of forced evacuation of Finmark and that such an evacuation was to take place?

A It is not pass ole for me any longer now to give you a date. I am afraid I do not remember. I can only say for certain that various preludes and considerations occurred before the actual Fuehrer order or Army Order came through during the last days of October and arrived at our army corps.

Q Witness, although as you state here, you can't remember any exact date or any time at all in connection with the Finmurk evacuation, when you did hoar about it, did you take any steps -- that is, before you received the actual Fuehrer order?

A I can roll remember one discussion which I had with General Hoelter but that was a discussion which took place before the Fuehrer order arrived. It must have taken place before the Fuehrer order arrived. This discussion was to the following effect:

"Herr Hoelter, I intend to make an application in writing to the effect that any destruction and evacuation of Finmark should not take place for the following reasons:

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"First, my unit which is absolutely exhausted by the various attacks and offensives has something else to do than to deal with evacuations and destruction. We are glad if we can bring our 5,000 rounded into safety to the West and can get supplies of the most necessary things, materials, et cetera. We have no columns in order to transport population.

"Second, I do not believe that the Russians will proceed to the host and will cross the Tana. We are not in touch with them any longer -- with the Russians, that is. We know for certain that the bulk of the Russian units have been transported to the East and, even if the Russians should rant to pursue us, they would be acting differently.

"Third, if we force the population to evacuate and if we burn their houses we therewith create miss givings and ill will amongst the Norwegian population and ombitterment and this ombitterment can be of no practical use to us. We even have to reckon with tho springing in to life of a partisan movement."

When I told this to General Hoelter, he answered: "The A.O.K. is roughly of the same opinion as you but just now the order" -- I do not know exactly what exactly he said it was, a Fuehrer Order or whatever it was -- "has arrived according to which destruction has to be carried out" -- that destruction, that is, and the evacuation -- "and nothing can be done now. The submission of an application in writing is therefore no longer of any use."

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Q Witness, who was General Hoelter?

A General Hoelter was the Chief of the General Staff of the Mountain A.O.K. 20.

Q And as such General Hoelter was subordinate to General Rendulic?

A. He was subordinate to General Rendulic.

Q Witness, the discussion which you had with General Hoelter and the arrival of this so-called Fuehrer order were almost simultaneous, weren't they?

A. So I assume.

Q Did you speak to General Hoelter personally?

A Yes, I spoke to him personally.

Q By telephone?

A Yes, by telephone.

Q Witness, in the last days of October of the year 1944, did you have direct contact with the Russian troops?

A I do not remember the date of the last fighting with the Russians any more but it must have been approximately around the 25th of October when the last fight took place that is in consequence of the Russian pincer movement on the east of the River Tana.

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Q At this time, this date, 25 October 1944, was if I understand you correctly after the time at which the Russians as you said transported larger units to the East, is that correct?

A Yes, this transfer of strong Russian units must have taken a long time, because the Russians had opposed to my own corps about four or five corps to ours. That is quite a bit of transport, it took a lot of transportation to transfer then to other parts.

Q Alright, witness, I shall put my question in a different way; was the transport at that time in great part concluded, or was it only just starting?

A It must have been like this, that the persecution of Kirkenes was only carried out by only a few small Russian units, and they were originally directed against my own corps.

Q Witness, in your own Army Corps, did you have a so-called 1-c officer; was he in contact with the 1-C officer of the Army?

A Yes, that is correct.

Q At this date we are speaking about, now what, if you can remember, what did the 1-C officer tell you about the enemy position for the enemy intentions, I should say, referring to the mass pursuit of the 20th German Army?

A I probably misjudged the enemy position at this particular point. In the vicinity of Kirkenes there were only about three corps left, or at least we could only establish the existence of three enemy corps. In the direction of Neiden there were even less enemy troops, and beyond Neiden there advanced only very weak Russian forces which went to the West. Contact with the enemy had been lost none or less. Without doubt the enemy left its strong forces either around Potsamo, or he had already transferred them to the south. During the last days of October, in any case, there was no indication whatsoever that the Russians should keep on pursuing us across the Tana River to the West, or that he intended to do so. An absolute guarantee for this, of course, we did not have, because as I already mentioned before the Russians just as at the time when they crossed the Finnish-Norwegian border, also in this case he could stop for sometime at the Tana River in order to wait for the result of some political negotiations with the exiled Norwegian Government.

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THE PRESIDENT: Pardon me, just a minute. I do not in anyway wish to direct the prosecution in its questioning, but personally I would be interested in knowing if the prosecutor wishes to present the matter at this time, where this particular river is.

MR. RAPP: Your Honor, I have just that in mind and have been trying to make arrangements to have one of the representatives of the Norwegian Government to point these places out for us.

THE PRESIDENT: Maybe the witness could do it. However, that is a matter for you to decide.

UNKNOWN GENTLEMAN: (Indicating on map with rule) This is the Tana River and the Tana fiord.

MR. RAPP: Would you be so kind as to stay there?

THE PRESIDENT: You are now having a person testify who has not been sworn or called as a witness. The witness can do so or can try to do so. He should be able to.

MR. RAPP: I am merely trying to do this for the convenience of the Tribunal. If you wish I can have the witness stand and show it to us.

THE PRESIDENT: That is the proper way to do it, rather than having two witnesses on the stand at one time. It should be suggested that he (the witness) speak into the microphone.

Q Will you please show us the Tana River?

A The Tana River is this border river which flows into the Tana fiord. It is a large river, and this is the road by which we retreated. (indicating) And beyond the Tana River, to the west the Russians did not advance.

Q Witness, up to now you spoke of so-called assumptions which at that time you had about the intentions of the Russians; did these assumptions actually come true, that is did the Russians actually advance to the west along this line?

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AApart from a few reconnaissance troops the Russians did not actually advance to the west.

C, And when, or at what state, witness, did this take place, and how did it become more and more evident?

A It is very difficult to give a date, because everyday showed more and more that the Russians were for the time being not advancing with stronger forces.

Q Witness, if I understand you correct, that did not become evident until April 1944, when I speak of dates I mean not only just a particular day, but I mean months?

A It was absolutely clear that as far as one could speak of the future at that time the Russians did not intend to advance, unless they intended to start an offensive in the north.

Q From when on did that become evident, witness?

A I could say that from the middle of November it became quite evident that this particular phase of activities had come to an end, and if the Russians intended to advance again that this would be a new campaign, as it was. A date, of course, would be merely arbitrary.

Q Witness, did you receive this order by the 20th Army about the evacuation of Finnmark?

A Yes, I received it.

Q In writing?

AAAs far as I remember, in teletype.

Q On the basis of this order within your unit did the compulsory evacuation begin immediately?

A Yes, it had to begin, because we were in a hurry.

Q Witness, how long did this compulsory evacuation take?

A I am not in a position to make any binding statements about this point as it did not concern me until the beginning of November, and later the compulsory evacuation was supervised by a staff which exclusively been appointed for this purpose.

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Q Then give us the date, at what date or approximately what date did you know about this, directly or personally?

A We had to deal with evacuation measures approximately as from November 1 until at the most the 10 or 15 of November, because when I changed my fighting position later from the Tana River to the west I arrived at villages as a rule which had already been completely or partly evacuated.

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Q. Witness, were these villages absolutely destroyed?

A. No. When I arrived at these villages, they were not destroyed* Nothing had been destroyed, because our whole unit was actually housed and stationed in these villages. We had to find accommodations, because it was winter and we were near the Ice Sea.

Q. Witness, was the 230th Division within your corps? Was it a unit of your corps?

A. The 230th Division was in my area, but when they came under my command I do not remember anymore in detail.

Q. The evacuation staff which you have just mentioned, which was formed later on, and the main task of which was to supervise the evacuation and carry it out -- now where did this staff receive its troops and men?

A. I should prefer not to say anything about this date, because I had no personal contact with the staff. I had no contact at all, no immediate contact, with them. I never met the staff; therefore I would not like to make just any old statement about something which I do not know for certain.

Q. In other words, witness, the troops of the XIX Corps, which you were in charge of, were never put at the disposal of the staff for evacuation purposes?

A. As far as I know now, and furthermore I don't believe they had any troops. They must have had only columns. It is possible they had columns. It is possible, however, that my quartermaster might have put a column at the disposal of the evacuation staff.

Q. What do you mean, column?

A. Motorized column. If you mean units of any size, regiments, etc., no, that is absolutely out of the question.

Q. Witness, you say you arrived at villages which had been evacuated but which had not been destroyed. Were there any people left in these villages?

A. I have already said that most of the villages were absolutely empty, but on occasions I saw one or two civilians who were packing something.

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I saw people with a cow, and similar things, but those were individual cases. Practically, these villages and little towns were evacuated.

Q. And during your service in Finnmark, after the order had been given for the evacuation of Finnmark, you saw no burned villages?

A. No, I saw no burned villages, of course with the exception of Kirkenes, and of course there were villages that had been destroyed during battle.

Q. Did you actually see burning villages, not burned but still burning?

A. I only saw Kirkenes burning on several occasions, in fact, First burned actually by the Russians, and later on through battles, and also through Russian bomber attacks again, and then I saw the barracks which we had built in the vicinity of Kirkenes when we went through.

Q. Witness, did you ever see dead cattle? I mean large amounts, as from a dozen upward.

A. I never saw a dead horse or a dead cow lying about.

Q. Now, witness, let me put it in another way. You said that you called -- that you telephoned General Hoelter, and you gave him three reasons against the evacuation -- I mean to say that you objected. Do you want to say by that, witness, that after the matter had been issued in the form of an order that you were not of the same opinion any longer, that you changed your attitude?

A. The destruction and evacuation also -- this is what I say today and I said it before -- was for me a highly unpleasant and awkward matter, but on the basis of this order, and because I could not guarantee for certain that the Russians would not follow us, I carried out this order.

Q. But you said, witness, that actually the Russians did not follow?

A. Yes, that is what I said.

Q. Witness, as commander or commanding general of the 19th Mountaineer Group, did you ever receive daily reports or other reports from the Army which dealt with the development of the whole tactical situation in Finnmark and in Norway generally?

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A. Do you mean with regard to the situation of the enemy or do you mean with regard to the degree of destruction?

Q. No, I mean the actual degree of destruction, witness. After all, the mountain corps which you were in command of then -- did they not have to rely on certain tactical information of the Army?

A. Yes.

Q. The destruction of a country and its evacuation -- are these not tactical matters?

A. No.

Q. Did you ever receive any information on that in connection with a tactical matter?

A. I don't think so, because only at the beginning I and my army corps had to deal with the destruction and evacuation. Later on I took over the leadership of the bulk of the troops. I was in charge of the bulk

of the troops of the 20th Mountain Army, which I had to lead back to the new positions, and at a comparatively early date I, with my staff, proceeded into this position.

Q. Witness, I understand that from your former statement. The only thing I wanted to ask you was whether you, as the leader of the bulk of the Army, which after all consisted of a number of troops, whether therefore it was not necessary for you to be tactically informed about other matters which happened in this country?

A. I can only say I was not informed about the destruction tasks, because these orders were sent to the chief of the rear forces and at that time that was the commanding general of the XXXVI Corps.

Q. I did not ask you about destruction tasks. I asked you about destruction that had actually been carried out. Witness, was the compulsory evacuation and destruction of Finnmark a military necessity?

A. Yes, it was, if you expected the Russians to proceed to the west. Apart from that I do not see even today how supplies for the population which was left "behind in north Finnmark could have been procured after all military objects, bridges, roads, and so forth which had to be counted as such would have been destroyed.

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In this case about 30,000 people would have been living in a kind of "no man's land", of which perhaps a part, that is those who dealt-

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PRESIDING JUDGE BURKE: The Tribunal wishes to inquire whether there is any likelihood of completing the testimony of this witness before half-past four?

MR. RAPP: Yes, there is, Your Honor.

PRESIDING JUDGE BURKE: Will there be cross examination of the witness?

MR. RAPP: I have only one or two other questions, Your Honor.

PRESIDING JUDGE BURKE: Will there be some extensive cross examination?

DR. FRITSCH: I do not think that I could finish with the cross examination today, Your Honor.

PRESIDING JUDGE BURKE: The Tribunal has no desire to hurry you in your cross examination, so with that information at hand it is the feeling of the Tribunal that we will now adjourn to Courtroom No. 1 for the continuation of such phases of the operations as indicated by Mr. Denney.

The Tribunal will adjourn to Tribunal No. 1, to the room, Tribunal No. 1

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THE MARSHAL: Persons in the courtroom will be seated.

Military Tribunal 5 is again in session.

PRESIDING JUDGE BURKE: You may proceed.

MR. DENNEY: May it please Your Honors, the first film which is being shown will last approximately twenty minutes, and it is a film having to do with the picture in Greece, and is part of the reports of the Office of War Crimes of Greece. It is offered as Prosecution's Exhibit No. 509.

PRESIDING JUDGE BURKE: You may proceed.

MR. DENNEY: May it please Your Honors, the captions are in Greek, so they will be translated into both English and German.

(A film entitled "From the Tragedy of our Country" was shown.)

"From the Tragedy of our Country.

"In order that we may have a picture of the tragedy of our country during the period of the occupation, I decided in spite of the difficulties and the risks involved to take a film, which though historically accurate is artistically inferior due to the conditions under which it was made.

"It may be noted that taking even a simple picture of military units is punishable by death.

"Athens, April 27, 1941, Angelos Papanastasiou, Municipal Councillor of Athens.

"On 6 April 1941 Germany, for the sake of saving the defeated Italian Army on the Albanian front, attacked us from behind. Our heroic army, faced with the overwhelming numerical superiority of the Germans, was forced to withdraw and on 27 April 1941 the German troops entered Athens.

"On 27 April 1941 the German swastika is hoisted on the sacred Rock of the Acropolis and on 6 May 1941 the Italian flag.

"Central buildings of the city are seized by the German and Italian military authorities. Many enterprises are forced to close. Whole blocks of flats, including all furniture, are requisitioned in one day in order to billet the army.

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"Very few street cars are operating on the lines of Patissia, Ambelokipi, and Callithea - they operate until 7:30 p.m.

"General requisitioning of motor cars, motorcycles, bicycles, etc. disturbs the entire communication system.

"For hours they await the daily distribution of three ounces of bread.

"Continuous undernourishment results in exhaustion of human organisms and leads to skeletonization.

"In Athens alone more than 500 persons die daily from starvation during the winter 1941. They are buried in mass graves which are dug on the previous day. Each cross represents more than 500 victims; the corpses are laid in graves in layers.

"Greek patriots are shot ever day. A firing squad on bicycles.

"Growing indignation of the people compels the occupying forces to take security measures.

"On 25 June 1943 the Greek people protest against the executions by staging a general strike and demonstrations in the streets.

"A huge demonstration with placards bearing the inscription 'Liberty or Death' advances in the streets. The streets are littered with pamphlets. The demonstrators advance despite German and Italian shooting.

"Some of the victims.

"Shops are locked with dozens of heavy padlocks, because thieving Italian soldiers, taking advantage of the strict enforcement curfew at 10 p.m., are ransacking them.

"German brutality is turned against innocent and irresponsible victims, whom they hang by the dozens.

"Victims of German bestiality are brought to the morgue of Athens daily.

"Executions continue. On 3 September 1944, 73 of the detainees are executed by the Germans and are buried in the 3rd Cemetery.

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"The Germans, although they had decided to evacuate Athens, staged the morbid farce of executing 73 to whom they had issued prison release notices on the preceding day.

"They were the last victims of German ferocity in Athens.

"Athens, 16 October 1944, Angelos Papanastasiou."

MR. RAPP: Your Honors, the next picture is offered as Prosecution's Exhibit No. 510. It is a film published under the supervision of the Attorney General's Office, and it was sent to us from the Commission for the Restoration of Devastated Areas in Finnmark.

PRESIDING JUDGE BURKE: We trust that it will be presented with a little more continuity than the one which has just been completed.

MR. RAPP: I hope so too, Your Honor.

(A film entitled "Finnmark", a Norwegian film with English captions, was shown.)

PRESIDING JUDGE BURKE: Is there any further matter to come before the Tribunal at this time?

MR. DENNEY: If Your Honors please, we would appreciate it if we could, after the films have been shown and rewound, withdraw them and return them to the delegation from which they came.

PRESIDING JUDGE BURKE: There is no objection.

MR. DENNEY: Thank you, Your Honor.

PRESIDING JUDGE BURKE: If there is nothing further to present at this time, the Tribunal will adjourn until Monday morning, August 25th.

THE MARSHAL: The Tribunal will be in recess until 0930, Monday morning, August 25th, 1947.

(The Tribunal adjourned until 0930 hours, 35 August 1947.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on August 25, 1947, 0950-1630, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the court.

PRESIDENT: Mr. Marshal, you will ascertain whether all defendants are present in the courtroom.

MARSHAL: May it please your Honors, all defendants are present in the Courtroom.

PRESIDENT WENNERSTRUM: You may proceed with the further examination of this witness.

FERDINAND JODL - Resumed DIRECT EXAMINATION (continued)

MR. RAPP: Your Honors, I believe on Friday last prior to going to the moving picture, I submitted a document for identification only, being the script of the Norwegian picture, and I believe we identified it as 509A. I had distributed that document already to defense counsel and your Honors, and meanwhile the 24-hour rule has elapsed, so we would like to now submit this particular document in evidence, and it is called Norway Document No. 13-B. That is stencilled on the document - Norway 13-B, is to be submitted as Exhibit 509.

In the examination of this particular witness, I believe we stopped when the witness was testifying as to whether or not the evacuation of Finnmark amounted at that time to a military necessity or not, and with your Honors' permission, I would like to take up from there.

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Witness, before we left to recess Friday, I asked you, in connection with the evacuation of Norway, whether this evacuation was a military necessity. Do you remember that question? Would you please repeat once more for the benefit of all of us here, what you said at that time?

A: On Friday I explained that the evacuation and destruction of the territories of North Finnmark would have been considered a military necessity for those who had to expect the possibility of a Russian invasion of the territory beyond the Tarna. Only if the Russians had concentrated larger formations in those territories, -- only if a concentration of Russian forces in that territory in Finnmark would have been possible in the winter time, then would it have been possible for the German forces to create a defense position at the Lyngenfjord.

I also stated, with regard to this question of evacuation, that then as well as today, I did not understand how the population of the North Finnmark could have been fed, if all bridges and other military installations had been destroyed, but if we had left the population in this no man's land, I stated that a part of the population, -- and that is that part of the population which carries on agriculture would have been able to live through the winter on their products, but the great bulk of the population was depending on imports of food, and these imports could not have been secured.

Q: Witness, in connection with this statement, I would like to ask you two or three short questions. First of all when did you first become aware, -- because of the 1c report, and because of other things upon which you could draw, --that the Russian forces would not go beyond the river Riva? (Tana?)

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A: If one can state a date at all, I think it would have been right to say that I first understood this rightly in November. It was then becoming clear that the Russian forces would probably not follow us.

Q: Do you mean then that with everyday, every month, every week which went by, it became more clear to you that this was the case?

A: Yes, that is correct.

Q: The next question is what did you tell the Norwegian population as the reason for the fact that this forcible evacuation was undertaken in this respect, I do not mean from a military viewpoint, but with regard to all other announcements and notices which you saw; what was the Norwegian population told?

A: I think the most essential part was the contents of the well known announcement, -- public announcement, which was signed by the Reich Commissar at Terboven, and the then General Rendulic. I think in that note probably everything was contained which the population was told.

Q: Witness, do you remember whether in this leaflet, the only thing which was said was with regard to the danger of the Bolshevik movement to the Norwegian population?

A: Yes.

Q: Do you remember, witness, whether this leaflet said anything about the fact that the Norwegian population was eminently in danger of starvation because of the destruction of the military installations which had made it impossible to bring in further food?

A: Well, that I cannot say. I do not remember any details.

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Q You yourself are of the opinion that this was one of the essential reasons?

A Yes, I personally think that was the essential reason.

Q But do you not remember whether this was expressed in the public notice?

A No, I don't think so, but I cannot remember.

Q Witness, do you remember then, whether in this public notice, anything was mentioned that there was no reason to have pity for the population?

A Well, I don't think anything like that would have been said in the public notice.

Q Do you remember whether it said anything to that respect in the order which was issued from the 20th Army to the 19th Corps?

A I have already been asked whether this was contained in that order. When I saw the OKW order for the first time, in its original wording - which I had not seen until that point - I said then, and that is about 18 months ago, that I cannot remember that this wording -- that these things were mentioned in the order. Even today I cannot say with certainty because in my mind now the memory of the order from the OKW, is confused - that is, this order which I saw 18 months ago - I confuse with the memory of the order by the OKW which I carried out so many years ago.

Q Witness, you mentioned military destructions which had to be carried out if there was any certainty that the Russians would follow. Do you mean by this "military destruction" - do you also mean the destruction of isolated houses, little fishing shacks, and do you also mean churches?

A No, I did not mean churches in that respect, but everything else would be considered accomodation.

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The enemy air force would not mind whether a unit would be accomodated in a house of say three floors or four or five isolated or detached small houses. Some of these in the country, from the military point of view, in the isolated and detached houses, are of more advantage.

Q When you say "detached and isolated houses", do you then mean that the accomodations which were to be tactically and military easy to supervise, but you do not mean when one unit is for instance 10 or 12 kilometers distant from another unit -- you know the neighborhood around there don't you? Isn't it a fact that very often houses are at a great distance, one from the other? Isn't it true that there are isolated houses?

A Yes, that's true. There are houses which are isolated, but usually they are houses which belong to a little settlement.

Q Witness, if I understand you correctly, you fought against the Russians in Finland?

A Yes.

Q At that time, in this fight against your Army, that is against the German army, did the Russian forces have to depend on such accomodations and food and other commodities which the Finnish population gave to the Russians, or such as they confiscated from the population?

A Yes, in part.

Q Putting it in other words, although you said there were almost five Russian Corps, do you mean to say these five Russian Corps were partly dependant upon using such things as they confiscated there - that is as far as food and accomodations and any other things is concerned?

A Yes, that is quite correct for one Corps - that is the Russian Corps which came through the Tundra, and continued on the icy straits because that corps carried food only for five days, and as we know from the statements of prisoners of war, they had been told that they would have to find all of the other food from the Germans.

Q That, from the Germans, but not from the Finns?

A I think in this case that was almost the same.

Q Witness how could it be the same, if the Finnish population was -- the native population -- lived in houses and had their own reserves, whereas the German army was so to speak opposed? I do not understand that.

A I only meant to say by that, that at that time, the Finnish population had already been evacuated, and in that territory there were available Finnish accommodations, and such accommodations as had been erected by the German army.

Q But witness you mean then that four of the Corps were either to fight without essential support of these accommodations or get food from the Finnish?

A Yes.

Q How did these four Corps live? In Bivouacs?

A Well for the major part they were accommodated in old positions which they had before, and later in Bivouacs. That is, field camps. Partly, they also lived in such accommodations as we had been unable to destroy.

A Witness, is it a fact that the Russians, although there was such destruction, were able to progress in Finnmark?

Q No, the Russians did not progress.

Q Was that because of the destruction that the Russians did not follow?

A That is very difficult to say with absolute certainty today. It is quite possible, although not probable, that the fact that so much had been destroyed had an influence on the Russian operations.

Q You have already said, I think you said on Friday -- that the main fighting formation of the Russians, which was the one which would have been provided for the pursuit of the retreating armies, had gone to East Prussia; is that correct?

A Yes.

Q Witness although you told us on Friday that you yourself except very occasionally, had never seen destroyed villages or houses or slaughtered cattle, did you know, witness, that such destructions not only

had taken place, but also had been continued for weeks and months – that is December and January and later?

A Yes, I knew about that, because after all, I had the order by the AOK, and I knew that this order was being carried out. Further, when the retreat started, I and the troops which were under my command, carried out such destruction and ordered it, in the territory of Karlov.

Q That was quite in the beginning?

A Yes, that's right.

Q But even at a later point you knew that destruction went on?

A I knew that the destruction continued.

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Q Witness, did you ever receive an order from the Army at any time – I think that would have been right up to the time when you were taken prisoner in April, 1945 -- that this order for the "scorched-earth policy" had been withdrawn?

A No, I don't.

Q Even by telephone, verbally or by any letter?

A No, as up to February, 1945, until April, 1946, I was not in Norway.

Q Would you have been informed of it during your absence, if such an order had been received?

A Yes, I would have.

Q Witness, was it ever mentioned that territories to the west and later to the south should be destroyed, and later also to the south of Finnmark, right up to Norvak and further?

A No, it was never said. I myself, when I was present in Germany, had discussed these questions with my brother. I can almost repeat the exact wording which I used when I told him, and that was in the course of a discussion of the general military position.

Page 2,601

A ... "For God's sake don't send me such an order for scorched earth again, because a second time I could not take part in anything like that. If it should be decided to withdraw from the North of Norway and to withdraw into this space south of Narvik, I would not be prepared to lay waste once more flourishing villages and houses and to destroy everything." My brother's reply to that: "I didn't think you would; I didn't expect you to say anything else, and it's quite out of the question." So, it's only in this very personal connection that we considered the possibility of a further laying waste of the territory to Narvik.

Q After this discussion or on the basis of this discussion with your brother, do I understand you correctly if I draw the conclusion that you discussed the whole point with your brother because you were of the opinion that this destruction was unnecessary or for what other reasons?

A I think I'd rather say for humane considerations. This destruction of the North of Finnmark was one of the hardest tasks I had ever been given throughout the war.

Q Did you have any military considerations in that respect or were you only moved by the humane idea?

A I have already, at the beginning of my statements, expressed that I personally, right from the beginning, did not believe that the Russians would progress beyond the River Tarna.

Q Witness, when did you discuss these points with your brother?

A That was at the end of March, 1945.

Q So that was at a time when there was no invasion from the Russians. Is that correct?

A Yes.

Q So if the scorched-earth policy had been ordered for Narvik, you not only instinctively but also from a military point of view would have protested against it. Is that right?

A It's very difficult to answer this question because one doesn't know how the conditions had developed; but what I said to my brother and expressed to him was that for absolutely humane principles I would be quite incapable of carrying out against a country in which I had lived, whose people I had come to value and to respect.

Page 2,602

And that had no bearing on the fact whether it was military necessity or not. Furthermore, this question of military necessity has always been a much-discussed one. If in this Courtroom I may point this out, even the commander of the enemy forces had to consider the problem whether it would be justified to lay waste and, for instance, to bomb French villages and towns and then invade France. I have read that this question has been debated very intensely. For military reasons it was then decided to further such a policy in order to save human lives, but that one took the risk that through this bombing thousands of French women and children would die. I am quite convinced that there were people in England, as well as in America, but did not agree and did not consider such a policy necessary.

Q Witness, if I understand you correct, do you want to draw a parallel with this explanation or a justification?

A No, I only wanted to state and show that the question of military necessity is always a doubtful consideration. Some people always think any measure is necessary from a military point of view; other people do not agree. I personally have, for instance, when the North Finnmark was destroyed, held that the disadvantages of such an action were greater than the advantages. That is also in case the Russians had pursued us with part forces only.

CROSS-EXAMINATION BY DR. FRITSCH:

DR. FRITSCH: Your Honor, this is Defense Counsel Fritsch for the Defendant Rendulic.

Q General, your opinion with regard to the pursuit of the Russian Army has been discussed here in detail. May I ask you to answer one question? If it had been considered possible, up till the end of November, that the Russian Army would follow, -- would it not have been necessary to carry out and decide the evacuation even before that point?

Page 2,603

A Yes, that's correct.

Q Was just in the North--was there not another point of great importance? I mean the weather.

A Yes, that's right. Before the withdrawal of the forces they were always faced, I'd say, by a horror that the winter would break out. The position was such that we had extraordinary luck with the weather, if the usual big storms had broken out at this time of the year, not only the army but also the population might have had catastrophic experiences through the weather.

Q General, we talked about the pursuit by the Russians. May I ask you, first of all, what forces and at what strength did the Russian forces have when you faced them at the end of October?

AAAt the end of October we had more or less lost contact with the Russian forces. The last battles which only took place on the level of Battalions took place on the Neyden-elf. It is very difficult to say, therefore, what forces we faced at the end of October. I can only say that certain formations or formations beyond the strength of regiments did not cross the Neyden-elf, and the greater part of the enemy forces remained in the Kirkenes.

Q Now, this territory around the Kirkenes was under your jurisdiction wasn't it?

A Yes.

Q You have repeatedly said that the contact with the Russians had been lost. Now then when did the German Army lose Kirkenes?

A I think that must have been toward the middle of October. I do not remember the date exactly.

Q Well, if I put it to you, Herr General, that according to my documents it was on the 5th of November, is that possible?

A That sounds a bit late to me, but may I just work it out in my mind? As far as I remember, it must have been around the 20th of October, but I cannot say this with certainty.

Page 2,604

Q Well, anyway the fights took place towards the end of October. Is that correct?

A Yes.

Q When you evacuated was only the pursuit of the Russians of importance as far as military points were concerned?

A No. One also had to be prepared for Norwegian units which were in England at the time--would come to this territory...

Q Do you mean they would land there?

A Yes.

Q Do you think other enemies in the country itself did not play any part?

A Well, of course one might consider the danger of Partisans and espionage; but I don't think there would have been any other forces which we had to fear.

Q General, I do not consider the point only from the East, that is yourself, but I also think of the line in the South. I would remind you, therefore, of your relationship with the Finns which had changed. Now, this question: Did they have any bearing on your evacuation for military reasons?

A I must really say that I never considered this problem in any way because these problems did not concern my territory and were not so actual for me as they were for the Army of the 18th Corps or for the 36th Corps. It is quite possible that the Finns forced by the Russians might have been ordered to pursue beyond the South frontiers of Finland. That is quite possible. After all, in the East, also the Bulgarians were forced by the Russians to pursue right into the West.

Page 2,605

Q In this connection, Witness, do you know that the Norwegian Government in exile had permitted the Finns to follow the Germans into the Norwegian territories?

A Yes, I know about that.

Q Well, if you considered this fact, would you not say that the question I put to you before gained more importance? Did you yourself never hear anything that the Finns actually penetrated?

A Oh, yes, because they even attacked in position of my forces and the Lyngen fjord but that only up to the point where we had occupied one little corner of Finland. When we left this little corner at the border the Finns ceased to attack. I cannot remember to have any reports to the effect that the Finns had crossed the Norwegian border.

Q Do you mean then that the Finns did not take part in the actual fighting?

A Yes, they did fight, particularly with the 18th Corps and the 36th Corps.

Q How, at that time then could you know whether apart from the Russians, the Finns also pursued your Army?

A I cannot answer that question because this possibility was not so acute in my district. I was not concerned with such a possibility.

Q Do you know the strength of the Finnish Army?

A Well, at that time I think there was only one division, as far as I remember. At least there was one division confronted by us. I think perhaps the whole of the Finnish Army had a strength of about six divisions.

Q Witness, I do not mean the territory in which the Finnish Army faced you but I mean the total of the Finnish Army.

A The Finnish Army was much larger, of course. After all, they had the total front line right from the Varanger bottom down to the Baltic Sea; so they had at least thirty divisions, but I don't remember the actual figure.

Page 2,606

Q Would you say that the Finnish soldier, as a soldier, would be of the same quality as the Russian soldier?

A I would say that he would be much superior to the Russian soldier.

Q General, do you know anything with respect to the preparations for the evacuation? In your direct examination you were asked with regard to this point, and you stated then you had received orders to the effect. Now, did you actually know what happened and what was done in order to carry out the evacuation in good order?

A Yes, of course, I know that because, after all, I had my relative orders. The evacuation was a rather big problem. It could only be carried out without any friction if the evacuation plans were strengthened and safeguarded by orders with regard to food and accommodation.

Q I think the roads in the Northern territory were of great importance. Had the roads been prepared for the withdrawal?

A Yes.

Q Can you tell us in detail with regard to this preparation of the roads?

A The disposal of the heavy snow was of great importance. A large organization for the traffic control was necessary and special arrangement had been made to secure the tunnels. Accommodation barracks had been built in the retreat area, military installations had been put up, and medical supplies were ready, and collection and transfer camps had been built.

Q General, you mean all these installations had been built for the evacuation of the civilian population?

A Well, for the civilian population and our own troops.

Q In the area of your supervision, General, did you ever hear of any excesses, riots or cruelties by German troops in the course of the evacuation?

Page 2,607

A The first time I heard anything like that was in February or April. I do not remember exactly. That was, I heard and read in Swedish newspapers of an incident which happened in a home for old pensioners. That was a home in Varanger bottom.

Q Witness, I would not like to dwell on rumors or anything which you heard from other sides, but I would like to hear of such incidents which were reported to you because you were the commander of troops.

A Nothing of that kind was ever reported to me in my capacity as commander.

Q Can you tell us anything with regard to the fact whether the demands during the evacuation of the civilian population took preference over the demands of the military troops?

A The position was such that we had to unload munitions and similar materials from our trucks in order to transport the civilian population instead. In some instances we put Red Cross ambulances at the disposal of the civilian population. Although we ourselves had thousands of wounded whom we had to transport into hospitals which lay hundreds of kilometers to the rear. I know of another case where we had a transit camp for wounded which we put at the disposal of the civilian population. This we did although the accommodation for our own troops along the main Route 50 was very limited. The food which we distributed to the civilian population in the area of Tarna--this food did not really mean a sacrifice because those food reserves we could not have taken along with us anyway.

Q But any way the civilian population was supplied with such materials.

AAAs far as we could possibly do that we did it, but after all this was still during the war. Everybody had to fight until his last strength, but I can say with my full conviction that everything was done which could humanly be done under the conditions which we had to struggle.

Page 2,608

Q Witness, you went from Kirkenes right down to the Lyngen fjord. Will you be good enough to show us this stretch on the map which we have here?

A (Witness rises from witness stand and is given a pointer). Now, here we are at the end of the Varanger bottom. There's Tarna, Mjor elf, there's Alta here, and there's the Lyngen fjord.

Q Thank you. General, how much time did you need to cover this area? I mean just approximately?

A Well, I think I left Kirkenes about--that means the area around Kirkenes--on the 12th of October, and I arrived beyond the Lyngen fjord, that may have been on the 20th of November.

Q So during this period of the evacuation you were on the way in this territory for about six weeks.

A Well, that means in such a way that I always remained several days in a fighting area.

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Q Do I remember rightly, witness, that you stated in the direct examination that never you never saw a piece of slaughtered cattle or dead cattle?

A No.

Q In this connection, I may ask you the following question. With regard to the position of the German Reich, was supply of food one of the most important tasks of the military operations?

A Yes.

Q In the army, and also in your own command, it was particularly attached to the safeguarding and security of food?

A Yes, definitely. It even went so far that in order to safeguard food in the area Kirkenes, I had the order from the high command to hold this area for a longer period than I thought it possible according to the general position.

Q Now, with regard to this attitude of the high command, would the definite slaughtering of the cattle be punishable by the high command?

A Well, the killing of cattle would not have come into the question at all. I can only think that the Norwegian population were not able to hold and to look after the cattle and they therefore transferred them to German soldiers. A similar thing happened in Finland. I remember for instance, I remember in detail, that my staff, before the Finnish population was evacuated, received from the peasants in Petsamo which came under my command, or rather bought a cow for several thousand Finnish marks because the farmer couldn't take the cattle along with them.

Q General, did you ever hear that cattle was burned to death in barns?

A No, I never heard anything like that at all.

Q General, according to your direct interrogation, you stayed in Norway for about three years. Is that correct?

A No, I was in Finland.

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Q Oh yes, I am sorry -- Finland. I think you know how the population was made up. Now, generally speaking, what sort of professions did the Finnish population mainly have?

A You mean the Finns? Oh yes, well the Finns apart from the purely city population consists mainly of farmers, forestry workers and fishermen.

Q Now among the last categories, which one was the predominant?

A Well, the peasants, of course, are the predominant category. There are also timber workers, forestry workers, but, very often they sort of exchange, they run together.

Q Now with regard to the Norwegian population, what is the position there?

A I think most of the Norwegian population was engaged in fishing.

Q So that is a very hard and weather beaten sort of person?

A Yes, that is correct.

Q Now what sort of transport means were used by the Finns?

A Almost exclusively their boats.

Q In that respect, do you mean large boats?

A Oh no, they are usually the little fishing vessels.

Q Now if I leave this particular population out of consideration what makes up the Norwegian-Finmark, as far as territory is concerned?

A The Norwegian-Finmark consists mainly of desert-like tundra areas, scattered in the valleys there are some smaller settlements with some agriculture, and for the rest there are also the Lapps who mainly pursue reindeer breeding.

Q Would it be easy to walk about this district off the ordinary roads?

A Well, it would not be possible if you had any vehicles, but a single person could easily cross the country.

Q How many roads -- that is, in this approximately 800 kilometers long territory from Kirkenes to the Lyngen fjord, how many roads are there?

Page 2,611

A I think that can be shown clearly on the map. In this district there is practically really only the Reich road 50 and into it run the roads which the Germans have built, Yverlaa, Mjr-elf and the other road along the Finnish-Swedish frontier which runs onto the Lyngen fjord.

Q So you mean in the real Finnmark, there is only one road, is that correct?

A Yes, there is only one road which was completed by the German to carry right through.

Q General, would you agree with me if I say that the destruction of parts of this road and the bridges on this road would have been of decisive influence on a pursuing enemy?

A Yes.

Q Those bridges which were on this Reich Road 50 -- were they already there when the German army marched into Norway?

A I did not take part in the invasion but I know that the Reichsstrasse 50 only existed in parts. I also know that this road running right through and being negotiable for vehicles of all kinds was only created by the German troops and the OT.

Q General, the houses in Finnmark, what were they like? Were they stone buildings or timber buildings? What material were they made of on an average?

A On an average, they were made from timber, log cabins.

Q Do you know anything with regard to forests which were destroyed?

A I think the forest around Alta and also the forests in some side valleys around to the coast were cut in order to produce building material for military installations.

Q General, the town Kirkenes came under your supervision, didn't it?

A Yes.

Q When you left this territory, was Kirkenes destroyed then?

A After the fighting was over, just to give you a sort of measure, about 3 or 4 fifths were destroyed.

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Q Do I understand you correctly - you mean that happened in battle?

A Yes, that is in battle. The decisive destruction happened during two Russian air attacks. First of all, half the town, and then in the second attack, essential other parts were destroyed.

Q And you estimate this destruction at about 4/5ths -- that means 80 per cent?

A Well, I would say between 3 and 4 fifths.

Q The remaining buildings, were they destroyed by the German troops when they withdrew?

A No, only in part because we hadn't enough time to do anything like that. We succeeded to blow up the quay's but otherwise the withdrawal was carried out under strong Russian pressure.

Q North of Kirkenes in the Varanger territory, there are the towns Vara and Vard. Were these towns destroyed through military actions or by evacuation measures?

A I can tell you that exactly, because I visited those towns shortly before we withdrew. At that time, Vara, after the last aerial bombardment by the Russians, gave the impression as I mean on a comparative basis, it looked like Nurnberg looks now. Vard was destroyed slightly less.

Q If I remember rightly, you mentioned that you have 5,000 wounded. When you mentioned that figure, did you mean that is at the time when you started your withdrawal or was that another time?

A These 5,000 wounded fell on at about the 10th of October during the course of the fighting. They were constantly being transported to back lines.

Q Would you say you had sufficient transportation for these wounded?

A Oh no, by far not.

Q In spite of this fact, you say you put your own trucks, at the disposal of the evacuation particularly at that of the medical unit?

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A I wouldn't like to put it that way. Mainly we gave convoys that means truck convoys, and only in extreme cases and only when we were particularly asked did we send any ambulances.

Q Today in the direct examination you mentioned the public appeal to the Norwegian population.

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You say this appeal was signed by the Reich Commissioner and also the Supreme Commander of the 20th Mountain Army Corps. Do you know anything about the relationship of the General Rendulic to the Commissar Terboven?

A. Well, the relationship was not a friendly one.

Q. How do you know that?

A. The Supreme Commander, at the end of November, 1944, visited me in our combat position west of the Lyngen fjord. On this occasion, he also reported difficulties with the Reich Commissioner.

Q. Do you remember any details, any particular remarks from this report?

A. Well, today I do not remember anything in such detail that I could repeat it here.

Q. But you would like--you mean to say that the relationship between the Reich Commissioner and the Supreme Commander was rather tense?

A. If I may add, I think I can just remember one remark which the Supreme Commander made. He said that he assumed the total responsibility for Norway as Supreme Commander in Chief and he would not allow the Reich Commissioner to interfere with this responsibility.

Q. General, with regard to this appeal, I beg your pardon I don't mean the appeal--but I mean the order which came from the army with regard to the evacuation, do you remember that the word "ruthless" was used?

A. No, I do not remember that.

Q. What was the relationship between the soldiers and the civilian population?

A. The relationship was a very friendly one. Particularly, of course, between those soldiers who had lived in this territory Vanga with the population.

Q. That would mean that in order to prepare the soldiers emotionally for the evacuation from their homes of those people with whom they had lived, very definite language had to be used.

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MR. RAPP: I object to this type of questioning. I believe defense counsel is getting a conclusion from the witness rather than a testimony.

THE PRESIDENT: Sustained.

MR. RAPP: I believe the witness already has answered, Your Honor to this question. We would like to have this stricken from the record.

THE PRESIDENT: The question may be answered.

BY DR. FRITSCH:

Q. Would you answer this question, please?

A. This word "ruthless" I have always considered in that light, that it was to prepare the soldier emotionally because as I have said before, I as well as my soldiers considered this necessity for destruction a very bitter one.

Q. Did you in Norway meet Norwegians who were not Quisling followers?

A. I was hardly ever in Norway. I had my combat position in Petsamo. I only came temporarily to Kivkeneg and in the district of Vard and Vara. After I had lived in those districts, I came to my combat position which was South of Troms. They were very small places. That was the end of November, 1944. I had no personal contact with any Norwegians. That is, neither to Quisling followers nor to anti-Quislings.

Q. Were you not a prisoner of war in Norway?

A. Yes.

Q. During that time of imprisonment, did you talk to Norwegians, particularly did you talk to them with regard to the evacuation?

A. Yes.

Q. Do you remember any remarks which were made by these Norwegians with regard to the success and the carrying out of the evacuation? I mean their remarks which were made to you in this respect?

A. I never heard any remarks in the negative. Generally speaking, I personally was reproached with having taken part in the destruction of the Finnmark.

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Q. Witness, I don't think you understood my question quite correctly. What I want to know is while you were a prisoner did you ever talk with any serious Norwegians with regard to the evacuation? Did you have any conversations to this effect while you were a prisoner of war--and I am particularly interested to know how these Norwegian people now reacted and what they thought of the actual facts which accompanied the evacuation?

A. In no way did I ever find bitterness among the population --at least such people as I talked to.

Q. General, I am coming to the end of my questions. The prosecution maintains that a general plan was in existence according to which the civilian population was supposed to be systematically weakened and broken down. Did you ever hear anything of such a plan?

A. No, it seems to be quite unfeasible to me.

Q. You never knew anything with regard to such a plan?

A. No.

Q. General, did you know the army order which the then Supreme Commander gave by which the transfer of the high command in Norway was announced?

A. No, I cannot remember anything like that.

Q. General, how did these orders finish? I mean what was the salute?

A. We usually said "Long live the Fuehrer", "Heil Hitler".

Q. Was that quite the usual way of terminating any order?

A. Yes, it was.

DR. FRITSCH: I have at the moment no further questions to the witness.

THE PRESIDENT: We will take our morning recess at this time.

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THE MARSHAL: The Tribunal is again in session.

DR. FRITSCH: Your Honor, I have just thought of a other two short questions during the interval. May I ask the witness these questions?

THE PRESIDENT: You may proceed.

CROSS EXAMINATION (Continued) BY DR. FRITSCH:

Q. General, you said that the carrying out of he order to destroy the Finnmark was a very difficult task to you. Why did you not resign your office as Commander?

A. What use would that have been? I would have put my soldiers into a very difficult position and I would have left them there by themselves. If I resigned another man gets my position and the soldiers have to carry out the orders anyway.

Q. Would you have had the possibility of resigning?

A. No, I wouldn't have had this possibility.

Q. Why not, General?

A. I would have had to give a reason for this resignation; I would have had to give a practical reason why I did not carry out the Wehrmacht orders and I son't have to tell here why I did not want to do so.

Q. Is an order known to you, the order that there was no such thing as a resignation?

MR. RAPP: Your Honor, we submit that this line of questioning is entirely outside of the scope of the direct examination and if defense counsel wished to make the witness their own witness, for this particular line of questioning, we have no objection.

DR. FRITSCH: Your Honor, I cannot agree with these statements.

THE PRESIDENT: The witness may answer.

BY DR. FRITSCH:

Q. May I ask this question again, General? Is an order known to you according to which it was impossible for officers, especially high officers, to resign?

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A. I have not seen such order but I have heard about one, and I assume that a resignation of that kind, especially during the war did not exist.

Q. You say that you heard about such an order?

A. Yes.

Q. Now, one other question, witness. General Rendulic, whose defense counsel I am, was in the Balkans, especially in the Balkans and also in Norway. For weeks now the reproach is being made that the German forces, especially in the Balkans, used especially severe fighting methods, and had proceeded in a very serious and were manner altogether.

Now, you stated that General Rendulic, as Commander-in-Chief in Norway, had done every thing in his power to create good and favorable conditions for the civilian population. How do you account for the difference in the warfare in Norway then? Will you please answer that?

A. I believe that the difference in waging war in Norway and in the Balkans or in Russia or even in Finland can be very simply explained. The enemy was of an entirely different nature. The Soviet Russian and the Partisans in the Balkans, as far as I am informed, fought with very brutal attitude and ruthlessness. The German officer and the German soldier could only use the same method of fighting.

DR. FRITSCH: Thank you.

REDIRECT EXAMINATION BY MR. RAPP:

Q. Witness, were you ever in the Balkans?

A. Yes.

Q. When?

A. At the beginning of the offensive I was in the Balkans.

Page 2,619

Q. How long?

A. During the actual fighting I was there only fourteen days and for the preparations I was there for three weeks.

Q. Thank you. Witness, you said that you have never heard about the possible resignation of a German general.

A. I beg your pardon?

Q. I said that a German general could have resigned. You said you had never heard about such a thing. Is that correct? Did you say that?

A. Well, I had heard about it.

Q. What do you mean "heard"?

A. I have heard that a German officer could not resign, in war.

Q. Witness, my question was, whether you had over heard that a German officer or general could not resign.

A. Yes, I have heard of that.

Q. You also said that you do not know about such a case in which actually a general ever resigned. Is that correct?

A. Yes.

Q. What do you mean by resignation?

A. By resignation I mean a German general applying for his resignation and says? "I can no longer put my services at the disposal of the Wehrmacht." There were cases, in fact, where this resignation was actually accepted. I believe I seem to remember General Halder, for instance, in such cases, the wish of the applicant was granted and it coincided with Hitler's own wish.

Q. That is your assumption?

A. Yes, that is my assumption, but I also know in other cases, for instance, the case of Field Marshal von Rundstedt, that the application for resignation was not granted. My brother, for instance in his case his replacement was refused.

Page 2,620

Q. Witness, at the beginning of your examination, in cross examination, you said that the weather conditions at that time were most favorable for the German Army. Is that correct?

A. Yes, that is correct.

Q. Were they also favorable for the Norwegian population?

A. I think I expressed that.

Q. Witness, furthermore, you were asked in the cross examination whether one was ever afraid that Finland, after it had been excluded from the German coalition pact, had ever really been an actual enemy of the 20th Army in Finland or whether it could have been an enemy ever. Witness, did the Finnish General Staff or the Finnish Government report to the Army in Finland at the proper time that the Finnish Government was turning away from Germany and did they, through this measure, give the opportunity to the German Army to withdraw from Finland immediately?

A. The information came with a time limit of a fortnight. This time limit of a fortnight was not enough, quite insufficient in fact, to grant us a proper orderly withdrawal from Finland.

Q. But generally it is a fact, witness, is it not, that the enemy does not usually give a fortnightly time limit and then says after that we attack?

A. Well, these were special conditions.

Q. But a fortnight was better than nothing at all, witness, was it not?

A. Yes.

Q. Now, witness, you also spoke about your not having seen any atrocities being carried out on the part of members of the 20th Army and you also said that you saw no vandalism of any kind; is that correct?

A. Yes.

Page 2,620

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A. Yes.

Q. Now, witness, you also spoke about your not having seen any atrocities being carried out on the part of members of the 20th Army and you also said that you saw no vandalism of any kind; is that correct?

A. Yes.

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Q. And that you had never heard of rumors of such vandalism. Now, witness, if I understand you correctly, this negative answer of yours can only refer to the time, as you said on Friday, at which you actually had something to do with the evacuation measures. Is that correct?

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DR. FRITSCH: I object, Your Honor, please, this is a typical case of a leading question.

THE PRESIDENT: He may answer.

A. I repeat my former statement. I heard for the first time of an atrocity in February, or possibly April 1945. The 6th Mountain Division was reproached within or in the neighborhood of an old age home, of having burned a house with an old man inside. On instruction of AOK I at that time cross-examined by court martial those who were supposed to have been in charge of this. I read the affidavit of the man in charge, the engineer platoon leader. I had it in my own hands, in fact, and I read that he himself, before it was burned, that he examined and searched each house, and that he thought it quite impossible that this case had actually happened.

DR. FRITSCH: Your Honor, I have only one question to ask. My attention was drawn to the fact by my colleague, Dr. Latenser, that the word "court martial", which the witness used, was not translated. I would like you to ask the witness to repeat, perhaps in one sentence.

MR. RAPP: I have heard it. I heard it translated.

THE PRESIDENT: In order that there may be no question about whether it was translated or not, the witness will repeat the statement to which reference has just been made concerning the actions in connection with court martials.

THE WITNESS: I repeat, I had the matter in question examined through the competent authorities, which was in the case a court martial.

Q. Witness, you told us that your brother, who was the Chief of Staff of the defendant Rendulic, and of course you also, were against this order, is that correct?

A. Yes.

Q. Now, you said furthermore, witness, that a proclamation was made directed to the Norwegian population which was to the same effect as the OKW order, which was signed by Rendulic, as well as by Terboven is that correct?

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A. Yes.

Q. Did you regard this order as a so-called Fuehrer Order?

A. I never thought about this. This red poster I only actually saw once or twice stuck on walls of houses. Otherwise I never had it in my own hands.

Q. Witness, perhaps you haven't understood my question correctly; the poster was not the actual order of which I speak; I mean't whether the order which you in the 19th Corps received from the 20th Army, and which came from the OKW, whether this order was regarded by you as a Fuehrer order?

A. Yes, for the reason that according to my memory the order contained in its first phrase that "the Fuehrer has ordered." I don't remember exactly, but I think I am almost certain that it was so.

Q. Witness, did you ever in your military career, and you have been asked questions here about Finland, the Balkans, Russia and Norway, -- did you ever see a proclamation to the population which was really like an order?

DR. RITSCH: Your Honor, the way he puts this question shows that it is a suggestive question, a leading question, and I protest.

MR. RAPP: Your Honor, I am trying merely to refresh the 'Witness' memory about what he has been asked here, and I have not at all stated my question.

THE PRESIDENT: You may conclude your question.

Q. Did you ever see such proclamations at all which were signed by a supreme command, and also at the same time by a political personality?

A. I cannot remember having seen such an order or proclamation anywhere.

Q. Did that mean anything to you?

A. I never thought about this. I was much more interested in the general over-all problem than with regard to a proclamation.

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Q. Witness, do you mean to say that on the basis of the fact that this order was a Fuehrer Order you were bound to carry out this order?

A. Yes.

Q. Would you have carried out a repetition of this order in the sense of this discussion with your brother?

A. I expected this question, and I accept all consequences too. Secondly, then I would not have agreed to the destruction of things and villages probably after I did not see the necessity of them, and I would have taken all consequences in general.

Q. General, what would the consequences have been?

A. I would have been shot immediately.

CROSS-EXAMINATION BY DR. FRITSCH:

Q. Witness, I have only two questions which result from the direct examination; Mr. Rapp asked you, General, whether it was usual that the enemy was informed before that you would be attacked in 14 days; how was the relationship with the Finnish Army?

A. Our relation with the Finnish Army was excellent.

Q. Did that come out of these very critical days?

A. Partly, yes. I had nothing to do with the Finns. I was not actually a witness, because up there we had no troops in our district; but I do know that those Finns whom I had dealings with were in excellent relationship to us until the last moment, and they regretted the unfortunate development very much.

Q. Do you mean this way, they did not approve of the attitude of your Government?

A. No.

Q. The second question, General, is in connection with the proclamation. The prosecutor asked you whether you saw such a general proclamation at another place or on another date; in any of the occupied territories was there a Reichskommissar apart from the supreme commander?

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A. I believe not.

DR. FRITSCH: Thank you. I have no further questions, Your Honor.

Just one moment, please.

I have no further questions, Your Honor.

MR. RAPP: The Prosecution had no further questions, Your Honor.

THE PRESIDENT: Are there any questions desired to be asked by members of the Tribunal -- Judge Carter?

JUDGE CARTER: No.

THE PRESIDENT: Judge Burke?

JUDGE BURKE: I have none.

THE PRESIDENT: The witness may be excused

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MR. RAPP: If Your Honors, please, we would like to turn now to Document Book 23. If Your Honors will turn to page 1, please, of the Document Book 23, and this is also on page 1 of the German Document Book. This is a report in the nature of a decision made by the Police Chief in Finmark in the town of where the Norwegian Government carried on an intensive investigation of war crimes committed by the 20th Army during that time.

DR. FRITSCH: Mr. President, in order to save time I would like to object now against the submission of these documents. These are not official documents at all, they are just reports of the general atmosphere, without any reference material of any kind, and it is a report which has not been sworn to, and from which nothing becomes evident, and it has no similarity with any acceptive evidence material or any probative value.

MR. RAPP: Most of the documents contained in this document book are similar to this Document No. 1. They were put at our disposal by the liaison officer and representative of the Attorney General's office in Norway. He has made out the covering certificate which I will offer at the end of this presentation, that all of these affidavits have been submitted to him, they have been taken in his presence or by persons working there in conjunction with and under his authority, and we submit that we would like to have these documents admitted into evidence, and your Honor yourself should decide how far the probative value of these documents should be adjudged.

THE PRESIDENT: First, may I inquire, Mr. Rapp, if the affidavits or depositions are in the form which has been approved by the Tribunals, or the rules for the Tribunals?

MR. RAPP: If Your Honor, please, I would like to pass up to you the affidavit so you may decide yourself as to whether this would meet with your requirements.

THE PRESIDENT: I think then your preliminary proof should be presented first, rather than the affidavits and the supporting certificate.

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MR. RAPP: As Your Honors will note that many of these affidavits are made at a time, or quite a number of these affidavits were made at a time by the Norwegian Government when Ordinance No. VII was not known either to this Tribunal or to us, and the Norwegian Attorney General has travelled around extensively in these Northern parts of Norway and has gotten these affidavits on the basis they are used to, that is according to their laws and their regulations, and I do not know whether or not the affidavits as they are today will comply meticulously to the rules laid down in Ordinance No. VII. Nevertheless, I will have Colonel Volestad, who took these affidavits and who is present here and who could also, if the Court so chooses, take the stand in order to give the Court information as to how these affidavits were obtained, and the nature in which they were obtained, and elaborate on that particular rule.

DR. FRITSCH: Your Honor, may I say something to that? The first report which will be submitted with a new exhibit number, is of 14 March 1947. That is a date when doubtlessly the rules of this court were known. These rules have not been kept to. There is no explanation of any kind in these documents that they were made in forms of affidavits or that they have been sworn to.

MR. RAPP: Your Honor, as I would like to repeat, and I am sure you will appreciate this particular emphasis I am trying to make, these reports were not made by us, they were made by the Norwegian Government, and we are trying to have them submitted for whatever probative value the Tribunal wishes to give these reports.

THE PRESIDENT: You are presenting, Mr. Rapp, an affidavit which is not in the form as has been approved of by the rules laid down for these tribunals, am I correct in that?

MR. RAPP: In some cases it is true, Your Honor.

THE PRESIDENT: That being true, can they be offered with any degree with which you could support them and on which the Tribunal could receive them.

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MR. RAPP: Your Honor, we felt that it was technically not possible for us to bring all the affiants down to Nurnberg, we, therefore, we asked Col. Volestad to be present here and thought if there was any question as to the procedural value of these affidavits, the Tribunal might like to avail itself of the opportunity of talking to Col. Volestad, to see whether or not, as matter of fact, all rules were observed as laid down in Ordinance No. VII.

THE PRESIDENT: It is not for the Tribunal to satisfy itself in that respect. It seems to me it is incumbent upon the prosecution to present affidavits that are in keeping with the rules laid down for the Tribunals.

MR. RAPP: Your Honor, I have pointed out before that though Document Norway No. 1 was possibly made at a time when the rulings were known, I can see about 7 documents which were made at a time when the ordnance was not published or not known. How could we go about after this has been submitted to us to get this changed at this time? Would it be agreeable to the Tribunal if we put them in for identification, and we are trying to get the necessary rules and procedures as laid down under Ordinance VII affixed to these documents?

THE PRESIDENT: You can, number them for identification, and if you wish submit them later in what you think is the proper form to the Tribunal, and we will give consideration to them then.

MR. RAPP: Your Honor, that will be agreeable to us.

DR. FRITSCH: May I just ask, Mr. Rapp, if this applies to all the documents of this document book which are now numbered?

MR. RAPP: The documents which are in this book, although reaching us through the Norwegian government are German reports that is official German Army orders, as for instance the document Norway No. 4, Norway No. 6, Norway No. 7, Norway No. 8, Norway No. 10. These documents are regular German reports which fell into the hands of the Norwegian Government, and were turned over to us, and they have the regular certificates saying where they came from, and we believe there is no question as to the authenticity of these particular documents, so I feel we could put these in and withhold those which are in the nature of an affidavit but are not at this time admitted by the Tribunal.

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THE PRESIDENT: The Tribunal will receive and give consideration to the old captured army documents. If you wish to present them we will consider them one by one when they are presented. As to the others, the Tribunal is not receptive to their consideration at this time in their present form.

MR. RAPP: Your Honor, may I inquire from the Tribunal whether or not it would be acceptable to the Tribunal if the Prosecution would put Col. Volestad on the stand to testify as to the nature of these documents? This is merely in the nature of an inquiry?

DR. FRITSCH: Your Honor, this seems to be a procedure which is not in agreement with the general rules. It is important that each individual man who made these statements was conscious of having made these statements under oath. That is one of the essentials of affidavits, and that cannot be borne out by the witness either.

THE PRESIDENT: If the Prosecution wishes to call the suggested witness he may do so, and we will rule on the matters as they develop.

MR. RAPP: Very well, Your Honor.

THE PRESIDENT: We are not telling you how to submit your case.

MR. RAPP: We appreciate this, Your Honor, I would like to in the nature of the existing rule of 24 hours, inform now the defense that we may call this colonel to testify about this.

DR. FRITSCH: Your Honor, I may call your Honors attention to the fact that this witness has been present here since the beginning of the proceedings, and in my opinion therefore he can not be examined as a witness at this point.

THE PRESIDENT: The objection will be overruled.

MR. RAPP: If Your Honor will then mark the following documents for identification only, Norway No. 1 for identification 511-A, Norway No. 2, for identification 5 -----

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Am I going too fast, Your Honor?

THE PRESIDENT: No.

MR. RAPP: 511-A, Norway No. 1.

THE PRESIDENT: Where is 510?

MR. RAPP: 510 was offered, the Norwegian picture we saw last Friday.

THE PRESIDENT: And the script is 509, and 510 is the picture itself?

MR. RAPP: It is the picture itself. Norway No. 1, is 511-A, Norwa, No. 3, is 513A.

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And now if your Honors will turn please, to page 11, there we have a document which is Norway 4, offered as Prosecution 514. This is a report submitted by the Mountain Army Corps, dated the 30th of October, 1944. It was at that time commanded by the previous witness, Jedl. It is secret, and the subject is: Comment of the Division Commander of the 210th Infantry Division concerning the evacuation.

To 20th (Mountain) Army High Command Enclosed I am transmitting a comment of the Commanding Officer of the 210th Infantry Division concerning the problem of evacuation with which I concur completely.

1 Enclosure (initial) J This report is dated the 29th of October, 1944, 210 Infantry Division Commanding Officer, 1c.No. 1114/44 Secret.

Stamped, Corps Headquarters, XIX Mountain Army Corps, Received 31 December 1944.

This, Your Honor, is as it actually appears on the original document. We understand that this is rather ambiguous, how this report could have been received by the XIX Army Corps on the 31st of December. Yet, on the 30th of October, it is being forwarded to the 20th Army.

If your Honors wish, I could pass this up to the bench so that you could see this yourselves.

Competent Officer : Ic Diary No. 1479/44 Secret Comment concerning the evacuation

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1.) The Division has pressed for more than a year for the evacuation of the Varanger area, Repeatedly the Division approached the office of the Reichs Commissar in Kirkenes requesting it. Again and again Government Councillor Dr. Schaud as well as the present incumbent of the office, Landrat Neven explained that the Reichs Commissar in Oslo did not agree to the evacuation.

When, during the past summer Russian hostilities increased the Division again contacted the office of the Reichs Commissar in Kirkenes with the request to speedily initiate the evacuation.

The heavy air combat on Kirkenes, Vadsoe and Vardoe toward the end of August caused me to personally request the speedy evacuation of the population now. The psychological moment seemed to me particularly suitable. Actually I was informed from many levels of the population that at that time they were willing to carry out an evacuation according to plan.

"However the evacuation measures had to remain half measures since the Reichs Commissar in Oslo rejected any compulsory evacuation. At the occasion of the evacuation of some houses in Kirkenes the Deputy of the Reichs Commissar was informed by Reichs Commissar Terboven that Reichs Commissar Terboven reserved for himself personally the evacuation of each individual house. This directive was issued because the chief of the Organization Todt, Senior Architectural Councillor Dr. Luehrs during a visit in Oslo called the attention of the Reichs Commissar to the fact that the Division intended to carry out compulsory evacuation.

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When the Commander in Chief of the 20th (Mountain Army) visited the Varanger area on 26 August 1944 I submitted to him the view of the Division according to which the area from Vardoe to Vadsø would have to be evacuated immediately in any case, if necessary compulsion. I asked him to influence the Reichs Commissar in Oslo to grant the necessary authority. However, a decision as suggested by the Division was not made.

11.) The last minute evacuation measures could not be successful as had been foretold by the Division on the basis of their knowledge of the local situation.

The reasons for that are as follows:

- 1.) Transportation via sea is too dangerous; no civilian can be influenced to go aboard.
- 2.) Transportation possibilities via land are exhausted excepting minor possibilities, as far as the Division can see."
- 3.) The civilian population does not fear the danger inherent in remaining any more than it does the dangers of transportation of any sort.

111.) At this time compulsory evacuation is to be carried out in the territory still remaining. The troops cannot be employed for this purpose without endangering the defense tasks. However, the Division is ready to round up whatever can be rounded up of the population with the organs of Reichs Commissars, of the SD and of the Secret Field Police. Here however, one must state frankly that large parts of the population have fled to the barren lands.

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They no longer can be captured. That is why the Division will limit itself primarily to the settlements along the roads. In as far as that goes, the population will be ordered suddenly to evacuate and a short time limit will be set. In order to compel the evacuation the population will simultaneously be informed that all houses will be burned down. It is the view of the Division that this is the only way by which anything at all can still be accomplished.

At this time Sturmbannführer Baberske and the Secret Field Police by agreement with the Chief of Police (Lensmann) who is reliable, are establishing the parts of the population of the Tana area concerned. This was done at the initiative of the Division. Execution of the operation suddenly after information has been received of the actual space available for transportation. It must be avoided that the operation brings about the assembly of larger parts of the population, who then can not be evacuated.

Permit me to point out that such compulsory measures no matter how successful individually encounter serious objections of the political kind. The short time limit and the limited transport space will make it possible to evacuate only several hundred persons.

The mass of the population which in the Tana area alone 3,000 are still living, can not be removed. One should consider whether the disadvantage arising from the bitterness of the remaining population is not larger than the advantage accruing from the evacuation of several hundred persons.

I myself believe it is more valuable to retain the high reputation of the German Wehrmacht here instead of burdening it with compulsory measures.

In addition the effect of compulsory measures can not be foreseen. It is to be feared that partisan and sabotage matters will increase considerably in the rest of Norway to which the Corps will withdraw. Exactly these elements which have been evacuated by compulsion offer themselves for this work. On the other hand it may be advantageous if the German Wehrmacht continues its beneficial attitude toward the population until the end. It will soon become common knowledge that the Russians employ the population to compulsory labor in the territory occupied by them. With some clever propaganda we might be successful in bringing closer to us the population in the rest of Norway by exactly this procedure.

Finally I wish to state that Sturmbannfuehrer Baberske, the German Political Advisor of the Fylkesmann, who is there by order of the Reichs Commissar shares these objections.

(signed)

(illegible)

DR. FRITSCH: Your Honors, there is a certificate contained in this document, a certificate of somebody called, "Rolf Schnyder". According to my knowledge Mr. Schnyder is a member of this division. In this certificate it is certified that it is a true and correct photo copy, and that the original is in Oslo.

I think it my duty to clarify this question, because I do believe that Herr Schnyder as a member of the local prosecution, is not allowed to issue a certificate of this kind.

MR. RAPP: Your Honor, all individuals in the office Chief of Counsel of War Crimes are members of the prosecution staff. There is no independent individual, with the exception of those individuals under the Secretary General, who are not members of General Taylor's staff, and as such, serve as part of the prosecution. I believe, therefore, that the objection of the defense counsel to this particular certificate is rather irrelevant.

PRESIDENT WENNERSTRUM: May I inquire as to where the certificate is in this document book to which reference has been made.

(Mr. Rapp handed the document to the Tribunal)

PRESIDENT WENNERSTRUM: The Tribunal will give consideration to the objection just made, and during the recess period will study the matter further, and will make the necessary ruling when we reconvene after our noon recess.

The Tribunal will be in recess at this time until one-thirty this afternoon.

Court No. V, Case No. VII.

AFTERNOON SESSION (The hearing reconvened at 1330 hours.)

PRESIDENT WENNERSTRUM: The question before the Tribunal at the time of adjournment was to certain of these exhibits, and the Tribunal is of the opinion that until they have met the requirements as set out by Ordinance 7, Article 7, that they should not be admitted.

That particular article and section is very liberal, add it should not have been difficult to have covered that requirement as set out therein.

That indicates the attitude and the rulings of the Tribunal.

MR. RAPP: Your Honors, may I just point something out to the Tribunal, not in any kind of reflection as to the ruling the Tribunal has handed out, but merely in the nature that I believe there is possibly a misunderstanding on the part of defense counsel.

The documents referred to as certified by this individual are in the original here, right in Nurnberg. They were brought to us as originals from Oslo, Norway. They were then photostated, and returned to the Norwegians for their archives. The individual certifying merely states that he has compared the photostatic copy to the original.

I believe that defense counsel was inquiring about that one particular point and we have the originals of these documents right here.

PRESIDENT WENNERSTRUM: There is no question raised as to that part, - that phase, but it is as to the manner of the certification, and as to the jurat, or the swearing. There is nothing of that nature attached to the document.

MR. RAPP: Very well, your Honor.

Your Honors will recall that prior to offering this Document Book 23, I made the statement, which possibly escaped your Honors' attention, saying that we have a covering affidavit from the Norwegian government, for all of these documents, and that I will submit this particular affidavit at the end of my presentation.

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I believe that I have made this or a similar remark at the beginning of cutting these documents in.

We have this affidavit before us, and if your Honors wish, we could put that in at this time.

PRESIDENT WENNERSTRUM: It is not for the Tribunal to say what you should or should not do. If you care to put it in, you may do so. We will rule on it as we see fit.

MR. RAPP: All right, your Honor. Then we will submit this affidavit at this time. We were not prepared to make sufficient copies of it to go all around to defense counsel, and use it as an individual document, so with your Honors' permission, I would like to mark this for identification, and after the

24-hour period has elapsed, I will see to it that the necessary copies as required will be furnished to all concerned.

I would like to submit this, Your Honor, for identification as No. 155-A.

If your Honors now please, turning to Document Book 23, page 17, this is being offered as Prosecution Exhibit 516. This is in the nature of an official report from the -

PRESIDENT WENNERSTRUM: This is Norway 5?

MR. RAPP; Norway 5, that is correct, your Honor.

This is in the nature of an official report, -

DR. FRISCH: I beg your pardon if I have misunderstood the decision of the Court. Just before the interval, before the recess, my objection to the certificate had not been decided on. It was the certificate referring to the preceding document, that was Norway No. 4.

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I pointed out to the Tribunal that there was a certificate on the part of Mr. Schnyder. I believe I do not have to repeat my argument. The Tribunal had promised the decision concerning this particular case.

PRESIDENT WENNERSTRUM: You may continue with your remarks.

DR. FRISCH: Your Honor, I had pointed out that in this document, Norway No. 4, Exhibit No. --- I don't remember it, -- it is 514, it is a certificate of a member of the prosecution staff, Mr. Schnyder. In this certificate it is certified that it is a correct photostat and that the original document is in Oslo.

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THE PRESIDENT: As to this particular objection the same will be overruled.

DR. FRITSCH: Your Honor, in this case perhaps I haven't expressed myself correctly. May I in this case ask whether Herr Schneider did actually see the original document in Oslo, and on account of his actual inspection of the document decided to certify it?

THE PRESIDENT: He certifies to the fact that it is a copy of the original - of a document filed in German archives.

DR. FRITSCH: Yes, and in my opinion it says at the end of the document that the original document is in Oslo.

THE PRESIDENT: Well, it makes no difference where the document is if he certifies that it is the original -- a copy of the original. The objection will be overruled.

MR. RAPP: If Your Honors permit, now, we turn to Page 17 in Document Book 23, Page 19 in the German Document Book. This particular document are excerpts from an official report of the Norwegian War Crimes Commission, dated the 20th of April 1945. That is at a time when Norway was not yet liberated, and it states as follows: "The City Engineer of Hammerfest: The devastation of

Hammerfest after the compulsory evacuation of the population at the beginning of the month of November 1944. On Sunday 29 October it was proclaimed that 'the population of Finnmark was to be compulsorily evacuated immediately.' The first district of Hammerfest to be evacuated was FuglenesStorelven at the latest Monday, 30 October, 1200 hours. On Monday 30 October I called on the then Island Command Major Gaedke, who simultaneously was Evacuation Commissar."

DR. FRITSCH: Your Honor, I would suggest that regarding the question which we talked about, that Mr. Rapp should explain and state whether he wants to use this document only for identification or for evidence.

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MR. RAPP: May I be permitted to answer this question, Your Honor?

THE PRESIDENT: Yes.

MR. RAPP: This document we submit as evidence. It's an official report from the Norwegian War Crimes Commission. It's not in the nature of an affidavit and, as such, is admissible under the rules of the ordinance. And it was, as a matter of fact, written at the time when Norway was still occupied. I believe that the ruling of one Tribunal this morning pertained only to affidavits. This is not an affidavit but a report.

DR. FRITSCH: Your Honor, in that case I protest. I object against submission of this document. It is a report of some kind of local engineer, and it does not become evidence from the fact that it is an official government report.

THE PRESIDENT: Is there any certificate showing as to ...

MR. RAPP: Yes, that particular certificate is covered in the certificate I have just submitted for identification, made out by Colonel Follestad. In other words, this report was one of many reports submitted to the Norwegian War Crimes Commission and the Attorney General's office, from which they were in turn made a complete report.

THE PRESIDENT: Now is this admissible until your certificate can be received properly?

MR. RAPP: Your Honors, we believe that under the rules an official report of any nature by a War Crimes Commission or members thereof are admissible in evidence.

THE PRESIDENT: Yes, but we do not have that certificate.

MR. RAPP: Very well; then we offer this for identification for the time being, but not on the reasons as set out by defense counsel.

THE PRESIDENT: Well, that's all right, but it's not acceptable in its present form, and not without a certificate showing as to its authenticity.

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MR. DENNEY: Excuse us for a moment, Your Honors.

MR. RAPP: If Your Honors permit, we were just trying to find out from defense counsel whether or not they would waive the twentyfour hour rule, but they want to find out whether or not the certificate was official; so we are trying to get them a translation of this certificate. So, if Your Honors permit, I shall take the liberty to go to those documents now about which there seems to be no argument. And the first one I'd like to submit as such is the Norway No. 8. It will be offered as Prosecution 's Exhibit No. 517, and if I may call Your Honors' attention to the fact that Norway 5 should now be designated "For identification only" and be called 516.a. This Norway No. 8, which is 517, Your Honors will find on Page 28. This is a report stamped secret, Divisional Combat Post, 4th of January 1945, 230th Infantry Division. It's in German on Page 30. Ic No. 42/45 Secret.

"To the Command Army Unit Narvik Subject:

Evacuation. Counter propaganda Reference:

Your teletype Ic No. 1469/44 Secret of 31 December 44.

Innumerable German women and children have died painfully up to now in burning cellars and under the ruins of their houses because of the air terror started by the Anglo-Americans. The American terror filers boast of their cruelties calling themselves "Block Busters" and "Murder Incorporated". The neutral press avoids making charges against the English and the Americans for that. However, it picks out the fact of the evacuation of North Norway and of North Finnland in order to incite against methods of German warfare in the worst way.

To the German Mountain Army situated in North Finnland and North Norway Finnland's treason on 3 September 1944 lost the natural supply road across the Baltic and Finnland.

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That is why the Mountain Army had to be led back. Finnland and a part of North Norway had to be evacuated, that was a military necessity. It was a matter of withdrawing an entire army so as to avoid its encirclement. Toward the end of October 1944 the Bolsheviks invaded Norwegian territory and occupied Kirkenes. The Norwegian population which by and large had shown itself loyal and more than that even helpful and obliging toward the Germans during the four years of occupation had to be preserved from the grasp of Bolshevism. The procedure of the Bolsheviks in Rumania, Bulgaria, Poland, Finnland, Estonia and Lettland shows what kind of fate the Bolsheviks had in store for the Norwegian population also. They would have employed the Norwegians ruthlessly and brutally for their own purposes. They would have killed all Germanophile Norwegians, raped the Women and brought starvation to the country.

In order to safeguard the German March movements the Soviets had to be prevented in the course of their advance from finding billets and working forces available which might be employed in combat against the Germans. Cases of espionage participated in by individual Norwegians, who had remained in the Finnmarks show that the Bolshevik would have found supporters also in the indigenous population. North Norway and North Finnland were evacuated for this reason and all residences and installations were destroyed.

A large part of the sensible Norwegian population gladly and willingly followed the call of the German government in October 1944 to evacuate voluntarily.

THE PRESIDENT: Just a minute, please. Did you mean to read that "German Government"?

MR. RAPP: "The call of the" Norwegian Government in October, 1944."

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THE PRESIDENT: You read it "German."

MR. RAPP: I'm sorry, Your Honor; it should be "Norwegian."

"Thus cities like Hammerrest and Honningsvaag could be evacuated mainly voluntarily. The following urgent telegram signed by the Norwegian minister Lippestad and the Norwegian Chief of Evacuation Berg was sent to all chiefs of Police (Lensmaenner) in West Finnmark.

"You are herewith ordered to compulsory evacuate the population within your district. Publicize this by posters and via all telephone stations and contact the German authorities for immediate initiation of the compulsory evacuation which has been ordered by the German authorities. Inform us immediately by wire, particularly whether additional transport is required".

On 1 November 1944 red colored eye fetching posters and while leaflets were distributed containing a proclamation of the Commander in Chief of the German Troops in North Finnland and North Norway and of the Reichs Commissar for occupied Norwegian territories. It stated that all Norwegians again were requested to follow the orders of the evacuation authorities and to move off towards south. The end of this proclamation reads as follows:

"Any person not obeying this order exposes himself and his family by his own fault without possibilities for shelter and food to the perils of the Northern winter."

The contents of this proclamation have become known to all Norwegians in North Norway. All Norwegians of good will had the possibility of evacuating to the south.

The English radio broadcast a proclamation to the Norwegian population in the Norwegian language not to follow the orders of the evacuation authorities but to move off into inaccessible side valleys.

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Unfortunately there were a number of Norwegians who fulfilled this demands with their women and children.

As far as the German Command was concerned it could have left the Norwegians to their fate. No doubt they all would have perished in the mountain. But in order to help these misled people and to preserve them from certain death the German Wehrmacht employed patrols to comb through Fjalls and Fjords to pick up Norwegians there who were full of gratitude to their last hour saviours. This for instance, 212 Norwegians were found during a search operation of a Mountain Jaeger Regiment in the area west of the road Lakselv-Kistrand on 5-7 December 1944 in the area north of Kistrand and Repparfjord. These rescue operations were carried on by the Wehrnacht at a time when the Wehrmacht

itself had to accomplish marches of an extraordinary extent. If at present some individual Norwegians still keep hidden in the caves they alone are responsible for their miseries.

The Lapplanders through their leaders had been informed by the German Wehrmacht that they should move off to the west with their reindeer herds. The Lapplanders were promised an ample reward for every reindeer they would drive across the road Skiboth-Slilastua. At first the Lapplanders accepted this offer particularly because the German Wehrmacht assured them of special protection for their reindeer herds.

If not withstanding the mass of Lapplanders with their reindeer herds did not move off it is obvious that they acted that way because enemy agents had misled them and caused them not to carry out their intention. Neither Lapplanders nor Norwegians have ever been told by the Germans that they would be shot to death if they did not evacuate.

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The evacuation of the territory evacuated by the Wehrmacht and the complete destruction of all roads, billets, transportation and food stores prevents the Bolsheviks from a thrust into North Norway. That produces a great disappointment to the Soviets, their planned continued march will have to be delayed for the time being. That is why they agitate against the evacuation of North Finland and North Norway and why they are trying to incite the neutral countries on this issue. And for all that it was Stalin who during the withdrawal of the Russian troops in 1941 for the first time caused the Russian population to evacuate and all residences to be destroyed.

Because Germany is fighting this struggle for her existence she must reply to the Russian methods of warfare with the same means unless she wants to lose.

During the evacuation all Norwegians were treated decently. The German soldier knightly has assisted all Norwegians requiring his help find thus he helped to mitigate to a great extent the emergency produced by the evacuation. In individual cases he has shared his rations with Norwegians and he helped the halt and the women loading their baggage.

The population was evacuated by means of ships or motor trucks. All available shipping space was mobilized. In order to cite one example: two large transports with about 1500 Norwegians each left for Tromsø in the first half of November from Billefjord and Hamnbugt in the Porsangerfjord. The space put at the disposal of the Norwegians was intended for transportation of German Wehrmacht, goods. All German motor vehicles -- as far as space permitted -- took along Norwegians. The young Norwegian capable of marching was permitted to go along on the ship or the motor vehicle only in order not to separate him from his family.

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For this the German soldier managed long stretches on foot and had to spend the night outdoors.

If it did happen that in individual cases single family members were separated from their families the Germans did everything in their power to reunite the family.

German Wehrmacht doctors cared for the civilian population while en route and in the interim billets. The troops themselves furnished sufficient rations and established the billets.

And all these measures were carried out at a time during which the Germans themselves carried out one of the most difficult march movements.

In as far as Norwegians had to leave their personal property behind measures were taken to compensate them. As far as the transport situation permitted the rest of the entire Norwegian possessions particularly household equipment, clothing, fishing equipment, stoves, lighting fixtures were salvaged and evacuated.

(initials)

VaAw (signature) .emberg.

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MR. RAPP: The next document, Your Honors, Norway No. 9, we offer for identification only, as 518-a, and we then turn to page 60, Norway 10 which is offered as Prosecution's Exhibit No. 519. This is the proclamation to the population of Norway, published by the Reichs Commissar for the Occupied Norwegian Territories, Terboven, and also by the Defendant Rendulic, at that time Commander in Chief of the 20th Mountain Army: "TO THE POPULATION: The evacuation of a part of north Norway has been rendered a military necessity as a result of the treachery of a Finnish Government clique."

THE PRESIDENT: Page 60?

MR. RAPP: That is on page 60, Your Honor--Page six zero.

THE PRESIDENT: The document Norway Do. 10?

MR. RAPP: That's correct, Your Honor.

"The evacuation necessitates the removal of the civilian population as the enemy has proved that, in those territories occupied by him, he ruthlessly and brutally forces the civilian population to give him active assistance in achieving his aims.

This means that no shelter or means of existence of any kind can be left to the Bolshevik enemy in the fighting zone. All such installations as housing accommodation, transport facilities and food stocks must be destroyed or removed.

THE POPULATION IN THESE DISTRICTS WILL THEREFORE BE DEPRIVED OF THE BASIS FOR THEIR EXISTENCE, SO THAT IN ORDER TO BE ABLE TO SURVIVE, THEY MUST EVACUATE TO THOSE NORWEGIAN TERRITORIES WHICH ARE STILL PROTECTED BY THE GERMAN WEHRMACHT.

* * * * *

HE WHO DOES NOT COMPLY WITH THESE UNEQUIVOCAL INSTRUCTIONS EXPOSES HIMSELF AND HIS FAMILY TO POSSIBLE DEATH IN THE ARCTIC WINTER WITHOUT HOUSE OR FOOD."

The next document, Your Honors, is Norway Norway No. 11, and we will mark this for identification, 520-A; Norway No. 12 will be 521-A, and then Norway No. 13, which Your Honors will find on page 89.

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Norway No. 13 on page 89, page 83 in the German document book. It is being submitted as Prosecution's Exhibit No. 522. This, Your Honors, is an Order of the Day, signed in his own handwriting by the Defendant Rendulic, and it reads:

"The Commander-in-Chief 20th Mountain Army Army Headquarters and Armed Forces Commander Norway 18 December 1944 As of today I assure the supreme command over all troops hitherto under High Command Norway.

I welcome at this occasion all Command authorities and Troops Units of the other parts of the Armed Forces employed in the Norway Theater, In the coming year of decision I expect smooth cooperation of all Command authorities and Offices.

Our common task serves only one goal: To help the work of our Fuehrer toward final victory.

Long live the Fuehrer Signed RENDULIC COLONEL GENERAL AND ARMED FORCES COMMANDER NORWAY."

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If your Honors please, there is still Norway 6, Document Norway 6. We submit this for identification only. Norway 6. That 523-A. And then Norway 7 we submit in evidence as Exhibit 524. Your Honors will find this on page 27 of the document book. I believe it is on page 29 of the German document book. It is: Command Post 19 December 1944 Office APO No. 02192 Subject:

Evacuation of the area West Bank Lyngonfjord.

Pursuant to the application by the Norwegian evacuation Chief in Lyngon Major Ress the time limit for the end of the evacuation is extended from 21 December 1944 to 10 January 1945 For the Office of APO No. 02192 By order (signature) Grothe Major G S C I believe, your Honor, this will conclude Document Book 23 but for the submission of the additional proof required by the Tribunal and after the elapsing of the 24-hour period tomorrow we shall come back to that.

There is one additional certificate, your Honor, which we would like to submit at this time for identification only, in order to get the 24 hour time limit in.

It pertains particularly to document No. 9 and I am sure we will talk about that some more tomorrow. So for the time being, if your Honor permit, we will call this particular certificate for identification,

525-A. If your Honors please, we request the Court to instruct the Marshal to summon the witness Arne Dahl.

THE PRESIDENT: The Marshal is directed to present the witness named to the Tribunal.

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Does the witness speak English?

MR. RAPP: The witness does speak English, your Honor, but there may be occasionally a word which he told me he may not know, so we also would like if your Honors please to swear in the official Norwegian interpreter in cases of emergency.

THE PRESIDENT: The interpreter will raise his right hand and be sworn.

I do solemnly swear that I will perform my duties as interpreter before, this Tribunal according to the best of my ability and skill.

(The Interpreter repeated the oath.)

ARNE DAHL, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q. The witness will raise his right hand to be sworn. You do solemnly swear that the testimony you will give before this Tribunal will be the truth, the whole truth, and nothing but the truth so help you God.

(The witness repeated the oath.)

You may be seated.

DIRECT EXAMINATION BY MR. RAPP:

Q. Witness, would you please give your full name?

A. My full name is Arno Dagfin Dahl.

Q. Witness, how long have you been in the Norwegian army?

A. I have been in the Norwegian army since 1915.

Q. Have you been active since that time?

A. Yes, I am a regular officer from 1915 and I have been active since,

Q. What is your present rank, witness?

A. My present rank is a major general.

Q. And how old are you, witness?

A. I am 53 years of age.

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Q. Could you state for us shortly your military career, please?

A. I was promoted to Lieutenant Colonel in 1938, a Colonel in 1944 and a Major General in 1945. I have been commanding officer of the Military College of Oslo, aide-de-camp to the King of Norway, and commanding officer of the Western Finnmark district since the 1st of January, 1938.

After that, after war broke out in Norway, I took part in the fighting up in North Norway and had the command of a battalion and then a brigade. Later on, I got over to Great Britain from Norway in 1940 where I commanded the Norwegian troops in Scotland. I got to Scotland in 1940 and commanded the Norwegian troops there. In 1941 I was appointed head of a military mission to the United States and Canada where I stayed until 1943 when I went back to England and in 1944 was appointed head of a military mission to Russia. In 1945, as I said, I was appointed a Major General and am now commanding the Northern District of Norway which is about one-third of Norway.

Q. Witness, where were you located when the Norwegian resistance collapsed?

A. When the Norwegian resistance collapsed, I was not very far from Narvik in the mountains near the Swedish border.

Q. And you said after that you went to England, you escaped so to speak.

A. Yes, we demobilized our army and I went to England by boat.

Q. Did you have to sign any paper, parole or oath not to fight against the German armed forces?

A. No.

Q. Witness, when was the first time after your escape to England that you re-entered Norwegian territory?

A. I re-entered Norwegian territory on the 10th of November, 1944 after having come to Murmansk on the 6th of November.

Q. What was your mission at that time? What did you do?

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A. My mission was to cooperate with the Russian forces and at the same time to have command of the Norwegian troops being sent to Finnmark. Besides, I had the mission to reinstall Norwegian authorities in re-occupied territories. For that reason, my mission also consisted of representatives of the different Norwegian government branches such as social affairs, justice and police, finance, information, and so on.

Q. Now how did these troops, these Norwegian troops that you speak of -- how did they get into Finnmark?

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A They got to Finnmark in the same way as I did and the mission, by sea from Great Britain. The Norwegian forces to start with were merely a token force. We had very small forces in Scotland or in Great Britain and it was taken aboard a convoy and came to Murmansk on the 5th of November.

Q Now you say, witness, that you landed and these troops landed in Murmansk. What was the reason that they had to go so far east when they wanted to go into Norway?

A Well, there were several reasons for that. The first reason perhaps to get into cooperation with our Russian Allies by the way, secondly that it was very difficult to land anywhere in North Norway at that time because of the destruction.

Q Did the Germans in these days command the Coast area?

A Yes, I think I might say so, not all of it but most of it.

Q Witness, did you actually engage the Germans up there in Finnmark?

A No, I can't say so. When we took over from the Russians, which was by the end of November, the German troops had already got such an advance that we did not get into touch with German troops until about the beginning of February and that was only a patrol skirmish. No had some small engagements later on in Western Finnmark but nothing very much.

Q Now, witness, when you arrived up there in Murmansk and you got in touch with the Russians, were you told at that time what intentions they had in reference to the German forces up there?

A I was not give any definite plan but I got to know that the Karelian Army under General Retneskop had been sent south, the most part of it, south to the main theater in the Baltic, but as comparatively a small force was left in North Norway and I had not been there a very long time until I understood that it was not the Russian intention to follow the German forces. When we got to Norway, the eastern part of eastern Finnmark, the most forward patrols of the Russian army were on the Tana River.

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Q If you want to—

A Well, have you got a pointer? Perhaps I might point it out.

Q Yes, we have.

AAAs I said, when we got to the eastern part of Eastern Finnmark, the Russian forward patrols were on the Tana River and the last contact which had been between Russian and German troops was on the 6th of November and there is the River Tana (indicating).

We heard the Russians did not try to follow up and there might be several reasons for that. We asked that the Norwegian troops might be put in the frontline as soon as possible. But when we got there, there was no enemy there.

Q That date are you speaking of, witness?

A I am speaking of the--now about the 27th or 26th of November when the Norwegian troops got to the Tana line.

Q Was there fighting or any contact between you and the Russian forces and the Germans around Kirkenes prior to that date?

A No, there was not.

Q Now witness, did you advance in a westerly direction with your brigade?

A Yes. I had not a brigade to start with, but by and by we got troops from Sweden and from Great Britain so that in the spring of 1945 we had a brigade. The advance was very difficult because of the difficulties of time of year, of the roads, and the climate and I might be allowed then to say a few words about the country about which we are speaking.

The area of Finnmark is more than 48,000 square kilometers. That means it is larger than for instance Switzerland or Denmark. In this area were living about 60,000 people, mostly rather poor people and most of them fishermen. The main part of the population was living along the coast. The climate at that time of year is very, severe, and you might understand that when I show you that the Polar Circle is very far south of this area.

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I will point to it now. Here it is (indicating) The mean temperature in December is about the 70th degree, 14 degrees Fahrenheit in December.

In January it is about 11 to 12 degrees. In the inner part of the country it is far colder and the temperature may drop to 40 below, even more. The country is very high so that the northern winds coming right in from the arctic Ocean have a tremendous bite. There is not a very great amount of snow.

I might say, generally speaking, about one meter. But because of the heavy storms, especially from the North, this snow is drifting up in large drifts and that again means that it is very difficult to keep the roads open. Not so much because of the amount of snow but because of the drifting snow and I would like to point out that even with the assistance of great number of Russian prisoners of war, the Germans were not able to keep Main Road 50 open all the year around.

There are certain stretches which would be very difficult to keep open and as I said one special part of it just west of the Tana Fjord was not kept open any year as far as I know during the war.

I might also say that there is only really one road leading from east to west. That is Main Road 50 and that is just a road which is so difficult to keep open. There is another road coming from Ivalo in Finland going through a Norwegian place called Karasjok and joining Main Road 50 at the Possoni Fjord. (indicating) There is one more road from Finland to Norway and that is south of this area coming into Troms country or territory.

Q General, how far were the German rear guards ahead of you on the average?

A Well, I really don't know but I should think that they were very far ahead because the last contact between Russian troops and German troops and that was only patrols was on the 6th of November and we didn't get there until about the 26th--that means about three weeks. They had a three weeks' advance. I should think personally, sir, that by the end of November, all German main forces would be out of Finnmark and that only very small rear guards and destruction troops were left behind; the Germans had then been in this territory for four and a half years and of course knew it very well.

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They had a great number of fortifications along the Coast, partly belonging to the Navy and partly belonging to the Army and commanded by the Army, but all these bases were destroyed by and by.

Q Now witness, did you generally follow the main route to retreat of the German army, generally speaking?

A Yes, one mountain force of the Norwegian troops followed that main road.

Q. And they were under your command?

A They were under my command but not until the beginning of February. Before that date, they were under the command of the Russian troops. According to an agreement which the Norwegian Government had, a similar agreement between the American, British and Russian Governments, according to which the Norwegian forces fighting in Norway should be put under the command of that particular allied commander but in the beginning of February I got command of all the troops up there.

Q What was your estimate at that time how large the German forces were who were retreating in numbers?

A Well, I had a very good order battle of the German troops. I cannot now remember exactly how many it would be.

Q Roughly.

A But I should think something between 100 and 150 thousand men.

Q Now General, you said that these Norwegian troops which followed up this German retreat or withdrawal were under the over-all command of the Russians until February, 1945. Is that right?

A No, until the 5th of 6th of February.

Q All right. Now were there substantial Russian forces accompanying these Norwegian forces?

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Q. All right, Now were there substantial Russian forces accompanying these Norwegian forces?

A. There were no Russian forces accompanying the Norwegian forces, and it was quite clear as I have previously stated from the beginning that the Russian forces would not enter Finnmark. It was too difficult proposition at that time of the year to follow up with large forces in a country like that. And

besides, the position was not in Norway, and it didn't very much matter to the allied forces if Finnmark was occupied or not.

Q. General, as you were going west with your brigade, between November and February, up there – just what did you see?

A. I saw the scorched earth policy as I have never seen it before. All the communications were destroyed. The roads were blown up and mined, the bridges, the quays, the telephone and telegraph centrals; the telephone poles were either out down or blown up, and in the craters along the few roads were a great number of both teller mines and personnel mines. Also the housing was destroyed – not everything in the eastern most part of Eastern Finnmark because the Russian attack had prevented that destruction. Otherwise, speaking of the line West practically speaking – west of the Tana River, everything was completely destroyed. That includes all housing and what I mentioned before; also historical buildings and churches. Not all of them but more than half of the churches were destroyed. And this destruction took place – as far as I know from October until rather late in the spring of 1945. The destruction took place not always at one particular time. There were places which were raided two or three times.

Q. What do you mean by that, General?

A. That means the place was destroyed once. Not all of the population was evacuated. Some were left for some reason or other, and this was, of course, known to the German troops so that they came back for a second and a third time and got away the rest of the population and destroyed the shacks and huts or what they might have built in the meantime to be able to survive.

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Q. General, what was the approximate date – I mean in months that the subsequent destructions of these towns happened?

A. I think -- well, I am sure – that places like Kjullefyord (witness spells the name) were raided by the end of November and by the middle of December; and there are several other places which are difficult to spell – I think I will drop it – which were raided a couple of times, too.

Q. General, do you have any knowledge as to the date – or the approximate date – that some of the main communication centers were destroyed, going from east to west, from Kirkanes.

A. Well, of course, there were destroyed as the German troops withdrew. And I should think that most of them were destroyed by the end of November. But I cannot tell anything exactly about that.

Q. Now, as the German troops withdrew and the destruction had taken place by the end of November, do you know whether or not other destructions occurred as the German army withdrew which would fall into the months of December and January?

A. Yes, I have just told you that at least two or three places on the coast were raided at a later date; and I also know for certain that some places in western Finnmark were destroyed, for instance, in the month

of December. I think I am not wrong, but that can be verified by the official papers, when I was in the town of Hammerfest and Kjullefjord and Upper Alta were destroyed about the middle of December.

Q. General, did you get, at that time that you were up there, these reports that these various towns and hamlets were destroyed?

A. Yes, I did.

Q. What did you think at that time, was the reason for these destructions?

A. Well, I thought that it was wanton, and I could not see that it was a necessity for the German forces so completely to destroy the country as was done.

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Q. Now, you say "so completely" -- do you mean that -- do you want to say that not everything represented military targets? What do you mean by that? Will you explain it to us?

A. Well, I can understand that communications were destroyed, but I cannot understand and I cannot see that according to any international law that the housing, for instance, and especially along the coast where there could, not be any advantage, were so destroyed as they were; and monuments and churches, and so on; and hospitals, for instances, were also destroyed.

Q. Now, you stated that the highway 50 was, so to speak, the crux, the most important part of this entire evacuation.

A. Will you please repeat that question, please?

Q. The Highway 50 was the most important element that has to be taken into consideration both by the forces in retrograde movement as those who were following up, is that right?

A. That is right.

Q. Now, as it possible for either the Germans, or for you, to not follow this highway 50 and still advance?

A. Yes. It could be done.

Q. To what extent?

A. Well, it could be done, but only with smaller forces and with troops on skis, and it would, in any case, take a very, very long time; and these troops had to live under Arctic conditions, complete darkness; it rained up there for two months, from November to January so that troops which advanced outside of the main Road 50 would be exposed to very great hardships. But I don't doubt that small groups might be able to advance from east to west.

Q. But not in large bodies?

A. No, I think that is the great difference between these two things. Large bodies could not be supplied. This is the main thing.

They could probable also advance, but as they could not get supplies they could not keep themselves up.

Q. General, have you ever seen, or as it been officially reported to you, that there was substantial destruction away from Highway 50?

A. Yes, as I said, sir, I had on my mission representatives of the Norwegian government, different branches, and they sent in representatives of our government, through me, as I was their head. I read them all and saw the reports. Besides, I get reports from my unit commanders, more of a military nature. So I knew at any time what had been -

Q. You saw them?

A. And reported it.

Q. Now General, in that time that you were up there did you ever converse with the indigenous population of Norway, or Finnmark?

A. I did.

Q Did these conversations evolve around the subject of the evacuation?

A. Yes, very much so, as these people were in a very poor condition As a matter of fact in order to be able to save them we had to concentrate on saving lives instead of trying to kill Germans. We sent out three expeditions; one along the coast, which got rather far along and under the command of a lieutenant colonel, and he actually succeeded in getting back into safety more than 1,000 people. I sent another expedition along the Tana Riber down to the Sogne Fjord, which I just pointed out on the map, in the center of Finnmark. All these expeditions were equipped with clothing, food medicines, and so on; blankets -- to try to help these people who, we heard, were living in great distress. And if we had not been so well prepared with that relief work I think that the destruction would have been much greater than now happened.

Q. Now, General, you said your forces did not amount to more than three thousand men in February, is that right?

A. It did not amount to so much as three thousand men in February, but I think in March.

Q. Then did you commence this action, where you helped your country men up there.

A. We started right away. I could see that there was very little chance of capturing any German rear guards. I found it much more the much more important thing to try to save our countrymen's lives, so I started in November by sending these expeditions along the coast north, and a little later the expeditions inland.

Q. How many men did you have at that time when you commenced?

A. I had about three hundred men.

Q. Was their help effective?

A. Yes, indeed.

Q. Well, how many people did you have to help?

A. Well, they were left there in eastern Finnmark. We hoped to start with fifty thousand people but by and by we found manymore, hidden in most strange place. They were hidden in the most strange places; and then we got these reports from scouts so I think that if we had not prepared this eventuality we might not have found some people that winter.

THE PRESIDENT: We will take our afternoon recess at this time.

(A recess was taken)

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THE MARSHAL: The Tribunal is again in session.

MR. RAPP: If Your Honors, please, I had a talk with the defense Counsel for the defendant Rendulic, Dr. Fritsch, and he tells me that he is agreeable that we withdraw Identification 515-A. That was the document which was a certificate by the Norwegian representative here in Nurnberg giving evidence as to these documents we are trying to put in, but when he made out this original certificate he listed all the documents, including those which have meanwhile been received. I suggested to Dr. Fritsch that we pare this particular document down to include only those which have not been received, and that I will furnish him tonight a copy of such certificate in lieu of 515-A, and that he should consider the 24-hour rule still being covered by that arrangement, and Dr. Fritsch told me that was agreeable to him.

THE PRESIDENT: Very well.

MR. RAPP: If Your Honors, please, I would now like to continue the examination of the witness.

THE PRESIDENT: You may proceed.

Q. Witness, prior to the recess we were concerning ourselves with reports or conversations you had in connection with the Norwegian population which you met up here, and I asked you to tell us the nature of this conversation as far as it had any bearing on the evacuation which took place at that time?

A. I think I mentioned that we saved at least 1,000 Norwegians living on the coast, and many more, but I don't know the exact number of people living inland. Now, these people, as I said were living in the greatest distress. First of all, this was at a part of the year where the temperature is very low, and they had no houses. They had no food. It was taken away when the German forces withdrew. They had no means of getting food, because their boats, motor boats, and even small going boats, were either destroyed or sunk.

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So that it was an obvious task for us to try and get hold of these people, and get them back to safety. We got a report from one island west of Hammerfest, - that was in January, that about 1,000 people were

living in the greatest distress, and they had to be relieved. We could not do that because we hadn't got boats enough, therefore we had to send a message to London and ask for a relief expedition from there, and that was accepted on the 15 of February, when about 500 people were brought away to Murmansk, and later on to Scotland.

Q. Did any of these persons that you saved or you administered medical care, ever mention to you the fact why they did not evacuate?

A. Yes, I cannot remember any special remark, but these people had their homes up there. Norwegians have been living in these areas for several hundreds of years, and the way they were evacuated was in such a crude manner, that they thought it would be better to stay there, to stay behind even when taking the risks of the cold and the scarcity of food and so on.

Q. You speak of the way - or I believe you said the cruel way of the evacuation how do you know that?

A. I have read all the reports. They have made a general impression on me and I do not remember details, but I do remember one instance which was stated in a report to me on the 15th of December 1944 by an Army officer, who had made his escape himself. That was from a place called Berlevaag. When the withdrawal from the Eastern part of Finnmark started in October, the main population of Berlevaag got the orders to meet at a certain day at a certain hour, and the order went on to say those who did meet would be shot. This man, this Army officer met also, and they were ordered to carry ammunition shells from dumps down to the boats. The shells weighed about 35 kilos, and they were also ordered to carry dynamite and gun powder down to the boats, and they did that for about two days.

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Then the burning started. These people in Berlevaag, as many people in many places, thought they would be in a danger zone by being in their homes, and therefore they built old shacks and houses of peat outside the place, like these people had done. The burning started by burning down these small houses outside the town, and then the crowd was pushed forward down the quay, all of them, the old, the sick, and so forth. The cattle was either shot in the open or shot in the stables, or burned in the stables. I have seen that myself. I have seen groups of cattle being burned in the stables. That, I mean, accounts for their dislike for being evacuated. Also the very rough part of the year, and the voyage in small boats along the coast, which were full of mines and which could be raided at any time.

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Q. Have you, General, ever seen personally any villages or settlements being burned down?

A. No, I haven't seen that, but when we got to Kirkenes part of it was still burning. There was another reason for the population to try to get away. There were epidemic diseases spreading, some cases of typhus, but rather large epidemics of diarrhea and dysentery. The important part of it was that there were no doctors. I have been evacuated, and as far as I know there was only one doctor left in the whole district who had made his escape. Now, there were epidemic diseases, cold, hunger and so on, and no doctors, no hospitals.

Q. General, did you ever see personally any villages which were actually destroyed or settlements, as a result of this evacuation?

A. Yes, I have seen most of the places in Finnmark. I got to the western part of Finnmark about the beginning of April myself.

Q. What was the degree of destruction?

A. Well, I think that the destruction was as complete as it could be. As I think I mentioned in my first remarks, practically all of the territory west of the Tana line was completely destroyed. There was nothing left.

Q. And, General, these houses and settlements and villages, did they at any time offer your troops any shelter or were they all destroyed before you got there?

A. They were all destroyed before we got there, except in the Easternmost part of Finnmark. As it was, when we got to these places, they could not offer us any shelter. First of all they were burned, and secondly the concrete fundamentals of the buildings were blown up by dynamite, so that building could not even be repaired, and even to this very day there are 7,000 people who have not been able to go back to Finnmark.

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Q. On account of the destruction?

A. Yes.

Q. General, did these destructions, as you saw it at that time in command of a military command, offer a deterrent to the Russians to advance, in other words were the destructions a reason that the Russians did not advance?

A. Of course I can't tell you.

Q. Did the Russians ever talk to you about that?

A. No, but I can make my own opinion about it, and that is that it was not possible to advance under those conditions with large forces.

Q. In other words, you say that the destructions that were carried out actually had the effect that they kept the Russian army back from advancing?

A. No, I wouldn't say that. That was, of course, one of the reasons, but in any case, I think, that the Russian Army could not have advanced, because the cold and the climate and the temperature and so on, in Finnmark is not suitable for operations on a large scale in the wintertime. It is completely dark, as I said too, and the decision was not fought in Norway. It was merely a small sideshow which was joint on up there.

Q. But, General, the Germans, as you told us, carried on this destruction for many months to come, and the Russians did not advance, so how did you estimate the situation at that time?

A. I estimated the situation in such a way that the Russians would use their forces at other points, and didn't care about Norway.

Q. But that was information which you had in your position of constant contact with the Russian forces, is that right?

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A. That is right.

Q. But you don't know whether or not the Germans were in a position to know that too?

A. Well, I think they knew. There are several reasons why I think so. First of all, the German Intelligence Service was certainly very good. Besides, they had their planes that could easily find out whether their troops were following up or not, and the third point is that after the German Army left there were radio costs which kept them in knowledge of where the advancing troops might have been at any time. We got some of those costs, and they must have given very good information that no troops did follow.

MR. RAPP: I have no further questions, Your Honor.

CROSS-EXAMINATION BY DR. FRITSCH: Dr. Fritsch for defendant Rendulic.

Q. First of all, I would like to clarify a few personal doubts; did you say, General, that you were 38 years old?

A. No, I said 53.

Q. I beg your pardon. You are an active officer since the year 1915, an active soldier?

A. Yes.

Q. General, do we agree that on the question, of military necessity we can disagree, that we can be of various opinions on the question of military necessity?

A. Of course we can disagree.

Q. You were with the Russians, General?

A. Yes.

Q. Since when?

A. I was head of a military mission to Russia from about the 1st of October 1944.

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Q. Since that time did you have any special contact with the Tana Front of the Russian Army, on the Tana River?

A. I had no personal contact with the Tana Front, but our troops had.

Q. You listed some reasons which, according to your conviction, speak in favor of the fact that the Russians would not press into Norway; would you tell me whether at the Tana Front and until what time there was fighting contact between the Germans and Russian troops?

A. Yes--

THE RESIDENT: Pardon me, General, just a moment. Let's put this microphone right out in front. Now, if you will just sit back, General, and take it easy, just as though you were visiting. You don't have to use it as though you were talking on a telephone.

THE WITNESS: It is very difficult to hear.

THE PRESIDENT: You say you are not able to hear?

THE WITNESS: I am hearing now.

A. But I can answer that last question. The question was, when the last contact between the Russian and German troops was on the Tana River, and according to the reports which we got it was on the 5th or 6th of November.

Q. Down to that day there were fights with the Russians?

A. Yes, there had been very little fighting since October 24, and the German troops had very rapidly gone back behind west of the Tana River, and it was just very small rear guards being left on that river at that particular time.

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Q. For what reason should the German leadership be sure that the Russians would not follow?

A. As I said to the Prosecutors, the Russians would not follow because they knew very well difficult conditions up in the north of Norway at that part of the year, and also they had sent most of their troops down south to fight in the Baltic.

Q. Do you have any basis for this, that the German command was also informed of this.

A. No, I do not now whether the German command was informed of this.

Q. The German army command had to be, or could assume that the Russians would follow.

A. I do not think they could assume that, because their intelligence service might have told them, or would certainly have told them that the greater part of the Karelian Army was being sent South, and what was left would not have been sufficient to cope with the German forces which were then in Finnmark.

Q. But these are just assumptions on your part, General. Is that right? You said that Norwegian troops from England, in the winter of 1944-45 were sent to Finnmark?

A. Yes.

Q. Were these troops supposed to land in Finnmark?

A. They were not put ashore in Finnmark; They were put ashore in Murmansk and from there transported in Finnmark.

Q. And the reason why they were not supposed to land in Finnmark; can you give me that?

A. The reason why they were not put ashore in Finnmark, well that would probably be as I said to the prosecutor,-that we must first cooperate with our Allies, and therefore go to a Russian port and see what their plans were.

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Q. Witness, didn't I understand you to have said that they did not land in Finnmark because they knew about the destruction?

A. Well, that was a small reason, I agree to that, but of course a small force of 300 men can be landed almost anywhere from boats.

Q. Witness, you spoke of the Reich Highway No. 50 and you described this highway as the only import and road from east to west in Finnmark; is that correct?

A. That is correct, - the most important road, yes.

Q. Was this highway in the year 1939, before the landing of the German troops, - was this highway fully fit to be traveled on?

A. No, it was not completely finished until after the German forces came in Finnmark. There were a few stretches which were not finished before the war.

Q. And this highway was finished by the Germans; is that right?

A. No, that is not right, but small stretches of the highway were finished by Norwegians working under German orders.

Q. Then you spoke of the mining of this highway. Do you consider this mining as militarily necessary?

A. Yes I do.

Q. If the Russians had had the intention to follow the Germans, we cannot affirm or deny this intention post facto; wasn't it then a military necessity to destroy the housing facilities for the Russians as they would press on?

A. No, that is a great mistake. These houses were very few, and I cannot imagine how any force which could cope with the strength of the German forces could have any use of those few houses along that highway. As I have told before, the greatest part of the population in Finnmark were living on the coast, and the advance did not take place and could not take place along the coast.

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Q. General, we shall come back to this question later. My question is this. I want to determine by your experiences, whether it was not especially difficult for a military opponent, if he would come in a country like Finnmark, and find no shelter.

A. Would you repeat that question; in succession please? Will you say it in English once again?

Q. Don't you think that it would be very difficult for a military opponent invading Finnmark to find no shelter there?

A. Yes, that would be difficult.

Q. General, you spoke of the fact that the inhabitants of Finnmark lived mostly on the coast. Aren't there some villages on the highway too?

A. Yes, there are some small villages on Highway 52.

Q. General, during the direct examination you spoke of destruction of towns.

PRESIDENT WENNERSTRUM: Just a minute, General. The young man wants to give you a substitute receiving set.

Now General, may I suggest that you just sit back as though you were visiting in someone's home, and answer your question just as though we were carrying on a conversation.

You may proceed.

Q. General, would like to come back to the question of military necessity. If the German Command had recognized the necessity for evacuating this place, wouldn't it have done some good to the Norwegian inhabitants that it would take them out of a territory which was destroyed, for military reasons?

A. I can see no necessity of destroying the country. As I have said, I do not think that any large forces could advance in this territory and keep themselves up.

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Q. Wasn't the impossibility for the opponent to enter this region only created by the fact that the housing facilities were destroyed?

A. No. The opponent would have the greatest difficulty of getting into this country even when the houses were there, and even when the roads were there. This highway 50, as I said, would not be open in the winter.

Q. Highway 50 was unused in the winter, wasn't it General,?

A. Yes, in part of the winter, but in not winter, so far as I knew the road was kept open even with a great number of prisoners of war working on it.

Q. Do you know, General, that the road was filled with tunnels which would keep it from being snowdrifted; partly by wooden tunnels?

A. Yes, I knew that some part of it was equipped with those tunnels, but even do they were not possible to keep open.

Q. At what time of the winter, 1944-45, did you move on this highway with your troops?

A. The troops moved on this highwas from about the end of November, and until say, March. But they did not exactly moves on the highway because they were on *kis and they went outside of the highwas.

Q. Couldn't larger units of troops have moved on this road, if the road had been open?

A. They could have moved to a certain extent, but had been stopped at very far eastern place just went of the Tana Fjord.

Q. General, you spole about the destruction of towns and villages. Was Kirkenes, for example, destroyed, as a result of the evacuation?

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A. Not all Kirkenes, but a great part of Kirkenes was destroyed as the German troops evacuated.

Q. Do you know that Kirkenes wes repeatedly bombed by Russian airplanes?

A. I knew that Kirkenes was bombed on several occasions by the Russian airplanes.

Q. Do you know that these bombing and the direct fight around the city destroyed the city about 90 per cent?

A. I think that is completely wrong, because as far as I heard, there was no fighting in Kirkenes whatever.

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Q General, didn't you say yourself before, that the last fight took place in the beginning of November around the region of Kirkenes?

A No, I never said that.

Q Witness; in answering a question during direct examination, -you spoke of the cruel evacuation, and you specified in your statement, -you mentioned a case, if I remember correctly, it was a matter of the village of Berlevaag; is that correct?

A That's right.

Q Did you investigate this case yourself?

A I did investigate it by witnesses, but I was never there myself, of course, and this person who gave me the report has signed his report.

Q You also said that cattle was burned in stables. Did you yourself see any of these things?

A I have never been in the places which were evacuated by the Germans, but I have seen cattle burned in the stables.

Q And this happened, according to your convictions, not as a result of the usual military actions?

A Yes. This was at a place where there was no action at all. It was at a place called Lakselv.

Q General, you also said that churches and historical buildings were burned down. Could you give me any towns where this happened?

A Yes, I can mention a place called Altagaan, which is the old residence of the County, -- 'well the" ", as we say in Norwegian, built in 1740, and. which was . It was a building which could not be -- I cannot find the word in English, but it is a building which has a historical value and which was not to be changed in any way or used for any other purpose than a certain one.

There is also another building to the south, at the place called Hamnes, which I could also mention, and at the latter place the Germans had themselves known that this was an historic building.

Q Was this building situated inside a village?

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A It was not situated in, -- well not particularly in a village. It was now the building where the commanding officer of the Western Finmark was living; that means on a training ground, and it was far from other buildings.

Q Could it have served to house troops?

A Yes, it could house troops.

Q General, -- of what building material do the houses in Finmark usually consist?

A They mostly consist of wood.

Q If some of these houses serving as shelter would be burned, then there would hardly remain a building which one would want to save; that is a church or similar building; then there would hardly remain any building unharmed? Is that correct?

A Well if the village was put on fire, and it was a suitable wind, I think the whole village would bum down.

Q General, then you said that you had received various reports according to which Norwegians had escaped evacuation. Did you also get reports from those who had been evacuated?

A Yes, and that is a point.

As we had re-occupied part of Finmark, a lot of people from the occupied area came to Finmark and they got there because they wanted to assist the population in Finmark with food, clothing and boats, and all of these people who came in from outside of the re-occupied territory, had to report to my staff, so I knew everything they told me about the evacuation.

Q You then said that the people to be evacuated had to pass through mined waters on boats. Is that correct?

A Yes, that is one way of evacuating people.

Q Do you know, General, that these boats were almost exclusively manned by German soldiers?

A I don't know that.

DR. FRITSCH: I have no further questions, your Honor.

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PRESIDENT WENNERSTRUM: Are there any further questions by other counsel?No response.....

Is there any redirect?

RE-DIRECT EXAMINATION BY.

.....MR. RAPP: A very short one, your Honor. General, the element of military necessity was raised during the cross-examination, and I would like to ask you if as you stated, it was remote or nonexistent. What other reasons were there for destroying this territory presuming that it was not military necessity?

A I did not quite catch that.

Q I said, assuming that the destruction was not military necessity, what other reasons are given for the destruction?

A Well, we by-and-by saw acts of Germans towards the population which seemed to us to indicate a certain mood of revenge, and one of these raiding parties coming back actually killed six fishermen, and amongst them two boys, and then after that, the German commander went to a small hut which had been erected after the destruction, where a woman lived with her small children, and he asked this woman her name, and then he told her he had killed her husband and her son, and then he raped her in the presence of her children.

After that exploit, a poster was put on the bodies, and I may be allowed to read that because it is rather significant, I think, I have translated it into English, but it was written in Norwegian, and the contents were this:

"Norwegian Men and Women!

"Point I: We fight and work for you and for a future European state.

"Point II : We do not give away chocolate and tobacco as a bait, but we have shown a friendly attitude toward you during five years of our stay here.

"Point III: We protect your homes against Bolshevik blood terror.

"Point IV: We protect your homes from capitalistic plundering.

"Point V: We grant you fishing grounds for your own personal use.

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"Point 6: We get you work and bread.

"The one who opposes us, the one who supports the anti-European powers with English, America, and Soviet Russia as leaders, the one who openly or secretly places himself against us in this for Europe so difficult time, the one who fleeing in fishing boats or escaping across the border opposes our arms, the one who openly or secretly assists the enemy on this or on the other side of the front, he is a traitor to Europe and to his Norwegian homeland, and he will be found and destroyed regardless of where he is hiding."

That is one example, sir. I have another one, which also speaks for itself, I think, and that is the following: After the 8th of May, after the capitulation, the Norwegian authorities sent out expeditions to the devastated areas to find out the conditions and make a report. There were still then German troops in those territories which were otherwise evacuated. At one place a poster was found, which I have brought with me, and which has the following in printing: "As long as there is an enemy within our borders, may hate be my duty and revenge my virtue." And this is distributed by the 6th German Mountain Division, and it has a stamp date on it, 15 February, which probably is the date when the receiving unit received it from this division. When, therefore, the prosecutor asked me this question, we all had a feeling that there was -- they tried to revenge themselves, which was the origin of these acts in Finnmark.

Q. General, in your talks with the Norwegian population or with men under your command, was it ever mentioned to you directly or by insinuation that the population was very glad that the Germans are helping the Norwegians to escape Bolshevism?

A. No, never. That was never said to me. On the contrary, the population in Finnmark was very much upset and used the strongest words of the language to express their feelings towards the German troops. I will add, though, that of course there are some people in Norway belonging to the Nazi Party that have a different opinion.

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MR. RAPP: That's all the questions I have, Your Honor.

DR. FRITSCH: Your Honor, I have just two more questions, resulting from the re-direct examination.

RE-CROSS EXAMINATION BY DR. FRITSCH:

Q. General, you spoke of the shooting of a fisherman and two boys. How do you know that?

A. I had a military patrol out which saw the thing. Besides, I had a report from an intelligence officer, a very complete report taken on the spot.

Q. When was this incident supposed to have taken place?

A. That incident took place on the 6th of May 1945.

Q. On the 6th of May 1945? Where?

A. Where? That was at a place called Hopeidet.

Q. And where is this place?

A. This place is between the town of Tana fjord and Lakse fjord. It's rather far east.

Q. On the 6th of May 1945 were there still German troops there at that time?

A. Yes. They came, as I have told before -- they came continually back with raiding parties along the coast, and also they came inland after having landed.

Q. But at that time you, General, had already your brigade with you and you already had pushed on towards the west.

A. That's right.

Q. How did these German troops come to move in back of you?

A. It's very easy to explain. As I told before, Finnmark is a country of 48,000 square kilometers, and I don't think that 3,000 men would be able to cover that.

Q. Witness, one final question. From where does this piece of paper come which you have read before? Did you yourself receive it or did you take it from a house, or what?

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A. This paper I have here in court was taken by one of those Norwegian expeditions being sent out immediately after the capitulation, and found on one of the houses at a place called Birtavarie, and it was taken with the expedition to the 6th Division Command, of which I am the commander.

Q. You yourself never found such a paper, did you?

A. No, everywhere I came everything was burned.

DR. FRITSCH: Thank you very much.

THE PRESIDENT: Perhaps -- anything further for this witness?

MR. RAPP: We have no further questions, Your Honor.

THE PRESIDENT: May the witness be discharged then? Any objection on the part of any defense counsel to the discharge of this witness? The counsel for Rendulic? There being indication that there's no further desire on the behalf of the defense counsel for the retention of this witness, you may be excused, General.

Did you have any other matters this afternoon, Mr. Rapp?

MR. RAPP: I have nothing further this afternoon, Your Honor.

THE PRESIDENT: You had some papers--

MR. RAPP: We could have that postponed until tomorrow if Your Honors desire.

THE PRESIDENT: We have about five minutes before adjournment. We'll adjourn at this time until tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until 9:30 tomorrow morning.

(The Court adjourned at 1625 hours.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Welhelm List et al, defendants, sitting at Nurnberg, Germany on 26 August 1947, 0930, Justice Justice Edward F. Carter presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America, and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Marshal, you will ascertain as to whether or not all defendants are present in the Courtroom.

THE MARSHAL: May it please your Honors, all defendants are present in the Court.

THE PRESIDENT: Judge Edward F. Carter will preside at this day's session.

PRESIDING JUDGE CARTER: You may proceed.

MR. DENNEY: May it please your Honors, there are a few matters we would like to clear up about exhibits, identifying documents, etc. that we have let go a little too long, so perhaps this would be a good time to do it and in addition counsel for the defendant Rendulic has had something come up in the case which is pending before Military Tribunal II and will be over there for 30 minutes or so and then will return.

I think that the matters that are here will take up the Court's time until he gets back if that is agreeable with the Tribunal. This which has just been handed to your Honors, and defense counsel, Secretary General, the interpreters and the reporters is to be marked 480-A. It is to be inserted at the end of Document Book XX and given pages numbered 146 and 147. I am sorry, your Honor, I don't have the German page number but Dr. Laternser advises me that it will be satisfactory if we indicate that it should be inserted at the end of German Document Book XX.

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This document which has just been given to your Honors and defense counsel, the Secretary General, the interpreters and the translators should be marked 498-A. It should be given pages numbered 140 and 141, and is to be inserted at the close of Document Book XXI. I do not have the German pages but it should be inserted at the close of German Document Book XXI.

Both 480-A and 498-A are offered for identification only, as has been the practice with reference to the prior similar exhibits, one of which has been offered for each book.

May it please your Honors, the Question of the signatures of the defendants which appear on the various curriculum vita affidavits which have been submitted to the Tribunal has been discussed with all of their defense counsel and they are agreeable to a concession that the various documents--that is, I shall list them momentarily--have been signed by their clients.

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Counsel for the defendant List with reference to Exhibit 2 which is in Book I, the signature appearing at page 3; counsel for the defendant Foertsch with reference to Exhibit 11 which is in Book I, the signature appearing at page 42; counsel for the defendant Kuntze, Exhibit 132 which is in Book VI, the signature appearing at page 4; counsel for the defendant Geitner, Exhibit 216 which is in Book IX, the signature appearing at page 3; counsel for the defendant Weichs, Exhibit 311 which is in Book XIII, the signature appearing at page 5; counsel for the defendant Rendulic, Exhibit 313 which is in Book XIII, the signature appearing at page 13; counsel for the defendant Dehner, Exhibit 315 which is in Book XIII, the signature appearing at page 21; counsel for the defendant Leyser, Exhibit 324 which is in Book XIV, the signature appearing at page 56; counsel for the defendant Speidel, Exhibit 409 which is in Book SVII, the signature appearing at page 3; counsel for the defendant Felmy, Exhibit 442, which is in Book XIX, the signature appearing at page 3; counsel for the defendant Lanz, Exhibit 443, which is in Book XIX, the signature appearing at page 8; and may it please Your Honors, the only concession that is made is that those are the signatures of the individuals in question.

PRESIDING JUDGE CARTER: I assume that defense counsel have heard the recitation of the stipulation made between prosecution and defense counsel. Are there any objections to it as it has been stated in the record? If not, the Court will accept it as a stipulation between prosecution and counsel for the defense.

DR. LATERNER: Your Honors, I have given my consent as regards my clients that these are their signatures. The reasons were the following: in order to obviate any necessity for getting witnesses from abroad. But I want to expressly move, first of all, that Exhibit [NOKW-860](#), Exhibit 2 is cancelled. This Exhibit is an affidavit of the defendant Field Marshal List.

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My reasons for asking for cancellation are as follows, quite briefly.

The prosecution cannot ask for a defendant to appear as a witness. If it submits an affidavit of a defendant, it really calls him as a witness because it uses his statement as evidence. Legally, the prosecution is not in a position to do this. For that reason, I object to the use of this affidavit Exhibit No. 2 on the part of the prosecution and move for the reason I have given now that this affidavit, be cancelled.

PRESIDING JUDGE CARTER: I am inclined to think that counsel is in error as to the rule that he cites. If a defendant elects to sign a statement, I think his statement is admissible and the rule does not apply that he is called to testify against himself. If there are any admissions against interests, they are proper to be offered against him. I think, therefore, the motion will have to be overruled.

MR. DENNEY: If Your Honors please, we would like to withdraw the certificate which is 525-A for identification, which was offered yesterday and the certificate will be resubmitted with the Exhibit Norway-9.

PRESIDING JUDGE CARTER: You may of course withdraw any Exhibit for identification if you care to.

MR. DENNEY: Thank you, Your Honor, and then we would request that this certificate which has nothing to do with the Norway case be marked 525, the one which has just been handed to your Honors. All of defense counsel are familiar with this, and I think that all we will have to do is just read the first two pages and we can omit the executive orders of the President of 2 May 1945, 16 January 1946, the memorandum of 29 March 1946, of Mr. Justice Jackson--excuse me, Robert H. Jackson, Chief of Counsel, General Order No. 301 of 24 October 1946 signed by Major General Huebner, Chief of Staff, and the copy of the appointment of General Taylor dated 24 October 1946 under the authority of General McNarney, the then Commanding General in the American Zone in Europe.

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If that is agreeable with your Honors, then, I will just read the first page, the first two pages rather, because there is a recital in the first document with reference to those that follow.

PRESIDING JUDGE CARTER: You may, of course, read any part of it you see fit to read.

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This certificate is made for the purpose of showing the authority of certain of the personnel of the Office of Chief of Counsel for War Crimes to administer oaths and properly to attest those affidavits which will be offered in evidence before the Military Tribunal for Case 7 in the United States v. Wilhelm List et al.

Pursuant to Executive Order 9547, 2 May 1945, attached hereto as "Tab A", Executive Order 9679, 16 January 1946, attached hereto as "Tab B". Memorandum No. 15 of Office of Chief of Counsel, 29 March 1946, attached hereto as "Tab C", General Order No. 301 of the Military Governor, 24 October 1946, attached hereto as "Tab D", and letter, USFET, 24 October 1946, Appointment of Chief of Counsel for War Crimes, attached hereto as "Tab E", I am authorized, and have been since 29 March 1946, to prepare and prosecute charges of atrocities and war crimes against leaders of the European Axis powers and their accessories.

In discharge of the responsibilities conferred on me by the abovementioned orders and instructions, I have authorized and detailed members of my staff who are engaged with me in the preparation and prosecution of cases, including attorneys, interrogators, and other investigators and agents of the Office of Chief of Counsel for War Crimes, to conduct interrogations and investigations and in the course of such interrogations and investigations to administer oaths.

Among those whom I have authorized to conduct interrogations and investigations and to administer oaths, with the effective date of their authorization, are the following personnel of Office of Chief of Counsel for War Crimes:

FRED KAUFMANN, U.S. Civilian, AGO Identification No. A-441649 Chief, Interrogation Branch, Evidence Division, Office of Chief of Counsel for War Crimes, authorized 9 July 1946.

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OTTO KREILSHEIM, U.S. Civilian, AGO Identification No. A-445900, Interrogator, Office of Chief of Counsel for War Crimes, authorized 4 October 1946.

WALTER E. RAPP, U.S. Civilian, AGO Identification No. D-416367, Director, Evidence Division, Office of Chief of Counsel for War Crimes, authorized 26 May 1946.

HENRY SACHS, U.S. Civilian, AGO Identification No. A-441698, Research Analyst, Office of Chief of Counsel for War Crimes, authorized 15 July 1946.

(signed) TELFORD TAYLOR, 22 August 1947 Brigadier General, US, Army Chief of Counsel for War Crimes

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MR. DENNEY: At the time the Greek film was shown the certificate from Dr. Dimitzas was not available, and I now have the certificate and hand it to the Secretary General.

Dr. Fritsch has now returned from the Pohl case, and that concludes the matters which we had with reference to miscellaneous matters, and Mr. Rapp will now continue with the presentation of the evidence involving the Norwegian case.

MR. RAPP: If Your Honors will recall, yesterday, in connection with Document Book 23 there was some question as to the Jurat of some of the documents which were marked for identification only. We are now submitting the necessary certifications, and as I shall come to each document I shall at that time make some comments which may be necessary. Norway No. 1, --- Norway No. I which has been marked Exhibit 511-A for identification, we will not present at this time. We just leave it as 511-A, and we will not further present it at this time.

Norway II, which has been marked for identification as Exhibit 512-A, and Norway V, which has been marked 516-A, and Norway XI, which has been marked as Exhibit 520-A, and Norway XII, which has been marked Exhibit 521-A, -I have given defense counsel a certificate pertaining to these documents. I promised this particular certificate to defense counsel last night. I didn't get it off of the mimeograph machine until about 12:30 this morning. I couldn't find defense counsel at that time any more, so I gave it to him at the first opportunity this morning, and in view of the fact that we could not get together last night defense counsel informed me this morning that he would have to have until noon today before I can put in those documents which are covered in connection with this certificate.

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So I am now passing out to the ether defense counsels merely in order to keep their document book, up, although they have no connection with the Norwegian case, copies of this certificate, and after the noon recess I shall come back to this certificate and read the documents pertaining thereto into the record.

This particular document which I am having reference to now should be marked Exhibit 515-A, until such time as we present it as a document after the noon recess, so we mark it now for identification as Exhibit 515-A. This, Your Honors, is to be marked 515-A for identification.

I shall now pass out copies in English to the Honorable Tribunal, to the Assistant Secretary General, to the interpreters, the translators, and copies in German to the defense counsel and also copies to the court reporters.

If your Honors turn now, please, to page 17 of the English document book, and page 19 of the German document book, as your Honors will notice this particular document is offered in excerpt only. The original document appears in Norwegian. We have only translated the excerpt part into the English and the German language. I have meanwhile informed defense counsel that before the day is over I will also furnish to him that part which is not being offered in evidence by the prosecution in the German language, so that he may avail himself of such translation if he wishes to do so, and defense counsel told me that was agreeable to him.

Defense counsel calls to my attention that the previous certificate which I have submitted to your Honors for identification, marked 515-A, does not cover Norway document 5, which I had just reference to.

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That of course, is correct and I was merely referring to one part, and this previous certificate, which, of course, has no bearing on that what I have just told the Court. As far as this document Norway 5 is concerned, which has been marked for identification as Exhibit 516-A, I should like now to submit this document to your Honors as Prosecution Exhibit 516, with the understanding that I will furnish defense counsel tonight that part which was not offered by us in evidence, but for his information.

DR. FRITSCH: Your Honors, I object to the submission of Norway 5 as an exhibit, for the same reasons which were discussed yesterday in reference to these documents. This is a report of the town engineer of Hammerfest, which in no way moots the demands made by the rules of procedure regarding evidence. This is likewise not a document which has its origin in the investigations of a Government commission. Rather, it is a personal report of a private individual.

MR. RAPP: Your Honors, I was just about to hand to defense counsel the Jurat of this particular document we are submitting into evidence, and it is perfectly obvious that the document is all that that defense counsel says it is not, and I am just about ready to hand that to defense counsel. It was marked yesterday for identification as Document 516-A, and we are submitting it now as document. The certificate that was in there yesterday was not withdrawn. It was still marked for identification, and we are putting it back as such today, and I was just about to pass out to defense counsel and the court copies

of the jurat. This particular document, Your Honor, of course, bears no particular document number, since it is in the original folder marked at present as Exhibit 516-A.

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DR. FRITSCH: Your Honor, I don't want to protest against not keeping to the time limit of 24 -hours in this case, but I would like to ask mr. Rapp to use the same procedure as regards this document as in the other cases, and to discuss these matters in a final manner this afternoon. I have just only come into the possession of this Jurat, as your Honors have seen.

MR. RAPP: Your Honor, I appreciate defense counsel's concession on this particular instance. However, I believe there is a little difference on the other document. We had withdrawn the identification, and we were re-submitting it, and I had promised him to do that last night and I was unable to comply. This particular jurat has never been withdrawn, in other words, the document remains for identification with the Secretary General.

DR. FRITSCH: Your Honor, at any rate this is a supplement which to document 516-A submitted yesterday. This supplement has only been submitted just now, and I believe it is only fair if in this case, the same procedure is adopted as with the other document.

JUDGE CARTER: The questions involved in this certificate seem to be similar to those in the other certificates. We think the position of counsel well taken, and it should at least go over until the afternoon recess.

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MR. RAPP: Very well, Your Honor, The next document I am having reference to is Norway IX, which Your Honors will find on page 33. It is on page 36 of the German defense counsels' book. Norway IX was marked as 518-A -- 518-A, and in compliance with the desires of defense counsel I am now merely passing out the jurat and we shall return to it after the noon recess.

DR. FRITSCH: Your Honor, I would not object if in the case of this document we would already discuss the entire objection to this document. I don't believe that the confirmation of the signature of this document is very essential. This is an indictment originating in Norway. However, indictments in my view cannot be admitted as evidence. For this reason alone I believe this exhibit can not be admitted, and I am therefore taking care to object already at this juncture against its admission.

MR. RAPP: Your Honor, we submit that this particular document Norway IX is an official report of the representative of the Norwegian government to the United Nations War Crimes Commission in London, and was prepared during the war, and concluded toward the end of the War. We are submitting it under the rules of Ordinance No. VII, as an official Government report, and the Tribunal in admitting this particular piece of evidence is, of course, at their own discretion if they decide to give it any weight or how much of it they want to allocate to it, but I believe that it is in the nature of an official government report which was submitted to the United Nations War Crimes Commission.

DP. FRITSCH: Your Honor, may I point out that this document is super-scribed "Accusations", and thus it outwardly conform with the form of an indictment.

JUDGE CARTER: It is the opinion of the Tribunal that it is properly admissible in evidence. The fact it might contain such statements will not prevent it from being used. However, we are in agreement, no doubt, that the accusations don't have very much probative value before this Tribunal. I think probably if it is established that it is a document of the War Crimes Commission of the Norwegian Government that it will have to be admitted for what it is worth.

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I think on that issue we will have to overrule the objection.

DR. FRITSCH: Your Honor, may I reserve stating my point of view until the time after the expiration of the limit for the document submitted today.

MR. RAPP: If the Court pleases, I should like to request the Marshal be requested to summon the witness Trygve Schance, S-c-h-a-n-c-e. Trygve, T-r-y-g-v-e, is his first name: Trygve Schance.

JUDGE CARTER: The Marshal is instructed to summon the witness.

Does the witness speak English?

MR. RAPP: The witness does not speak English, Your Honor.

JUDGE CARTER: The witness will be sworn.

I solemnly swear that the testimony I will give in the case on trial will be the truth, the whole truth and nothing but the truth, so help me God.

(The witness repeated the oath.)

JUDGE CARTER: You may sit down.

DIRECT EXAMINATION BY MR. RAPP:

Q What is your full name, witness?

A Trygve Schance. That is, T-r-y-g-v-e S-c-h-a-n-c-e.

MR. RAPP: May I inquire from the interpreter how it is intending to conduct this interpretation. In other words, are you going from Norwegian into the German or from Norwegian into the English, or viceversa.

INTERPRETER SCHAPF: I don't care, whichever way you prefer it. I can talk either English or German.

MR. RAPP: All right. I suggest I examine the witness in the German language, and you answer and translate in the German language, and the interpreters then can put it into English. I believe that will be more convenient all the way around.

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Q When were you born, witness?

A 15 April 1907.

Q And where were you born, witness?

A In S-k-j-a-n-e-f-a, N-a-m-v-i-k.

Q Have you any family, witness?

A Yes, a wife and two children.

Q What is your profession, witness?

A I am police director in Polmak.

Q What was your schooling?

A Elementary school, secondary school, and I took a training course in the Civil Air Defense. I took a police training course in general mechanics. That is all.

Q Since when have you been director of Police in Polmak?

A I have been in Polmak since February 1, 1945.

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Q In which part of Norway is the town of Polmak situated?

INTERPRETER SCHARF: Is the witness supposed to use the map?

MR. RAPP: Yes, if he can do so.

A Polmak is situated near the Finish frontier, that is the interior part of Finnmark.

BY MR. RAPP:

Q Thank you. Witness, what did you do before you became chief of police in Polmak?

A I was police sergeant-major in Vardoe.

Q Witness, where is the little town of Vardoe? You needn't point it out on the map.

A It is on the coast on the eastern part of Finnmark.

Q And how long were you there? Since when?

A I had taken up my position in Vardoe on the 15th of June 1935.

Q And witness, if I have understood you correctly, you left on the first of February 1945 and went to Polmak from there, is that correct?

A Yes, that is correct.

Q During the time of the occupation were you in that little town of Vardoe?

A Yes, at that time I was in Vardoe.

Q Witness, what was your task as an inhabitant of the town of Vardoe during the time of the occupation? What did you do?

A I had to deal with criminal matters since I was a police official.

Q Witness, can you give us some more details briefly? It is a rather large concept, criminal matters.

A I had to deal with theft and violations of the law on the part of the civilian population.

Q Witness, was the town of Vardoe during the time you stayed there destroyed in connection with the war?

A When the Germans retreated, we calculated that between 80 to 85 per cent of the town had been destroyed.

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Q When did the Germans withdraw, witness?

A They left Vardoe the first days of November 1944.

Q Was it the first time that you heard of a retreat or had seen a retreat?

A I was not in Vardoe at the time the retreat was taking place.

Q Where were you, witness?

A I was in Skjanes (spelling) S-k-j-a-n-e-s.

Q Would you like to point out to us now on the map, Vardoe and Skjanes?

A (Indicating) It is on the west side of the Tana Fjord.

Q How did you learn of the retreat in Skjanes?

A On the 30th of October 1944, I talked over the telephone with my mother-in-law. She is living in Finnkonckeila (spelling) F-i-n-n-k-o-n-c-k-e-i-l-a. She told me that on the same day a German detachment had been in the town of Finnkonckeila, and I must add here that no other German troops were in Finnkonckeila. These Germans told the population that the little town was to be burned and that the population was to be evacuated in boats. The population had decided in the meantime not to go away. They did not want to evacuate the town, and they began at once to leave for the mountains. The Children's Home had been transferred to Finnkonckeila from Vardoe at some previous date, there were 23 children from the ages of 1 to 15 years, and we had 4 women looking after these children. My mother-in-law wanted to know whether I could possibly help to take these children from Finnkonckeila to a safer place, and I answered that I would do that. Eleven young men apart from myself accompanied me. They also were prepared to go to Finnkonckeila across the mountains in order to do that. At 6 o'clock in the morning on the 31st of October, we began our trip and went to

Finnkonckeila. We arrived in Finnkonckeila at about 2 or 3 o'clock in the afternoon. The population had already gone into the mountains overlooking the village. A German detachment had arrived in Finnkonckeila in a motorboat and stayed near the village.

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I saw that boxes of dynamite were taken from the boats to shore and also cans with gasoline.

I went down into the little town and one of my comrades accompanied me. It was my intention to obtain clothing which I had previously sent to the house of my mother-in-law, and so it happened that I struck up a conversation with the leader of this German detachment. It was a German lieutenant. I asked him whether it was true that this town was to be burned. He answered, "Yes, this place is to be blown up. This is not only to happen here, but in the whole of Finnmark." And he added that the population was to be sent to the south in small boats. I asked him then what would happen if the population should decide to go to the mountains. He answered that afterwards a detachment would arrive which has the task of fetching the population.

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He said those who should refuse to come along would be arrested and would be taken into German captivity, and they would also risk being shot. We were told that we had to leave the place at once because the blowing up and burning down was to begin at once. We went back to the camp then which the people had in the mountains. The other ten who had been with me had begun to make preparations in order to take the children away with them over the rocks. At about half-past three in the afternoon, they began their detonations and the burning down of the houses. There were three fish processing factories, producing all kinds of fish products, these three installations were blown up as the first with dynamite. And the Germans went from house to house with their cans of gasoline. They went into the houses, remained there for a moment, then came out again, smashed the windows with the butts of their rifles, and a moment or two later the houses began to go up in flames. The procedure of the Germans was quite systematical, that is to say, they went from house to house.

I was sitting up above the village and looked at what was going on until about 5 o'clock in the afternoon. At five o'clock, the whole place which is situated in a gorge was a sea of flames. Two houses were some distance from the village, and those two houses were not in flames when I left. It is at that time we began our retreat to Skjanes with the children. We had a very strenuous trip with these children. The smallest had to be carried on our backs. The way back took us 18 hours. We arrived at Skjanes at 12 o'clock noon, on the 1st of November 1944.

The children were very badly dressed, only thin shoes, and they were badly equipped for such a trip. We lodged the children in the school building of Skjanes. In the evening of the same day, that is on the first of November 1944 at about 11 or 11:30 at night, a German landing craft arrived in Skjanes. A number of German soldiers and marines disembarked from this boat. The first thing they did was that they put fire to the warehouse in Skjanes.

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Soldiers were posted around the village, and others went and told the population that they would have to be on the landing craft within, at the latest, one hour. The leader of this detachment was a German lieutenant. This officer went to the school building in which the children were, and he ordered that all these children should instantly be brought to the boat. The superintendent of these children's home came running to my house which is situated about three or four hundred yards from the school, and they asked me to try to intervene with the Germans so that the children would not have to be taken to the boat. I went along with them and talked to the lieutenant. He said that his order was that he was to collect these people and my objections and my pleas not to do this were of no interest to him. He said exactly the same regarding what was to happen as the lieutenant with whom I had talked in Finnkonkeila, and he also said that those who possibly remained behind would either be made prisoners of war of the Germans or could possibly also be shot on the spot. This conversation took place on the stairs outside of the school building in which the children were lodged.

It was night and the children were in their beds, and the officer ordered that his soldiers should at once start taking the children to the ship. I saw that the children were taken out of their beds without any opportunity of putting on clothes, and they were taken to the ship as they were without any further ado. The bigger children were usually successful in putting on some of their clothes, and they were also taken to the ship. I then saw that I could do nothing here. I left this house and went back to the house in which I lived, and where my wife, my mother, and my children were living. I was stopped by the German lieutenant when I was going back, and he told me to stop, turn back, and go to the boat. I pointed out to the lieutenant that I was in my pajamas and that I only had an overcoat, apart from that, and slippers. And I also told him that he should give me an opportunity to prepare myself better for such a trip, and that also I had a family after which I had to look.

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He ordered a soldier to take me to the boat at once. I pointed out to him that he himself had posted sentries around the village which were to see to it that the whole population was to board the ships, and I thought If there were such sentries around the village there would not be any harm if I could go back to the house and prepare myself for the trip and for my family. Thereupon he gave me permission to do that. I went back to my house, and the soldier who had been there said the same, that an hour at the latest we should be on the boat, and that we should prepare ourselves for that.

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During the time that remained to us we succeeded in leaving our house and getting into the mountains. Later it appeared that the rest of the population had done the same -- that is, had taken to the mountains.

I want to know your attention to the fact that the country around SKjanes is very rough. It is very easy to hide one's self there and to get away from the place.

This ship of which I have spoken previously left in about one hour had only the children were on that boat and the people who had looked after the children.

MR. RAPP: Witness, the Judge wants to say something.

PRESIDENT JUDGE CARTER: We will take our morning recess at this time.

(A recess was taken)

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THE MARSHAL: Persons in the courtroom will be seated.

The Tribunal is again in session.

PRESIDING JUDGE CARTER: You may proceed.

BY MR. RAPP:

Q Would you please carry on with your report?

AAs I have already said, we went into the mountain in order to escape from the German forced evacuation. I would like to point out here that the places which I mentioned before such as Skjanes, Finnkonjkeila, et cetera, were on the Nurfen Peninsula and there are no road communications there.

The next day it was the 2nd of November an armed fishing boat came to Skjanes, a kind of auxiliary war ship. Germans landed from the ship and then they started to burn down houses and the village. The civilian population was then in the mountains in the neighboring district. Since we saw that the Germans were starting to bum down the village, we tried to come as near to the village as possible in order to see what was going on.

The same thing happened which happened in Finnkonjkeila. Explosive stuff such as gasoline was taken into the houses. The windows were broken and soon after this the houses burst into flames.

Those domestic animals which the population were not able to bring into safety were taken by the Germans. Some of them were slaughtered on the spot. Others were taken on to the ship.

As I have already said, we collected in the mountains and after all we had there a camp in which we were collected. None of us had more with us except that which we carried on our bodies and we were gathered there together. We were altogether 130 people. The eldest was 86 years old. The youngest was a girl 4 days old. This little girl and the mother of this child we had taken on a stretcher into the mountains shortly before the burying started.

For three days we stayed out in the open and in the meantime we tried to erect some kind of houses. We build a kind of house which we call up there a "Gamme". That is a house made from turf.

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After these three days we succeeded in building sufficient houses and to develop these houses sufficiently in order to get into them. We had very little to eat and we had very few clothes.

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What we had to eat was mostly cattle which we slaughtered, cattle which we had saved from the Germans. We were there in the mountains for 17 days. In the first days, while we were there, we saw continuously, German ships coming from and going into the Fjord, and German aircraft which flew over our heads. We had no communications with other villages, neither telephones nor roads.

We knew that Finnkonjkeila had been burned to the ground. We had seen the sea of flames in Berlevaag. We sent small patrols of two or three men to Gamvik, and Mehamn to see what was happening there, and we discovered there that these villages were completely destroyed, that they had been blown up and burned down, and that the population had been compulsorily evacuated to the south.

From the 17th of November, a German motor boat came from Batsfjord, and we discovered there how conditions further east in Finnmark were. I went with the motorboat when it went back east, and came in this way as far as Vardoe.

Q Witness, one moment please. Was it a German or Norwegian motorboat?

A It was a Norwegian motor boat.

Q Thank you very much.

A In that way I got to Vardoe, where I worked. After all, I had a job. I got there on the 19th of November. My job was to collect information about the population which had remained behind, so that we could help them. It turned out that we had a few Norwegian motor boats left, boats which we had succeeded in saving. So far as it was possible, to use these motor boats to transport the people who were still in the open, we did this, but it must be remembered that the German control had to be avoided.

In addition my job was to interrogate people who came from West Finnmark. It turned out that there also a few motor boats had been saved. As soon as it became a little quieter there, – as soon as there weren't so many German ships there, these boats, -- those motorboats, – started out to eastern Finnmark. There were also boats coming from Lofoten.

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They made a large bend in the north and then they landed in eastern Finnmark.

After we had listened to the people who arrived in this way, we learned much more about what had happened in the various villages. Slowly but surely, we discovered what had happened and the whereabouts of people, and where help was most needed. The Norwegian soldiers had arrived at this time in Finnmark, and Lt. Colonel Johnson, was appointed leader of the expedition which was to help the civilian population.

We listened to what these people who came from the other parts of Finnmark had to say, and in this way we also discovered how the Germans had acted in the various districts.

Slowly but surely we succeeded in bringing the people who had been living under the most difficult conditions to Eastern Finnmark. In the meantime we received news that the Germans had also been carrying out destructions in Western Finnmark.

Q Witness, the town of Vardoe which you spoke about last, it is on the Varanger peninsula; is that correct?

A It is on the Varanger Peninsula. Vardoe, - the town of Vardoe, is on a small island which is divided from Varanger by a sound. There is no land communication from the town to the island, but the main road goes on up to this waterway, this sound.

Q Would you please show us the town of Vardoe on the map? Witness where is the main road 50 which goes from the East to the West?

(Witness indicating these things on map?)

A It starts here and then goes along this red line where I am pointing.

Q How far, approximately is this town, Vardoe, from the main road, main road 50 which goes from the East to the West?

A The waterway which divides Vardoe from the main road is about 1500 meters wide.

Q I do not think the witness understood my question.

A From the main road 50 there is a branch, a continuation, so to speak, from Vardoe to Vardsae.

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Q Witness, the question I think was very simple. How far is the distance from the main road 50 to Vardoe, in kilometers?

A 75 kilometers from Vardoe to Vardsae.

Q That still is not the answer to my question. You have now told me how far from Vardoe to Vardsae. I asked you how far it is from Vardoe to the main road, 50.

AAbout 125 kilometers.

Q That's correct. Now, witness, this town which you mentioned before, - my Norwegian is not very good, - but it's Finnkenjkeila, how far is this place from the main road 50, in kilometers?

A 130 or 140 kilometers.

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Q. Witness, in your capacity as a policeman up there, have you often traveled through this whole territory?

A. Yes.

Q. During the occupation?

A. Not as much during the time of the occupation as afterwards.

Q. How soon after the occupation?

A. I went from Skjanes to Vardoe on the 17th and 18th of November. On the 18th of December, I was in Berlevaag. On the 28th or 29th of December, I went from Vardoe to Palmak, and then back again.

Q. An of these towns which you have named are in Finnmark?

A. Yes. In May, 1946, I went by air from Vardoe to Tromsø. That is on the other side of Finnmark, in the West.

Q. Were these trips which you have just spoken about of an official nature?

A. A part of them, yes. Some of them were official. The trip to Tromsø was of a private nature.

Q. Apart from the private trip, what was your official task?

A. My trip to Berlevaag, had to do with the traitors, - the trial against the people who had committed high treason.

Q. Witness, you do not have to tell us the reasons for every single one of your official trips. Generally speaking, in which capacity did you travel there, and what was on the whole, your task?

A. I travelled in the capacity of a police official. They were only investigations on those kinds of tasks.

Q. Did you have contact with the inhabitants during these trips?

A. Yes.

Q. Witness, during the evacuation did you ever receive a reason from the German occupation authority why the evacuation took place?

A. Yes. During the conversations which I mentioned before with the German officer in Finnkonjkeila, I heard about this. This was that the population had to be taken from the sphere of the threatening soviet Russian domination of terror. When I was in the house of my mother--in law in order to get the clothes which I spoke about before, I met a German soldier who was forcing some drawers, etc.

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I do not know what he was looking for. He saw that I took various pieces of clothing, and tried to put them into my rucksack, and he said to me, "Leave it; you don't need anything." He said, "If you should succeed in getting away into the mountains, you are going to be shot anyway, and if the Russians come, then you will be used for forced labor in Siberia, and you don't need any of these things there."

Q. Witness, did the Russians really penetrate into this territory about which we are just speaking?

A. No.

Q. Did the population with whom you spoke ever tell you what they thought about the reason for the evacuation?

A. The Norwegian population regarded the destructions which had taken place, and the evacuation as pure vandalism.

MR. RAPP: I have no further questions at this time, your Honor.

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CROSS EXAMINATION BY DR. FRITSCH:

Q. Dr. Fritsch for the defendant Rendulic. Witness, you were a police official for four years during the occupation?

A. Yes.

Q. Well, then, you worked for the Quisling government?

A. No.

Q. You were a police official?

A. Yes.

Q. And who constituted the government then?

A. From 1941, it was the Quisling government.

Q. And to whom were you subordinate as a police official?

A. During the period of the Quisling government, we police officials followed the orders and paroles which were given us by our lawful government in London.

Q. But the exiled government in London couldn't give any individual orders, any detailed orders.

A. We had our system of information and we were so informed that we know and could follow what was decided in London.

Q. And what kind of information was this? What system of information?

A. We listened to the Norwegian radio from London. I would like to point out that the Quisling government had their own police, state police, and a party police.

Q. Well, who paid you then?

A. I got my salary from the Norwegian state.

Q. And this Norwegian state was represented by the Norwegian Minister of the Interior for you?

A. I would like to point out to the defense counsel that although we had a Quisling government in the country, the Norwegian resistance movement was in no way dead, only a small percentage of the population supported the Quisling government and the government was supported by bayonets.

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Q. Witness, when the Quisling government came into power, did you have to swear an oath of loyalty to them?

A. No, we didn't have to. If anyone had been asked to swear this kind of oath, I would have left my job.

Q. Witness, I am now speaking about the period November 1944. According to your description, a telephone conversation from Finnkonjkeila told you for the first time of the imminent evacuation. Is that correct?

A. Yes, that is right.

Q. And previously, no announcements of any kind had been issued about an evacuation?

A. During the middle of October, I went on my bicycle from Vardoe to Smallfjord and then I went on by boat to Skjanes. There I saw and heard that the Norwegian members of the Nazi Party had received information that they were to be evacuated. They were told that they were to be brought to safety. About that time, I didn't discover anything about the fact that the Norwegian population was to be evacuated. This information only referred to the Nazi population, and I thought it probably that the Germans would tell their followers in Norway that they were to be brought to safety.

Q. Witness, when did you see for the first time a poster, an announcement which urged the population to evacuate?

A. As I traveled through Tana, those proclamations were nowhere to be seen. As I have already said, in Skjanes there was no land communication. Everything there took place at sea, by sea routes. The only telephonic communication which we had in Skjanes was with Finnkonjkeila and in this part of the country no posters were put up.

Q. And did you see later on posters of this kind?

A. Yes. I saw then when I came back to Vardoe in connection with the work which I had to do as a police official.

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Q. Witness, did you go in an official capacity to Skjanes?

A. Yes.

Q. As a police official?

A. Yes.

Q. Well, what did you have to do there? Just one quite short answer.

A. Since the town of Vardoe was far from the main routes, it was decided that a part of the police chamber there was to be transferred and this part was to be taken to Skjanes.

Q. Who issued this order?

A. The order was given to me by my chief, the police director in Vardoe.

Q. And from whom did the director of police receive this order?

A. I can't say because I naturally do not have the right to ask my superiors from whom they received their orders.

Q. To whom was this police director subordinate?

A. The Department of Justice was superior to the Police director.

Q. And this Department of Justice belonged to the Quisling government?

A. Yes, but a very large percentage - the greatest percentage in the Department of Justice did not belong to the Quisling Government.

Q. Not to the Quisling government? Or the Quisling party?

A. Only the ministers were in the government.

PRESIDING JUDGE CARTER: The Tribunal will recess until one-thirty this afternoon.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

MR. RAPP: Your Honors will see before them a piece of paper which I have passed out during the recess to be marked for identification 523-A. I just wanted to get this in in time so that by tomorrow noon when the 24-hour period elapses we can tie this particular certificate up to Norway Document 6--523-A. I furnished copies of this to the interpreters, the court reporters, the assistant Secretary General, the German defense counsel.

CROSS EXAMINATION (Continued) BY DR. FRITSCH:

Q Your Honor, may I continue the cross examination? Witness, before the noon recess, you told me that the middle of October, 1944, you had been transferred to Skjanes by the then Norwegian government.

A Yes.

Q Were you then again in service as a police sergeant major?

A The police office was to be transferred. However, it did not get there because the boat which was to take these people there was seized by the Germans and requisitioned. That was in Batsfjord.

Q What did you do in Skjanes?

A I was waiting there for our office. The telephone communications were cut and for that reason I had no information. I was waiting for the boat to arrive.

Q Witness, who was your highest superior in Norway?

A The police was administered by the Justice Department and thus the Justice Department was the highest authority.

Q And this Justice Department was part of the Norwegian Government of that day?

A It is like this: every minister took care of the duties of his department.

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Q He belonged to the government, didn't he?

A Yes, he did.

Q Witness, you told me that you did not have to swear an oath of loyalty to the Norwegian government of that time. Is that correct?

A Yes, it is.

Q Only you yourself didn't swear an oath of loyalty or did none of the police officials swear an oath of loyalty?

A The whole of the police. Those who were Norwegians among the police officials did not swear so oath of loyalty.

Q But then you carried out your duties on the directives of that government?

A I would like to point out that the adherents of Quisling government in Norway were not more than two per cent of the population. In all departments of the government, people who were bitter enemies of the Quisling government had their place. Even within the Quisling party, the resistance movement had its people who informed the resistance movement about what was happening within the Quisling party. It might be said that the whole country, almost the entire population was not only opposed to the Quisling government but was fighting against the government.

Q Excuse me, that is sufficient for my purposes. Witness, you then went to the Norwegian place which I can hardly pronounce--Finnkonjkeila. The German soldiers who landed there--you saw them, did you?

A Yes, I did.

Q Were these marines or were they ordinary troops?

A Ordinary army troops as well as marines.

Q How did you recognize the difference?

AAfter the Germans had been in the country for four years, it was natural that one knew the difference between a marine and an ordinary army soldier.

Q You talked with the leader of that unit?

A Yes.

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Q That was a Lieutenant?

A Yes.

Q A Lieutenant of the Marines?

A That was an army lieutenant.

Q Do you know, witness, when in this place the inhabitants were first asked to evacuate it?

A That was on the previous day, on the 30th of October, 1944.

Q And in what manner?

A This place has no road communications; for that reason, a ship came which landed those soldiers. These soldiers went through the village and told the population what was to happen.

Q Witness, you had said in this children's home which was situated in this village had been transferred from Vardoe. Is that correct?

A Yes, that is correct.

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Q For what reason was the children's home transferred from Vardoe to this place?

AAAs I said before Vardoe is situated far to the east, and for that reason there was a great danger that war operations would take place in that region. Apart from that, the building in which the children's home was housed, had been taken over by the Germans.

First of all the children's home was transferred to Kongsfjord.

Q Just a moment, did Russian air attacks take place on Vardoe?

A Yes, indeed.

Q Was not that the reason why this children's home was transferred from Vardoe to a place which was in less danger?

A I assume that both reasons applied.

Q Was Vardoe greatly damaged by these air attacks?

A Yes, indeed.

Q What was the approximate percentage of the town which was destroyed by these air attacks?

AAbout 45 per cent, of the houses.

Q Were destroyed by these air attacks?

A Yes.

Q Witness, you then brought these children to Skjanes on the 1st November 1944?

A Yes.

Q You said it was very difficult to go across the mountains—these children were dressed in a very insufficient manner, is that correct?

A Yes.

Q Why did you not put these children into the ships in order to send them to safety in that way?

A Since numerous attacks had taken place at sea by the Russians and other allies, it was deemed very dangerous to evacuate the children by sea.

Q Did this evacuation of the children to Skjanes take place in agreement with the German evacuation commission?

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A No. That was out of the question.

Q How did the German evacuation authorities want to transport these children?

A They were transported in such a landing craft, it was an iron boat with a roof and nothing else.

Q And this kind of a transport you found more dangerous than the transport with insufficient clothing across the mountains?

A From Finnkonjkeila to Skjanes the distance is not greater than about 30 kilometers, but to Tromsø, and that was the first point where the German landing craft would stop, it would have been 650 kilometers, across wide stretches of sea infested with mines, and so forth.

Q Witness, how big is Finnkonjkeila?

AAbout a 100 people lived in Finnkonjkeila.

Q 100. Can a landing craft travel over a distance of 650 kilometers non-stop?

A Mr. Defense Counsel must not assume that I know the efficiency and capacity of the German war vessels.

Q You had stated that this was a small iron boat which would only touch land in Tromsø, that is after a voyage of 650 kilometers, do you know that?

A It was not a small boat, it was one of those flat boats with a flat bottom the English called landing crafts.

Q It was a large boat then?

A What do you mean by a large one and what do you mean by a small one in talking about ships?

Q Just because of that I would like to be told the size of this boat by the witness who has after all soon this boat.

A For the length and width to be given in meters?

Q Yes, please.

A About 20 meters long and five to six wide.

Q When you then returned to Skjanes did you again take up your duties as a police officer?

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A I said previously that in Skjanes I was waiting for my office which had been delayed in Batsfjord, and as long as my office and the officials had not arrived in full strength, I could not take up my duties with this office.

Q You then had lots of children in the school in Skjanes, how many children were there and how old were they?

A I have already said that there were 23 children, and the age categories from one to 15 years.

Q Did women look after these children?

A Yes, indeed.

Q How many women were available for this purpose?

A I have already told you four.

Q You then said that these small children especially were brought half clothed, half dressed on the boats; why did not these women see to it that these children were properly dressed?

A I have already said that the director of the children's home came to me and asked me to intervene. The children were taken on board the ship while I was looking on myself.

Q This does not constitute an answer to my question.

A How could the women dress the children when the Germans tore these children from their beds and conducted them to the boats.

Q Excuse me witness. I put a question to you, why did the women not dress these children. You answered by putting a question to me.

A It was like this. The director of this children's home had come to me and she hoped and expected that I would be successful seeing that the children were not taken and if the children were not taken away there would have been no necessity for dressing them.

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Q. How long did you negotiate with the German officer about this question?

A. About 5 minutes.

Q. And he still refused to leave the children in the home?

A. Yes, indeed.

Q. Was the director of this children's home present at this discussion?

A. She was in the house while I was talking to the officer outside the house on the stairs.

Q. Could she not in the meantime see to it that the children were dressed?

A. The director of the children's home did not believe the Germans would be brutal enough to take the children in this manner.

Q. Had it been said that the children were to be evacuated on a ship?

A. Yes, that was said.

Q. Now, what was the brutality in this procedure?

A. First of all it was brutal that the children should be subjected to such a voyage. It was so to speak an iron box, the boat was nothing else but an iron box with a motor at the end. Apart from that not enough time was left to prepare the children in a proper manner for a voyage of this kind.

Q. How much time was at their disposal?

A. Not much more than 5 minutes.

Q. You mean to say that from the time the German soldiers announced Skjanes was to be evacuated until the time the children had to board the ship?

A. The children's home or the population generally?

Q. The population generally?

A. One hour.

Q. How large is Skjanes, as regards population, I mean?

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A. About 150 inhabitants.

Q. Witness, you had received permission for yourself to return home again and to look after the evacuation of your family, is that correct?

A. Yes, that is correct.

Q. Have I understood you correctly that the Germans had surrounded the whole village by sentries?

A. Yes, that is correct.

Q. In spite of that you did not board the ship?

A. No.

Q. Rather you went into the mountains?

A. Yes, indeed.

Q. Were you not observed by the soldiers who surrounded the village?

A. No. The village of Skjanes is so very extended there is one house here and one house quite a distance away.

Q. One can't really speak of surrounding this village then?

A. German soldiers were posted around the village. To say "surrounded" would not be the proper expression.

Q. Have I understood the number correctly of those who entered the mountains from Skjanes, did you say there were 130?

A. I said in the camp in which I was we were 130 People.

Q. Were all of these people from Skjanes?

A. All of these people came from Skjanes.

Q. Witness, how many people were evacuated from Skjanes?

A. 27.

Q. And all the others could save themselves from being evacuated by fleeing?

A. Yes, I have already said that.

Q. How many German soldiers had landed in order to carry out the evacuation?

A. I don't know whether I saw all of them the way I was, however, I want to say there must have been 15 to 20 men.

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Q. Do you want to say these 15 or 20 people were not in a position to supervise the place that was evacuated?

A. It is evident that the population of the village knew the conditions of the terrain in the village and in the surrounding country better than the soldiers who were posted there, and for that reason they were successful in gaining the mountains in spite of the soldiers.

Q. Where was the evacuation intended to take the people from Skjanes?

A. We did not get any information on this.

Q. Was this transport boat which was to evacuate the population from SKjanes, was that also a fairly large boat, that is to say a ship?

A. It was the same landing craft of which I have already spoken.

Q. The same boat which evacuated the population in that other place?

A. The same boat which evacuated the children from Skjanes traveled to Finnkonjkeila, on the next day, and that is as far as I heard, and took the population on board as there were only very few who had come to the boat.

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Q. You said, the evacuation of Finnkonjkeila took place before that of Skjanes, is that not correct?

A. No, it took place afterwards.

Q. Witness, you were in Finnkonjkeila, that place was evacuated, there you escaped the evacuation, and you also took the children with you, and then you went to Skjanes?

A. My family was in Skjanes. I was asked from Finnkonjkeila to go there and help and bring these children to safety. I therefore went from Skjanes to Finnkonjkeila. My family, therefore, was not in Finnkonjkeila.

Q. That is correct? Witness, when you were in Finnkonjkeila, there were German troops there, as you said, in order to evacuate that place?

A. German troops were there in order to burn down the place.

Q. And leave the population there?

A. The population was to stay there. It was said that a ship would come and will fetch you.

Q. And this ship, witness, when you went to Skjanes had not arrived in Finnkonjkeila?

A. No, it had not arrived at Finnkonjkeila yet. The ship which actually came had been in Skjanes, had taken the children aboard, and touched Finnkonjkeila on the way to the south on the way across the fjord.

Q. Witness, on my question when I asked if the ship was to go to Skjanes, you answered me you did not know, is that correct?

A. We got the information that the population was to be sent to the south.

Q. No place was named?

A. No place was named.

Q. But you knew that the same ship which had taken the children was going to Tromsø, that is what you said previously?

A. I did not know that the ship was bound for Tromsø. I heard later when communications were re-established that the ship had gone to Tromsø.

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Q. Witness, as reason for your wanting to take the children across the mountains, you told me this was that Skjanes was only 30 kilometers while you had known that the ship was bound for Tromsø, that

would have been 650 kilometers; and now you are telling that you learned only later that the ship was to go to Tromsøe?

A. I named Tromsøe because I know now where the ship was bound for. That is the reason I named this distance.

Q. At that time you did not know that the ship was bound for Tromsøe?

A. No. I only knew that the children were to be sent south.

Q. Previously, you told me on my question of why you went by foot over the mountains, you told me that you had escaped evacuation because the ship was bound for Tromsøe. That is previously, you told me that you knew at that time that the ship was bound for Tromsøe. Why is there discrepancy in that, witness.

A. When the Germans came and said the ship was bound for the south, when we in Norway talk of the south we mean everything south of Trondhjem. If we talk of northern Norway, we talk of everything situated north of Tromsøe.

Q. Witness, thank you, we can leave this subject now. One question. Did you talk about the evidence during the noon recess with any of your fellow countrymen?

A. No.

Q. Witness, as you said, you then went in a Norwegian motorboat from Skjanes to Vardoe, is that correct?

A. Yes.

Q. Witness, may I first of all ask you, do you speak German?

A. Very little. I understand a little bit of German.

Q. Was this motorboat belonging to the Norwegian government of that time?

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A. This was a fishing vessel which belonged to a fisher in the Batsfjord.

Q. Witness, when you returned to Vardoe, did you take up your duties?

A. Yes, indeed.

Q. You said you had made investigations regarding those people who had escaped to the mountains?

A. Yes.

Q. And on whose orders did you do that?

A. On the order of my chief, the police director.

Q. That is on the official orders of the then Norwegian government?

A. What does the defense counsel understand by "Norwegian Government" in this case?

Q. The superiors of your police director.

A. The Norwegian government was in London. The Quisling government was never recognized as a Norwegian government.

Q. Witness, I please ask you not to evade this Question. I have asked you on whose orders your director of police was acting?

A. Norwegian members of the Norwegian government in England had come back to Norway as well as Norwegian soldiers, and they started work right away.

Q. When was that, witness?

A. I returned to Vardoe on the 19th November, and there the Norwegian agencies had already started work who had come over from England.

Q. Witness, on the basis of these investigations you made, what did you find out about those people who had escaped into the mountains? Did many people die?

A. The people who had escaped from the burned down villages to the mountains had made great efforts to build houses. Winter should have started at that time already, but in that year autumn was very long.

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Q. My Question was to this point. What did you find out about the fate of those people, that is to say, whether many of these people did perish.

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A. I know of some cases in which people perished because of the strenuous conditions under which they had to live.

Q. Their number can't have been very considerable, as I take it, from you answer.

A. This is due only to the very mild weather. Normally, winter starts in this part of Norway on the first of October, that is in the first week of October; in this year, it started only at the end of November.

Q. Witness, this does not yet answer the question. I asked you for the number of victims.

A. In my district that is in the district of Skjanes, I learned that one elderly man in (spelling) L-a-n-g-f-j-o-r-d-n-e-s-, had died while fleeing.

Q. Otherwise, you did not hear of any case of death?

A. And in Skjanes a woman died of heart trouble because of her exertions. That was after I had left Skjanes.

Q. Was that an old woman?

A. She was between 40 and 50.

Q. Witness, for about three or four years you served in an official capacity under the German occupation?

A. During the German occupation, under the German occupation powers, yes.

Q. Did you have any contact with the German military during that time?

A. In Finnmark the number of soldiers was many times larger than the number of the civilian population. In the course of time, Germans had more and more authority in regard to the many things that were happening there, and it was quite inevitable that the civilian population came in to contact with the German soldiers.

Q. That is what I implied in my question. I only wanted to know from you whether you had any closer contact with the German soldiers?

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I ask you to answer this question with only yes or no.

A. Partly.

Q. What were your personal experiences with the German Army troops there?

A. I did not like them.

Q. Excuse me, I believe that. I asked you what were your experiences that is, how did the German soldiers behave toward you?

A. They behaved as the Germans have always behaved themselves towards the population of an occupied territory. They look upon themselves as the Master Race.

Q. I don't believe that we can go any further into this problem in this manner. I want to hear from you whether you personally have had bad experiences with these German soldiers apart from the evacuation?

A. As police official during the time of the German occupation, I could observe how the Germans took every opportunity to look down upon one as something more or less inferior.

Q. That is a matter of emotion. I have asked you whether something unpleasant was done to you or to your family?

A. A German officer wanted to have me punished because during a stormy night during which one could hardly see anything. I had passed him without greeting him or saluting him.

Q. That is the only unpleasant experience you had with the Germans?

A. During all this time all we Norwegians were under tremendous pressure because of the German occupation.

Q. Witness, I certainly understand you. Nobody likes to have the enemy in his country, but this is not the matter at issue here. I'd like to ask you to answer my question now. Did you yourself suffer from unjust treatment from the part of German soldiers?

A. What do you mean by "unpleasantness"?

Q. I would then like you to answer the following question. What have you to complain of regarding the treatment of yourself or your family on the part of the German occupation forces?

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Have you nothing to say in this matter, witness?

A I cannot at the moment remember anything except for this, that we were insulted. The Norwegian official authorities were not recognized.

Q You said you were continuously insulted. Surely, you must recall one of these many insults.

Witness, may I put another question to you, so that we don't spend too much time on this? Did the German armed forces provide food for the population?

AAAs far as I know, the Norwegian population was not provisioned by the German armed forces.

Q The Norwegian population did also live on foodstuffs which were imported, not only on food which was raised in the country?

A We imported a certain amount of foodstuffs.

Q. These imports would have to go through the German occupation channels at that time?

A I personally don't know anything about that.

DR. FRITSCH: For the time being I have no further questions to the witness in cross examination.

REDIRECT EXAMINATION BY MR. RAPP:

Q. Witness, were you a member of the Illegal Norwegian movement?

A Yes, indeed. I worked in the Illegal movement.

Q Were you ever aware of the fact that under German law this movement was illegal?

A Yes, I was, indeed, aware of that.

Q Did you look upon this work in the Illegal movement as a duty?

A Yes, I did.

Q You told us that there were more German troops in that neighborhood than there were Norwegian inhabitants. Is that correct?

A Yes, that is correct.

Q Was it very dangerous for you to serve your royal government in England?

A Yes, indeed, there was always the danger that the Germans or that the members of the Quisling Party would get news of it.

Q And what was the punishment publicly known which the military government had issued for such membership?

A In the lightest cases, it was penitentiary or forced labor and usually death sentences.

Q Witness, you told us that about 2% of the Norwegian population were adherents of Quisling. Is that correct?

A Yes, it is.

PRESIDING JUDGE CARTER: I just wonder what all this has to do with the evacuation of Norway.

MR. RAPP: Your Honor, I submit that this particular phase was brought in by defense in their cross examination, a matter which we did not intend to include. It was put in there for the purpose of discrediting the witness and I am trying to establish the fact that the witness's conduct up there was not of that nature.

PRESIDING JUDGE CARTER: Well, no one objected and we sat here and listened patiently and I don't think that warrants going back into it again. These examinations never will end if every new point that is brought up provokes another long new line of testimony.

MR. RAPP: Very well then, your Honor; if in the future such points are brought up by the defense, we shall object.

Q Witness, could you tell us the climatic conditions prevailing at the time of the evacuation?

A The climatic conditions were unusually favorable in this fall.

MR. RAPP: Shall I repeat this question in German to go back to the German language?

Q What were the climatic conditions in Norway or, rather, in Finnmark during the time of the evacuation?

A The climatic conditions at that time were very unusually favorable for this time of the year.

Q Witness, can you describe to us what conditions were like at sea during the time when you were in Finnkojnkeila?

A The weather was good.

Q Witness, if talking of the sea, I believe at least one does not talk in terms of good or bad. Could you describe just what the sea was like?

A The sea was quiet and calm.

Q Witness, was the coast up there infested with mines?

A Yes, indeed. There were mines all over the place.

Q I am not talking of land. I am talking of the water. I am talking of sea mines.

A Yes, these were sea mines.

Q How did you know that?

A I learned that in Vardoe because if a Norwegian ship confiscated by the Germans was ordered to go some place the crew of this ship learned what course it had to take in order to evade the mines.

Q Who laid those mines?

A The Germans laid those mines. On the other hand, German as well as British airplanes had dropped mines.

Q Did you ever see, witness, whether German ships of any kind or size--I am talking now of those which either entered the coastal area or left the coastal area--were any of those ships destroyed by mines?

A Yes, I did see that.

Q Was this fact known to you when the problem of the children's home was under discussion, the fact that German ships had hit enemy mines in the coastal areas--was that fact known to you when the problem of the evacuation of the children's home was under discussion?

A It was generally known among the coastal population that Russian and British airplanes had dropped mines. The population got to know that in the following manner--that certain routes in the sea were blocked until German mine sweepers had swept those lanes.

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PRESIDING JUDGE CARTER: We will take our afternoon recess at this time.

(A recess was taken)

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BY MR. RAPP:

Q Before the recess we talked about mines which were laid along the coast by the Allies, and that the population knew about that because occasionally German boats exploded. Witness, was this fact one of the reasons why you tried to prevent the children from being evacuated by sea?

A Yes, that was one of the reasons.

Q Witness, you have stated here that you personally had no bad experiences with the Germans, that you can remember. Is that correct?

A No, I cannot remember any incidents.

Q Of a personal nature?

A Yes, of a personal nature.

Q Then you merely expressed your feelings?

A Yes, only my feelings.

Q Witness, can you tell us quite briefly, apart from the examples which you have already stated in your main testimony of bad experiences which you yourself observed or which were reported directly to you in your capacity as political chief, bad experiences of your countrymen up there with the Germans.

PRESIDING JUSTICE CARTER: I do not see any necessity for going through that again unless it is something in addition to what he has testified to.

MR. RAPP: That is what I wanted to test whether or not he had additional testimony to give to that particular issue, your Honor.

PRESIDING JUSTICE CARTER: I think you should limit it to anything additional then.

A. Yes. After Russia and Germany were at war, the Germans issued an order, according to which all people over 15 years of age had to have an identification card, and this identification card had always to be carried by the people. The Germans often controlled the people to see whether they had these papers, and while they pretended to carry out these controls, there were sometimes violations on the part of the Germans.

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Q Witness, we are merely interested that you tell us, without beating about the bush too much, and quite briefly, what kind of violations these were, whether you were a witness of them, or whether they were reported to you in your official capacity. That is all that we are interested in.

A In one of these cases an old woman was exposed to one of these identification card controls, and when she did not produce the paper quickly enough, a pistol was pushed into her back, she was taken across the street and she was threatened with being placed before the Field Gendarmerie.

Q How do you know this?

A This was reported to me in my capacity as a policeman.

In one case a young Norwegian was hit down on the street by two Germans. The young man wanted to meet a Norwegian girl, and the Germans also wanted to go with this girl, and therefore they hit him down. That was reported to me.

Q Witness, in the first case which you told us about, was it reported to you who the people were?

PRESIDING JUSTICE CARTER: Just a moment. The indictment in this case charges that the defendant Rendulic was charged with a crime committed during the evacuation. It seems to me that this evidence of what happened during the occupation is outside of the scope of the indictment.

MR. RAPP: Your Honor, the occupation in this particular phase was part of the evacuation, i.e. the occupation was de facto still existing. I believe this would fit into the evidence we are submitting. In other words, the occupation did not cease the minute the evacuation started.

PRESIDING JUSTICE CARTER: If I remember correctly, the indictment charges the burning of the homes and destruction of property as not being a military necessity. There is nothing said about injuring or killing any of the population or anything of that kind. It seems to me that we are getting outside of the scope of this particular area.

MR. RAPP: Very well, your Honor, then I have no further questions for the witness.

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PRESIDING JUSTICE CARTER: Is there anything further?

BY DR. FRITSCH, for Rendulic:

Your Honor, I only have one question in connection with the redirect examination.

MR. RAPP: Your Honor, we submit that we have been rather liberal in permitting defense counsel to have so to speak, the last word every time the prosecution produces a witness. Heretofore we feel that that prosecution introducing a witness, that after the cross-examination, the testimony ought to be concluded. Now the defense is trying to re-direct or re-cross examine the witness at this time.

PRESIDING JUSTICE CARTER: I think where the prosecution brings in now evidence, they are entitled to bring in cross-examination. If it is rebuttal, they are not. We will permit him to ask the question.

DR. FRITSCH: Your Honor, I only have one question which arises from the re-examination of the prosecution.

RE-CROSS EXAMINATION BY DR. FRITSCH:

Q. Witness, you were asked in the re-direct examination whether the military government, that is the German military government in Norway had issued heavy penalties.

My question is was there a German Military Government in Norway?

A. There was a Reich Commissar, Torboven.

Q. Do I understand you correctly that this Reich Commissioner was a military authority?

A. I do not know how far his authority went, and of what kind it was.

Q. Was the office of the Reich Commissioner a military agency, witness?

A. I do not know what relation he had to the military.

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Q. Witness, did you ever hear that Norwegians came before a military court?

A. Yes.

Q. Do you now mean a court of the Reich Commissioner or a Army court?

A. This was a so-called court martial.

Q. And who was on this court tribunal?

A. I was never in those courts.

DR. FRITSCH: Thank you very much. I have no further questions.

PRESIDING JUDGE CARTER: Are there further questions by the defense? The Tribunal has none.

Is there any reason why this witness should not be excused permanently?

The witness will be excused.

(Witness excused)

MR. RAPP: If your Honors please, we would like now to return to Document Book 23. Your Honors, the first document we would like to submit is the document which at present is marked for identification as 515-A the one I handed Your Honors this morning. --515-A. This particular jurat which has been furnished in its translation to the defense counsel; reads as follows:

I, IVAR FOLLESTAD, certify; that I am a Counsellor at Law and I am duly licensed to practice before the Supreme Court of Norway and all Inferior Courts of Norway, that I am a Lieutenant Colonel in the Norwegian Army; that I am a duly authorized representative of the office of the Attorney General of Norway and as such I am duly accredited to the office of Chief of Counsel for War Crimes (US) at Nurnburg, Germany; that I brought to Nurngerg, Germany, documents Norway 2, Norway 11 and Norway 12; that the procedure detailed herewith was followed in connection with these documents.

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(A) Norway 2 is a deposition made by Egil Sorenson to the Norwegian Police at Vadsae, Norway. After the deposition was made, the deponent (Egil Sorenson) appeared before the Judge of the Criminal County Court of Varanger, Norway, on 12 August 1947 and stated under oath, in accordance with Norwegian Law, that the contents of the deposition were true. Norwegian law provides that statements which as to be used in any judicial proceedings may only be sworn to before a Judge in court. Further Norwegian law requires that sworn statements to be used as evidence in criminal cases must be made not only before a Judge in Court but in the presence of counsel appointed by the Court to protect the interests of the party against whom the sworn statement may be used. This procedure was followed and such counsel was appointed by the Court.

(B) Norway 11 is a letter of 18 June 1947 written and signed by Dr. John Caspersen Deputy Director of the Norwegian Ministry of Social Welfare. The letter is also signed by Dr. Karl Evary, Director of the Norwegian Ministry of Social Welfare. After the letter had been read and signed, Dr. Caspersen appeared before a Judge of the Criminal Inquiry Court of Oslo, Norway, on 3 July 1947 and stated under oath, in accordance with Norwegian law, that the contents of the letter were true. Norwegian

law provides that statements which are to be used in any judicial proceeding may only be sworn to before a Judge in Court. Further Norwegian law requires that sworn statements to be used as evidence in criminal cases must be made not only before a Judge in Court but in the presence of counsel appointed by the Court to protect the interests of the party against whom the sworn statement may be used.

This procedure was followed and such counsel was appointed by the Court.

(C) Norway 12 contains three letters as follows; the first dated 25 February 1947, the second 26 June 1947 and the last 3 July 1947.

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All three letters were dictated by Antoni Skoen, Deputy Director of the Central Statistic Office of Norway. The letters of 25 February and 3 July were signed by Mr. Skoen. The letter of 26 June was initialed by Mr. Skoen and signed by Arne Skaug, Director of the Central Statistic Office of Norway. The three letters were addressed to Ivar Follestad Antoni Skoen appeared before a Judge of the Criminal Inquiry Court of Oslo, Norway, on 3 July 1947, and stated under oath, in accordance with Norwegian law, that the contents of the letters of 25 February, 26 June and 3 July, all 1947, were true. Norwegian law provides that statements which are to be used in any judicial proceeding may only be sworn to before a Judge in Court. Further, Norwegian law requires that sworn statements to be used as evidence in criminal cases must be made not only before a Judge in Court but in the presence of counsel appointed by the Court to protect the interests of the party against whom the sworn statements may be used. This procedure was followed and such counsel was appointed by the Court.

signed: IVAR FOLLESTAD IVAR FOLLESTAD Lt. Colonel Norwegian Army Nuremberg, Germany, 25 August 1947

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DR. FRITSCH: Your Honor, I object to the introduction of this document as an exhibit. With Exhibit 515-A the prosecution tries to introduce Norway Document No. 2, 11 and 12 which are not admissible according to the rules of procedure of this court. This kind of procedure in my opinion would only mean getting around the regulations. According to my duty I must also object to the certificate of a witness who gives a declaration in this form and of this contents for his government.

In addition, I would like to point out that according to the principle of the better proof, in my opinion as the witness is here in the courtroom, he himself must be heard on these questions. Furthermore, I cannot see how the witness gets the basis for his statement that the declaration of the persons mentioned in the documents 2, 5 and 11 were actually given to the Norwegian court in the correct form. In no case do the documents in themselves correspond to the rules of procedure as they are valid for this court.

PRESIDING JUDGE CARTER: Is there any question in the mind of counsel as to the authority of this man to make this certificate?

You didn't hear?

DR. FRITSCH: I didn't get the last question, Your Honor.

PRESIDING JUDGE CARTER: I say if there is any question on the part of the defense as to the authority of this man to make this certificate, we think he is entitled to call him for cross examination on that subject if the defense cares to do it.

DR. FRITSCH: Yes, that is also one of the reasons submitted by me.

PRESIDING JUDGE CARTER: I say if you care to examine this man about his authority to make the certificate, you may cross-examine him on that subject.

DR. FRITSCH: Yes, Your Honor. But I would have to decide about this. In my opinion, the other reasons submitted by me should be sufficient in order to rule out this document.

PRESIDING JUDGE CARTER: I don't think it is so important on this document as it is on the documents they are trying to get in evidence when that objection comes up, but if you want to question his authority, you may do that now.

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DR. FRITSCH: Yes, that is what I am doing, Your Honor, and I would also ask that the documents should only be admitted if the validity of this Document 515-A is recognized. If those persons who in Documents Norway 2, 5, and 11 have also given statements are placed in the witness stand for me by the prosecution so that I can cross-examine them.

PRESIDING JUDGE CARTER: If you care to cross-examine him, you can do so now. He is here in the courtroom, I understand.

MR. RAPP: That is perfectly agreeable to us, Your Honor. I believe defense counsel was inquiring whether or not the affiants could be brought to Nuernberg for the purpose of being cross-examined by defense counsel.

PRESIDING JUDGE CARTER: Oh, I misunderstood him on that. Well, I suppose if you request it that, under the rule, they have to obtain them if they can for cross examination.

DR. FRITSCH: Yes. I would like to make this application, Your Honor. I therefore ask that in case the documents are admitted in evidence I be allowed to cross-examine those witnesses who made the declarations in the documents Norway 2, 11, and 12.

PRESIDING JUDGE CARTER: We will cross that bridge when we get to it. Let's get the preliminaries out of the way first.

MR. RAPP: May I inquire from defense counsel now what defense counsel intends to do in relation with this document?

DR. FRITSCH: I would ask that this witness be called into the witness stand so that I can cross-examine him.

PRESIDING JUDGE CARTER: You are now dealing with Exhibit 515-A and not the documents themselves. Do you care to examine Follestad as to his authority to make this deposition?

DR. FRITSCH: Yes.

PRESIDING JUDGE CARTER: All right, proceed to do so.

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(IVAR FOLLESTAD, a witness, took the stand and testified as follows.)

BY THE PRESIDENT:

Q. Does the witness speak English?

A. Yes, Your Honor, I do.

Q. I solemnly swear that the testimony I will give in the case on trial will be the truth, the whole truth, and nothing but the truth, so help me God.

(The witness repeated the oath.)

DIRECT EXAMINATION BY DR. FRITSCH:

Q. Witness, please give your full name.

A. My name is Follestad.

Q. Witness, where were you born?

A. I was born in Bergen in Norway.

Q. Where are you living at present?

A. I live in Bergen in Norway, but for the time being at the Grand Hotel in Nuernberg.

Q. What are you by profession, witness?

A. I am counsel at the Supreme Court of Norway.

Q. And what is your education?

JUDGE BURKE: Just a moment, Dr. Fritsch. Do you seriously question the authority of this witness to make the type of certificate which he has assumed to make here?

DR. FRITSCH: First of all I must do that, Your Honor. Unfortunately, I must do this, Your Honor, but I will be very brief.

PRESIDING JUDGE CARTER: Proceed.

BY DR. FRITSCH:

Q. Witness, I would like to ask you only to tell me whether you received the usual education for the profession of a lawyer.

A. Yes.

Q. How far did you know about the events which were connected with the evacuation in Norway?

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A. I only learned of them after the war, on investigation.

Q. Witness, did you conduct these interrogations by order of the Norwegian Government?

A. Yes, I did. On the authority of the Attorney General and the Norwegian Department of Justice.

Q. Witness, on whose order are you here?

A. I am here on account of the authorities just mentioned, the Attorney General of Norway and the Justice Department of Norway.

Q. In which office here did you submit your legitimations?

A. The Attorney General had taken up contact with General Taylor and General Taylor has got the appointment from the Norwegian Attorney General.

Q. Witness, the document marked for identification, 515-A, is known to you?

A. Yes, I know the documents because, as stated, I brought them here myself.

Q. Were you yourself present, witness, when the witnesses mentioned in these documents Norway 2 and so forth were sworn in?

A. No, I was not present. I was not present when the witness mentioned in Norway No. 2 was examined under oath, but I personally was present when the three latter witnesses mentioned in 11 and 12 were sworn under oath. Anyhow, I can certify that it was done also with the witness named in Norway 2 because their protocol from the court testifying just reached me yesterday. I have it here.

Q. Then this declaration of the 24th of August 1945 was not given by you from your own knowledge but by reason of documents which you have just received?

A. No, that is a mistake on part of counsel. I just stated that I was personally present when the witnesses mentioned in Norway 11 and Norway 12 were sworn under oath in the Norwegian court. I was not present myself when the witness in Norway was sworn, but as I just told you, I have the protocol here with the following letter from the Attorney General himself.

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Q. And what can be seen from that?

A. What I stated, that this witness was examined in court, counsel being appointed by the judge for the defendant Rendulic, and that he made the same statement word for word as appears in the Document Norway 2. Afterwards, defendant's counsel or judge made a few questions and they were answered, supplementary.

Q Witness, in Document 515-A, it states that the witness in Document Norway 2 on the 12th of August 1947, before the Judge of the Criminal Appeal Court of Varanger, appeared and that on this day he swore under oath that the contents of the declaration was true.

A Yes, that is right.

Q This affidavit was only made on the 12th of August 1947, then?

A The witness first made a statement to the police and afterwards this statement was sworn to in court in the presence of a Norwegian Criminal Judge and in the presence also of counsel appointed for the defendant Rendulic.

Q And Norway No. 11 and 12 were also only prepared in 1947, on the 18th of July and 27th of February? And the 3rd of July and sworn to?

A The dates just mentioned are the dates when the letters were written. On the 27th of September, the first one; on the 18th of June the second one; and on the 3rd of July the last one. They were sworn to, all of them, in the same meeting in the Criminal Inquiry Court of Oslo on the 3rd of July, 1947.

DR. FRITSCH: I have no further questions to the witness.

MR. RAPP: Your Honor, we have no questions.

PRESIDING JUDGE CARTER: The witness will be excused.

Exhibit 515-A will be admitted in evidence subject to the usual limitations that we place on evidence of this kind.

MR. RAPP: If your Honors will now please turn to page 4 of Document Book 23 and page 5 in the German Document book, your Honors, this is a deposition by Egil Sorensen to the Norwegian Police of Vadsoe describing the destruction and killing of Sorensen's wife by members of the German Wehrmacht.

DR. FRITSCH: Your Honor, I would ask the prosecution to tell me against whom this document is directed. I have pointed out already that the navy which is charged here and who is supposed to have committed some act -- was not subordinate to the defendant Rendulic.

MR. RAPP: Your Honors, as to the argumentation of defense counsel, we will show later on and tie this document up that the defendant Rendulic as a matter of fact at that time commanded all German units within the German Wehrmacht in Norway in his capacity as armed forces commander Norway and commanding General 20th Mountain Army.

PRESIDING JUDGE CARTER: I am wondering whether this deposition is within scope of the indictment against the defendant Rendulic with regard to his conduct in Norway.

MR. RAPP: That is correct, your Honor; the area involved is in Finnmark, the Lakesfjord, and is part of the evacuation conducted by the 20th Mountain Army at that time.

PRESIDING JUDGE CARTER: The point I make is, he is not charged with any responsibility for killing anybody in Norway under the indictment, isn't that correct?

MR. RAPP: Your Honors, I believe the indictment states that in connection with the evacuation, several hundred people suffered death. At least 61,000 people were evacuated, or 31,000 people forcefully and, in connection with this, hardship and death was brought on the Norwegian population.

PRESIDING JUDGE CARTER: It is the opinion of the Tribunal that the probative value is rather questionable, but rather than try to determine that now, we will permit it to go in and deal with it at the proper time.

MR. RAPP: Very well, your Honor. May I call your Honor's attention to the fact that this particular document is only submitted here as an excerpt, but we have furnished -- and the original document is in Norwegian and we have only translated into German and English up to yesterday -- that part which we are submitting into evidence but I have meanwhile furnished defense counsel the complete translation of this Norwegian document for his use.

PRESIDING JUDGE CARTER: I think under those circumstances you can read what parts you want to as long as you provide the balance to the defense.

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MR. RAPP: Very well, your Honor.

"Report to: Police Chief Vadsoe submitted by Police Officer L. Naess.

"Subject:

"Compulsory evacuation and arson in Veidnedklubben and the killing of Frau Wilhelmine Soerensen.

"Interrogated on 2 July 1946 in Veidnedklubben: The witness Wilhelmine Soerensen. He is familiar with the incident and understand his responsibility as a witness. He is ready to make a statement and declares:

"On 16 December 1944 the witness was on the trip by motorboat to Ifjord. At that time most of the residences in Veidnes had been burned by the Germans but the entire population had fled to the mountains and was living in adobe huts. No Germans were left in any camps in Lakesfjord which made the population feel secure from the Germans. Arriving at Ifjord the witness and the other people in the motorboat suddenly became aware of a warship lying in the Trollbukt near the shore. Dawn had just broken and the moment the people in the motorboat saw the warship, automatic weapons from there shot in front and behind the motorboat so that there was no possibility for flight.

"When the Commander of the warship heard that the families of the people had remained in Veidnes the destroyer went to Veidnes.

"There the German lieutenant with 14 soldiers went ashore with a Norwegian (Martin Mikelsen) who had orders to show the way to the families.

"The witness and the other people on the motorboat remained aboard and were locked into the boxes where the ropes are kept. There they remained locked up until 2100 hours when the Captain arrived and issued an order to some others to go ashore.

"The witness and two other people remained aboard in the box where the ropes are kept all night. The next day at 12:00 o'clock the witness was permitted to come out of the box and to move around the deck freely.

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About half an hour later the Norwegian Julius Mattisen came aboard. The witness inquired of him concerning the witness' wife and for the first time he heard that she had been shot to death by the Germans up in the mountains the afternoon or evening before. The witness then tried to talk to the Captain. However, the latter had gone ashore. At 2:00 o'clock the same afternoon the Commander came aboard and the witness could talk to him. The Captain related that the wife of the witness had been killed unintentionally. Civilians some of them armed had fled at the arrival of the Germans. The Kommando had opened fire from the ship and thus the wife of the witness had been hit. The Captain further related that the wife of the witness had been buried in a lake in the country. The witness then wanted to go in order to get the body he was not permitted to do so and now the Captain said she had been buried in the ocean."

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The name of the wife of the witness was Wilhelmine, nee Eriksen. Her body has not been found.

.....

After the Germans had burned down all the remaining houses in Veidnes the destroyer left for Hommingsvaag in the evening of 17 December.

.....

Adult males above 50 years of age were sent as prisoners to the prison camp of Kroekeberg. Later they were interrogated by uniformed Germans. Having been detained from 11 to 12 days all prisoners from Veidnes were released from the camp together with some other prisoners.

Read to and agreed to: signed Egil Soerensen.

.....

This particular document, Your Honor, I have just read will be marked Prosecution Exhibit 512. I forgot to mention that to the Tribunal.

Then next, Your Honor, turn to page 61, if you please, Norway XI. It was marked for identification 520-A, and is being offered as Prosecution Exhibit 520. It is on page 61 and page 56 of the German defense counsel document book. On pages 56 and 57 of the German defense counsel document book.

This, your Honor, is a medical report by Dr. Karl Evang of the Norwegian Ministry of Social welfare, and was requested by Lt. Colonel Ivar Follestad, Norwegian Attorney General's Office. It describes the destruction of Norwegian Medical Installations during retreat. There is also attached to this particular instrument a copy of a broadcast of BBC. This particular document I am referring to now we are not pressing for evidence at all. In other words, we are merely offering the medical report of Dr, Karl Evang. This is a letter dated June 1 , 1947 addressed to Col. Follestad, and it states: -

DR. FRITSCH: I am sorry, I just want to see whether I have this letter.

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DR. RAPP: Your Honor, defense counsel was objecting to the fact that I was reading that part of the letter which dealt with a BBC broadcast, and I have just mentioned the fact we are not offering this, but the last part of this particular letter, Your Honor, ties up the following page of the document. So in order not to create any further confusion I will read now only the last paragraph of this letter, I have already identified the date of the letter and to whom it is addressed.

.....The details we have been able to gather are based therefore on accounts from individuals or from individual officials. The material is of very little use for statistical purposes. I can however, give the following information on the medical institutions that were destroyed by the Germans in North Troms and Finnmark:

.....

Then if Your Honor will turn to page 62, page 58 of the German Defense Counsel Book, the information is furnished as follows:

.....North Troms:

Skjervoe nursing, home, Destroyed during the evacuation 12 beds.

Halselv tuberculosis home. Used by the German air-force and afterwards destroyed - 14 beds.

Lyngen tuberculosis home. Badly damaged during the evacuation 18 beds.

Finnmark:

The following institutions were razed to the ground:

Hospital at Rirkenes 23 beds, nursing home 4 beds.

.....

I hope your Honor will permit me to dispense with some of the Norwegian names. I am just trying to identify the lines some way.

..... Vadsoe 45 beds, and another hospital at Vadsoe 30 beds. Vadsoe hospital 54 beds, and another at Vadsoe 13 beds.

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.....Nursing home, Tana 22 beds Gamvik Red Cross nursing home 7 " Mehamn nursing home 12 " Red Cross hospital, Kjoellefjord 8 " " " " Berlevag.

..... 18 " Kjelvik Tuberculosis home.

Hon, vag 38 " Red Cross Hospital.

..... 18 " Hanmerfest hospital, Hanmerfest 94 " St. Vincent Hospital, Hammerfest 20 " Hammerfest Mental Home 100 " Home, Alta 4 " Karasjok tuberculosis home 20 " Another one 7 " Tuberculosis home with annex for children 83 " And at the end, With regard to the medical institutions in Finnmark, these were all totally destroyed when the Germans withdrew with one exception - Viz.

- a small tuberculosis home in Nesseby, Varangerfjorden. With the exception of the Vadsoe, so and so in hospital in Vadsoe, there was total destruction of all hospitals.

There are a number of examples that the evacuation was carried out with great brutality and several tragedies were enacted. These were partly due to sick and old being taken from their beds and with a minimum amount of clothing, being forced to board small vessels which were used during the evacuation. Several desperate situations also occurred amongst those who fled from the evacuation and hid in the mountains. Many of these had no opportunity to take sufficient clothing with them. Some were expectant mothers and there were even cases of births taking place in Finnmarksvidda under the most primitive conditions, in bitter cold, without clothing and with very little food.

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This seems to be the only place in which a complete scorched earth policy was carried out under arctic conditions and in winter time.

(Signature) Karl Evang.

The next document, Your Honor, is page 71, page 68 of the German Document Book. It has been marked for identification as Exhibit 521-A, and it is being offered now and submitted as Prosecution Exhibit 521. This is a letter from the statistical Office of Finnmark, addressed to the Supreme Court Attorney Ivar Follstad, Victoria Terrasse 7, in Oslo, dated February 25, 1947, and his subject: "War damages in the Finnmark and North Troms. It states as follows:

.....In answer to your letter of 18 inst. the Town Council begs to state as follows:

In connection with the claims of reparation by Norway on Germany the Town Council has collected information on the war damages. Those informations are, however, not complete concerning the distribution of the damages on the different districts, but on the basis of the material produced, the Town Council has been able to put up the following survey on the damages especially as regard Finnmark and North-Trome. The informations are partly based on approximate calculations and do not pretend to be complete.

.....

DR. FRITSCH: I object to the submission of this document as evidence. This is information which cannot be checked at all. It is impossible for the defense to bring the Town Council from Oslo here and cross-examine them. The Statements are not identified. It is merely an indictment, and therefore I would like that the objection be sustained.

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JUDGE CARTER: It will be admitted for whatever the Tribunal may find it to be worth.

..... Regarding the most important items special information on the damages during the evacuation in the winter 1944/45 has not been obtained. Most of the damages are included in the war damage insurance for buildings and movables amounting to about 270 million Norway Krons, for all the years of war. By contacting the War Damage Insurance you will probably get special informations about the damages due to the evacuation. The informations on the damages on public harbour works as well as on the fishing fleet are complete, and the Town Council has no special information about the part falling within the time of evacuation.

Roads and bridges.

The road director has estimated the German destructions of roads and bridges in the Finnmark during the evacuation in the autumn 1944 to approximately altogether 24.7 million Norw. Kr. of this about 11 million Norw.Kr. for roads and 13.7 " " " " bridges.

Other war damages on roads and bridges in the Finnmark have not been taken up especially.

Telegraph and telephone.

The telegraph director has estimated the damage on stations (inclusive radio stations) and on telegraph and telephone wires during the German evacuation of the Finnmark and North-Troms in the Autumm 1944 to about 15.6 million Norw.Kr.

.....

JUDGE CARTER: It appears the time for adjournment has arrived. We will adjourn until 9:30 tomorrow morning.

(Thereupon at 4:30 p.m. an adjournment was taken) Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 27 August 1947 0930-1630, Justice Wennerstrum, presiding.

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THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

THE PRESIDENT: The Marshal will ascertain if all defendants are in the court room.

THE MARSHAL: May it please your Honor all defendants are present in the court room except Weichs who is absent due to high blood pressure.

THE PRESIDENT: If a certificate has been issued by the prison doctor you may hand it to the Secretary-General. You may proceed Mr. Rapp.

MR. RAPP: Your Honors please turn to Document Book XXIII, page 73, page 69 of the German Document Book. We have reached the part of this page, "Telegraph and Telephones" in the middle of the page and we now come to:

"Harbors and Harbor works.

The port director has estimated the war damages on official bridges in the FINNMARK and NORTH-TROMS DISTRICTS during the German evacuation in the autumn 1944 to approximately2.2. million Norw. kr.

"In addition to this there are considerable damages on private bridges and quais. The amounts for these damages are included in the figures mentioned below by the War Damage Insurance for buildings (risks on industry and civil risk).

"The Agriculture.

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"The War Damage Insurance for buildings has estimated the war damages on houses and buildings in agriculture in the FINNMARK and NORTH-TROMS districts to about12 mill. kr.

"The War Damage Insurance for movables has estimated the war damages on machines and farming outfits domestic animals, crop and furniture to about6 million kr." That is on page 74, your Honor.

"These figures are purely agriculture risks. All damages on the property belonging to the fishing population have been entered under civil risk below.

"The damages to the forests of the Finnmark and the NorthTroms districts during the war inclusive the devastation made by the Germans during the evacuation in the autumn 1944 and inclusive future losses due to exploitation of the forests, have been estimated by the Town Council to approximate

25 mill. kr.

The Industry.

The war damages on industrial buildings in the FINNMARK and NORTH-TROMS districts have been estimated by the War Damage Insurance to about38 mill. kr.

"The War damages on industrial movables in the FINNMARK AND NORTH-TROMS districts have been estimated by the War Damage Insurance for movables to about5 mill. k4.

Houses and buildings, Movables, Civil Risks.

"The War Damage Insurance for buildings has estimated the war damages on buildings in the FINNMARK AND NORTH-TROMS (exclusive buildings has estimated the agriculture and industry and those belonging to the state) to about 114 mill. kr.

The War Damage Insurance for movables has estimated the war damages on general movables in the FINNMARK and NORTH-TROMS districts (farming and industrial movables excluded) to about.

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....94 mill. kr.

Stocks.

"The War Damage Insurance for stocks estimated in September 1945 the evacuation damages in the FINNMARK in the autumn 1944 to about18.4 mill kr.

The actual amounts are now considered 2 - 3 million Norw. kr. too high, but if all war damages on stock in the FINNMARK for April 1940- May 1945 are taken into consideration, the amount can be accounted for. The war damages outside the evacuation damages only amounted to about 2 - 3 mill kr.

Goods on board ships.

"The State Goods War Insurance estimates the war damages on goods on board ships in the FINNMARK during the evacuation in the autumn 1944 to about1.2 mill. kr.

"Various war damages covered by private insurance companies are not to be obtained in detail on FINNMARK. The amount of these damages is, however, not estimated to be very high, considering the total amount of damages claimed by all insurance companies together for reparation war damages to be about 16 million Norw. kr. for the whole of the country and for all the years of war.

Ships, freighters, larger and smaller fishing boats as well as all sorts of small vessels.

"All smaller vessels at a value under 250 kr. were included in the War Damage Insurance as movables and amounts for wreckages and war damages on such boats in the FINNMARK ARE INCLUDED IN the amount of 94 million kr. under the item for movables above.

"By the State War Damage Insurance the amount of 1.9 million Norw. kr. was mentioned as the sum that this institution has paid especially for war wrecked boats, but also for partial war damages during the war on boats having their basis in the FINNMARK and NORTH-TROMS districts.

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"The re-insurance institute for the fishing fleet, BERGEN states that the amount of reparation costs paid by it for totally war-wrecked fishing boats , etc. and for partial war damages on such boats having their basis in the FINNMARK and NORTH-TROMS districts for all the years of war amounted to a total of approximately 2 million Norw. Kr. Perhaps the re-insurance institution is now able to give more exact information and especially also for the damages during the evacuation.

"In addition to the two amounts mentioned here of about 1.9 million Norw. kr. and about 2 million Norw. kr. are amounts paid by the private insurance companies for their insurance responsibility on war damages on fishing boats and other boats. As mentioned above no information has been obtained about this last amount.

"When these above mentioned amounts are added, the lump sum is about 360 million Norw. kr. for the war damages mentioned under the individual items. It is to be mentioned that these damages cover direct war or direct destruction through war actions. Damages brought about in connection with requisitions of houses and grounds as well as materials with special reference to the exceptional wear and tear following the German use for houses and buildings, roads and bridges etc. and material requisitioned is not included in this amount.

"The amounts mentioned in most of the above are based on the information presented to the Town Council during the war and immediately after this and they are calculated according to the prices before 9 April, 1940.

At present further additional amounts might have arisen by which the final figures would have been still higher.

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"As a comparison it can be mentioned, that the informations received by the Town Council up till November 1945 represent the war damages for the whole country including the total losses of ships preliminarily calculated to more than 3 billion Norwegian kroner.

Rubber Stamp: OSLO TOWN COURT Signature: A. Skien."

For your Honors' information and merely as a gratuitous comment, the Kroner is now about five Kroner to the dollar, at present.

On Page 80, this particular document continues and there we have a letter dated 3 July 1947, signature: A. Roll-Mathiessen, Presented In Oslo Town Court. 3 July 1947:

"Central Bureau of Statistics the Director OSLO, 26 June 1947 NORWAY Dronningens Gate 16
Telegram Address:

STATISTIKK Telegrams:

STATISTIKK Your Ref.

AS/NH File No. 849/47 Supreme Court Attorney Mr. IVOR FOLIESTAD Strandgaten 19
BERGEN.

Criminal case against General RENDULIC -- concerning the ravages in the FINNMARK 1944/45.

We are in receipt of your query of 20 ult, regarding information on the value of the real estate in the FINNMARK and NORTH-TROMS before 9 April 1940. For this reason, the town council has had a conference with the authorities who supplied the information about the ravages before, and who have

made a number of calculations of the total values before April 1940 for the different groups of property in the FINMARK and NORTH-TROMS.

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The calculations are as exact as they possibly could be at the present time, and the evaluation of laud and ground has been kept apart as you mentioned in your letter.

Subsequently the evaluation of property together with the estimation of damages have been put up and a percentage of damage within the various groups. The amount of damages according to the letter from the town council of 25 February this year, has in some cases been corrected according to more recent and complete informations.

Buildings, furniture and movables etc.

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As mentioned in letter of 25 February most of the damages in the FINMARK and the NORTH-TROMS districts are under the war damage insurance for buildings and movables amounting to about 270 million Norw.cr. This preliminary figure has now been corrected by the company to about 290 million Norw.cr. The total capital on buildings-furniture and movables in these provinces in April 1940 can be stated to approximately 350 million Norw.cr. This amount comprises all houses, buildings, fire insured and not fire insured (inclusive municipal buildings but excluding the buildings of the State, which have been entered under various items below. Furthermore, it comprises all furniture and movables, machines (immovable and movable), tools and implements, crops and professional movables for agriculture (inclusive domestic animals), private bridges and quais, all small boats with a value below 250 Norw. cr. etc. The percentage of damage for the group makes about 83% Roads and bridges.

The total value on April 1940 of all roads and bridges which are part of the constructions of the road service as well as workshops, tools and stocks has been calculated by the Road Board to about 80 million Norw.cr. The damages of roads and bridges during the evacuation in the autumn 1944 which was formerly calculated to about 24.7 million Norw.cr. has now been supplemented by 5-10 million Norw.cr. for workshops, outfits and stocks (which had been extended considerably during the war and which was almost completely damaged) to a total amount of about 33 million Norw.cr. or approximately 40% of the total value. For the bridges damage was complete.

Telegraph and telephone.

The damage on stations (inclusive radio stations and air bases) and telegraph and telephone wires during the evacuation was formerly estimated to about 15.6 million Norw.cr. This preliminary amount has been corrected to about 20 million Norw.cr. The damage is reckoned to be total.

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Harbours and Harbour works.

The part director has formerly estimated the war damage on public buildings (bridges belonging to the State, the port service and the local port services) in the FINMARK and NORTH-TROMS during the evacuation to approximately 2.2 millionen Norw. cr. as a supplement was made for buildings and storehouses etc. belonging to the port service, which was not included before. The damage is considered to be total.

Ships, freighters smaller and larger fishing boats.

The town council has calculated the boat property in the FINMARK and NORTH-TROMS in April 1940 to approximately 16.5 million Norw.cr. (about 15 million Norw.cr. for some larger boats originating from HAMMERTEST, VARDØ and VADSO.)

The total amount of damage for war wrecked and war damaged fishing boats in the FINMARK and NORTH-TROMS *****ing the whole of the war has been estimated by the war insurance company for the fishing fleet to 2.9 million Norw.cr. If the value of the larger boats which practically all have been wrecked, is added to this amount the total damage for this group is approximately 4.5 million Norw.cr. or 27% of the total amount of 16.5 million Norw./cr. In the letter of the town council dated 25 February of this year, the damages on this item are provisionally calculated to about 4 million Norw.cr.

Stores of goods and goods on board ships.

The town council has formerly given the damages under those items to about 19.5 million Norw.cr. The damage was total.

Various war damages covered by private insurance companies.

These are not able-as mentioned before-to give any information for the FINMARK and NORTH-TROMS provinces alone. However, the amount for such damages will certainly not be very large, as mentioned before.

The forests.

The damages on the forests of the FINMARK and NORTH-TROMS during the war, including the devastation made by the Germans during the evacuation in the autumn 1944 and inclusive future losses due to the exploiting of the forests, was formerly given by the town council as approximately 25 million Norw.

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cr. The assets of the forests in April 1940 are calculated to about 40 million Norw. cr. which results in a percentage of damage of about 60%. The reason for the percentage of damages being so high is evidently, as mentioned before, the fact that in the estimate of the damages the future losses on account of exploitation of the forests is included.

In addition to the amounts mentioned above concerning the buildings of the State as well as material etc. there are some amounts relating to the power stations of the State, the State's schools, personages, post offices etc. inclusive furniture, material and outfits of transportation. The evaluation of these

buildings etc. on April 1940 is calculated to about 5 million Norw. kr. and the damages during the war and the evacuation to approximately 4.5 million Norw. kr.

If all the amounts referring to the individual items above, are added together, the total evaluation of the property of the FINMARK and NORTH-TROMS on april 1940 is about 530 million Norw.kr. (exclusively the value of lavd and ground) and a total damage of approximately 400 million Norw.kr.i.e. an average percentage of damages of about 75%.

signature: ARNE SKAUG signature:

A. SKOIEW Rubber stamp:

Oslo Town Court.

Dronningens Gate 16, telephone OSLO, 3 July, 1947 Telegramm Statistik Four reference Our reference HM/ SF DOCUMENT 4 Supreme Court attorney Mr. IVAR FOLLESTAD Strandgaten 19, B E R G E N.Criminal case against the General RENDULIC - concerning the ravages in the FINMARK and NORTH-TROMS 1944/45.

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According to letter from the Norw. Govt. statistical office of 25 February and 26 June this year, some of the items of war damages for the FINMARK and NORTH-TROMS districts are covering all damages during the war, and consequently also the damages before the evacuation 1944/45.

To-day the Town Council has, however, obtained the following additional information about the part of damages that is to be attributed to the time before the evacuation and during the evacuation Buildings, furniture and movables, etc.

In the letter by the Town Council of 26 June, the damages have been put down with a total amount of about 290 million Norwegian kr. Of this amount approximately 50 million Norw. kr. cover the time before the evacuation and 240 million Norw. kr. approximately the evacuation period. The percentage for damages on buildings, furniture and movables, etc. during the evacuation then amounts to 70%.

Ships, freighters, larger and smaller fishing boats.

The Town Council has no information at present about the part of the amount of damage of 4.5 million Norw.kr. falling within the time of war before the evacuation. Still the damages before the evacuation were of very little importance.

The forest.

The main part of the damages on the forests in the FINMARK and NORTH-THOMS districts, estimated to approximately 25 million kr. falls into the time of evacuation. The damages before the time of evacuation can only be estimated to 2-8 million Norw.Kr. Considering that the estimate of damages for the time of evacuation of approximately 23.5 million Norw.kr., the percentage obtained is about 56%.

Supplement to the buildings belonging to the State as well as material, etc.

The damages included in the amount of 4.5 million Norw. kr. are only concerning the time of evacuation.

According to the additional information given above the total estimation of the damages for the FINMARK and NORTH-TROMS for the time of evacuation is about 400 million Norw.

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kr. minus about 52.5 million norw.kr. 347.5 million Norw.kr. or an average percentage of about 66% of the total real capital on April 1940 of about 530 million Norw.kr.

signature A. SKIEN If your Honors now please turn to page 17 of the document book, page 19 of the German document book.

This document was offered for identification only as 516A. It is now being submitted as Prosecution Exhibit 516.

I would like to call to your Honors attention that we have only translated excerpts of this letter from the City Engineer of Hammer-fest, but we have furnished defense counsel with a complete translation of such letter.

The City Engineer of Hammerfest The devastation of Hammerfest after the compulsory evacuation of the population at the beginning of the month of November 1944.

On Sunday 29 October it was proclaimed that "the population of Finmark was to be compulsorily evacuated immediately". The first district of Hammerfest to be evacuated was Fuglenes-Storelven at the latest Monday, 30 October, 1200 hours.

On Monday 30 October I called on the then Island Commandant Major Gaedke—who simultaneously was Evacuation Commissar—in order to find out what was to happen to the public utilities i.e., fire department, water works, electricity works etc., I was together with the administrator of telegraphy who wished to receive similar information concerning telephone and telegraph. We were told that there was no further use for the fire department. However, the water and the electricity works were to continue until further orders. I asked whether I myself should remain in the city and was told that of course i did not have to evacuate.

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Then I stated the necessary number of employees I required i.e. three engineers, one guard for the dem of one electricity work and preferably three men for the water work, However, the families of these people had to be evacuated because women and children were not permitted to remain.

The fire department was given leave of absence. Some of them had left already—they had been evacuated to the country previously with their families—as had other inhabitants of the city.

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"After the evacuation of the population was finished on 3 November it became possible in the course of the following week to collect, pack up and to send away all essential remaining fire department and air

protection material with the help of the persons who had remained. This material was collected from different places. All of it was went away with two freighters which had stayed there with evacuees and loaded diverse goods.

.....

"On 15 November when the General Horwegian Telegraph service was supposed to be liquidated or terminated and the machines were to be dismantled I telegraphed as a matter of orderly procedure to the Norges Brandkasse (Norwegian Fire Insurance). I told them that the fire department had ceased to exist on 1 November and that according to rumors the city was to be destroyed entirely.....

"The devastation of the city The figures in parenthesis in the following refer to the enclosed map of Hammerfest 1:4000.

This map shows the different areas or buildings.

"As early as on the 5 and 6 November 3 farms in Fuglenesdalen and all smaller buildings in the neighborhood of the city were burned down and at the same time also the houses in Soereyesund-the area along the Akkerfjordweg to Sjaaholmen. -The building containing the reduction valves of the water works seemingly was mistaken for an ordinary dwelling. It was burned down so that the valves were partly destroyed packing were standing open. After the inspection the Evacuation Commissar was informed that the mains of the water works would freeze if a heavy frost should occur which would put the works out of commission.

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.....

"(2) On 22 November the first part of the city, the western part (Hauen)-about 50 plots- were burned down. One or two buildings were blasted in order to prevent the fire from spreading to other buildings. At the corner of the cemetery in the street toward the Krutthusstrasse a few small bombs and sure burning wood had been dropped. German soldiers were successful in removing all this with the exception of one bomb which exploded and blasted a piece of the cemetery wall. The burning down had started in the morning. About 9:00 o'clock I arrived at a place where the German soldiers brought out hose from a fire station to extinguish the fires. They wanted to prevent the fire from spreading across the street toward the elementary school. However, the keys for the hydrants, the connection for the hose etcetera were missing. I then had to help to organize the extinguishing and were now able to keep the fire from spreading.

"During the following days all foundations of the burned down places were blasted. There were still 10 buildings standing unharmed, west across the Akkerfjerdweg.

They remained until the last.....

"(5) On 18 December the settlement on Hammeren near Fuglonesweg-(Mella) a total of 5 buildings was burned down. One house (Loekkes) down the road remained whole.

"(6) On the 24 December (Christmas Eve) the houses near the old shooting area near Storvannet, a single house in Breillia (Roy Pedersens) and a few little barracks, the building on Einan and the Ilslageret were burned down (for nothing).

"(6a) On 27 December the remaining houses in Breillia and the nursery, the Villa Nissons and the rest of the barracks around there were burned down. On the same day probably also the buildings below the power plant were burned down. On 28 December the large Naval barracks on Skansen Fuglenes were burned.

"On one of the first days of 1945 the buildings west of Stottabakken on Fuglenes (5-6 houses) were burned down. "(7) On 12 January 1945 The buildings east of Storelven were burned down i.e. the entire Molla and Mollaplataa including the buildings on the spur of Storelven from Storvannet. However, not the factory of Hauan with its storage plant where cement was kept.

"(8) On 13 January 1945 all of Fuglenes, so to speak was burned down excepting the steam operated factory of Fuddersen & Nissen and the landing stages there and the two western buildings up above including three houses in Fuglenesbugten. Still remaining are the buildings of the coal depot of Robertson and the hospitals with the apartments for the physicians and janitors.

"(9)

"(10) The following were burned on 20 January: the remaining parts of eastern city district between Storelven and Material- and Stenkuls Klemminningen building on Batteriebakken up to and including the corner building number 474 with the three houses in the back below the new sub-stations.

"(11) On the following days the main building of Robertson and the packing houses in Fuglenes and the landing stages and buildings were demolished. These belonged to the Finmark Canning Factory.

"(12) After the houses on the southwest side of Storvannet had been evacuated (the Prohibited area) which had been requisitioned by the Naval Commandant they were all burned down and a newly erected bunker building with tremendous iron concrete walls and iron concrete roof (broadcasting station etcetera) was blasted.

"In connection with the burning down of the city all poles of the electrical power lines were sawed down, the insulators were broken and the wires were rolled up and sent away. Transformers and the equipment of the transformer stations also were dismantled and sent away with German ships. As early as 19 November 1944 the dismantling of unit II of the power station was started after the old direct-current generator for 1890 had been taken away. Generator III with the switch table and switches and the regulator of the turbine later was sent away by a German ship. Further dismantling was unsuccessful.

"On 4 December the destruction of the high voltage power line Persa-Hammerfest was started. They left the poles a good meter above the surface. The insulators were broken and the copper wires were cut,

tolled up and taken away. Usually it was cut off at each pole so that the wire has only old metal value. I do not know what happened to the transformer poles later.

"On 6 February 1945 I received orders to leave the city, together with all Norwegians and the German units and the Russian prisoners.

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Only a small detachment of engineers (blasting detachment), consisting of about 20 men and one lieutenant, and the evacuation authorities and a Norwegian tugboat with two Norwegian engineers on board remained. I received information from them concerning the fate of the rest of the city which was confirmed by the Germans mentioned above whom I met in Tromsø.

"(13) When we were in Haaga, fire was discovered in the district of the elementary school. Its reflection was visible to the neighborhood of Loppa. All the remaining buildings in the center district of the city from Krutthusgaten to the steamer landing stage were burning all night, also all churches. A fresh southern wind prevailed. The German port captain related that 'unfortunately' fire had broken out in the Soldiers Home on Sadel Street (No. 353, together with No. 49, where the blasting detachment lived). It had been hoped that the church would remain but the tower started to burn and the church also was lost. On the following days the installation of the bunker depot was burned down and the crane tracks were blasted as well as the salt silo. But the demolitions did not work out as successfully as they were planned. The hospitals with the two apartments also were blasted and everything was levelled to the ground. The other buildings of Fuglenes and in the western part of the city and by the way some other houses - all of wood -- were burned down. The refrigeration plant and the administrative building of FFR - both of them of iron concrete - were blasted.

"The steamboat landing stage also was blasted but later the tug had great difficulty to break up the supporting pillars and here the blasting did not seem to have the intended effect either.

"The bridges across Storelven and Svartelven were blasted. The crews were prohibited from going ashore because mines had been laid.

I wish to add in this connection that two German members of the Organization Todt (engineer Beer and one soldier) lost their lives on 24 January in one of the many shelters of the civilian air raid protection (near Svartelven) where tread mines had been laid also.

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It seems that in the main street as well as in all side streets which were open for automobile traffic such mines were laid until the end.

"The power station with the remaining machines and transformers was blasted on 5 February at 10:00 o'clock after the plant had stopped functioning at 9:00 o'clock. It was alleged that afterwards the dam was blasted and the pipe lines probably were blasted in some spots. All transformer stations were blasted after the electrical apparatus and the transformers had been dismantled and removed. The high voltage

cables in the stations were cut above the floor but they are believed to have remained undamaged otherwise excepting near two blasted bridges.

"It is assumed that of the water work units the intermediate damand the installations of the reduction valves had been blasted - in any case bombs had been brought there. Also a nine inch main line in the tubular bridge across Storelven where depth bombs had been laid. It seems that the line to Fuglenes was destroyed by the blasting of the bridge across Svartelv and/or of the road near this bridge. The jetty on the city side and the jetties on Fuglenes are undamaged.

"As stated above, after each burning the foundations, the smoke stacks, etc. were systematically blasted and leveled to the ground. It seems that the part of the city which was burned down after the sixth represents an exception. There the blasting was started. It stopped when the Germans suddenly left the city on 10 February 1945. Some smoke stacks, etc. were left standing near the Oscars-Plass, elementary school. It is possible that the Zentralkommandoplatz (iron concrete on the first floor) also has been forgotten. It was covered by snow on 6 February. On 10 February 1945 only the chapel in the cemetery remained standing.

"Temporarily Oslo, 20 April 45, signed Kummeneje (City Engineer)."

The next page attached to it was:

"To the Population.

"It has been decreed that the compulsory evacuation of the population of Finmark will be carried out immediately.

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"In Hammerfest this compulsory evacuation is to be carried out in the following manner.

"The section Fuglenes--Storelven is to be evacuated by 12 noon Monday, 30 October. People who do not go without delay to the Evacuation Office in the City Hall, 2nd floor (tax office) in order to be assigned transportation will be picked up by the" -- there is an asterisk -- "Police and the Wehrmacht.

"The Evacuation Authorities.

"*) Changed later to 'den vepnede makt' (Armed Forces, Wehrmacht)"

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JUDGE BURKE: Mr. Rapp, without indicating that the document you have just read will have any evidentiary value or will be accepted as having any probative value, I am wondering about the ambiguity in the translation of the second paragraph you have just read.

MR. RAPP: Your Honor is referring to "In Hammerfest this compulsory evacuation is to be carried out in the following manner."

JUDGE BURKE: Yes. The apparent difference in being able to translate the language as to whether they were evacuated by the police or Wehrmacht, or by the Armed Forces, Wehrmacht.

MR. RAPP: Your Honor, I have been advised that the insert was put in there for the benefit of the Norwegian population to whom this particular proclamation was addressed, and it in both instances means the same. In other words, the word "den vepnede makt" is the translation into Norwegian of the German word "Wehrmacht", and that has been put in parenthesis. I believe that is what you are referring to in the above paragraph. If Your Honors permit me I would like to show you the original, how it actually looked and was corrected.

"The time for compulsory evacuation of the next part of the city will be published by proclamation. The Evacuation authorities.

") Changed later to "den vepnede makt" (Armed Forces, Wehrmacht."

If Your Honor will turn now, please, to page 26, page 28 of the German Document Book, Norwegian Doc. VI has been marked for identification as Exhibit 523-A.

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We are submitting it now as Prosecution Exhibit 523.

DR. FRITSCH: Your Honor, I would like to ask the Prosecution who Preuthun should be, whether the Prosecution asserts this is a subordinate of the defendant Rendulic?

MR. RAPP: Your Honor, the individual Preuthun was an evacuation commissioner appointed by the then Norwegian Minister President Quisling. The sole purpose of this document is to show that these facts as contained in the document and reported within their own, then Quisling, Government, did happen during the evacuation. Minister Whist is minister of the Government at that time, and Preuthun was evacuation commissioner of some liaison position to the 20th Mountain Army.

DR. FRITSCH: I protest against the introduction of this document as evidence, because I don't think that this evidence is relevant. It has nothing to do with the defendant Rendulic.

MR. RAPP: Your Honor, this is an allegation on the part of defense counsel which we cannot concede. I think it has very much to do with the defendant Rendulic, because it shows what actually happened during the evacuation, and it was found in the Quisling files of the Norwegian-German puppet government at that time, and we feel it has strong probative value, because it shows what occurred during the evacuation and the date is fixed at the time, so that the defendant Rendulic was in charge of the evacuation.

THE PRESIDENT: In the light of our previous rulings it will be admitted, however, the Tribunal by that admission is not indicating what, if any, probative value it will later give to this document.

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MR. RAPP: It is dated, Hammerfest, 3.11.44, 1655 hours.

To Minister W H I S T For information concerning situation stop SCHONER "Fortuna" 50 tons loaded from Lesbesby with 250 persons including Old Age Home and 10 persons confined to bed half frozen to death on deck stop Seventeen hours to here stop Transport must be continued in the same

manner stop The people received warning two hours before and were ordered not to take along food or bedding since according to original German plan the men were to walk from Bellefjord to Hamuerfest stop signed PREUTHUN

MR. RAPP: Now, Your Honor, the last document in this Document Book 25, you will find on page 33. It is page 36 of the German Document Book. This was marked for identification as Exhibit 518-A, and it is now submitted as Prosecution Exhibit 518. These are the charges of the Norwegian War Crimes Commission before the United Nations War Crimes Commission in London pertaining to the evacuation of the Province of Finmark, Norway.

DR. FRITSCH: Your Honor, I protest against the introduction of this document. This document has already been mentioned, and I reserved my protest, because this is, as I have already said, surely an indictment. The probative value, therefore, can only be as great as if the prosecutive authorities here made some kind of an assertion. Any kind of probative value cannot be gained from such an indictment.

MR. RAPP: The defense counsel told us the same story yesterday, and I understand the Tribunal told us at that time it will be admitted for what it is worth.

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DR. FRITSCH: Your Honor, a ruling was not made. Yesterday I merely protested against the form of this document, and I was told that a certification by Col. Follestad would be submitted, and therefore I reserved my further attitude.

MR. RAPP: Your Honor, I believe we mentioned yesterday this report was an official Norwegian Government report.

THE PRESIDENT: Mr. Rapp, did I understand your statement that this was an indictment, it was a part of same proceedings in England?

MR. RAPP: No, Your Honor, I mentioned that this is a report in the nature of an indictment, or rather in the nature of charges. That is the accepted way of the United War Crimes Commission. In other words, these Government reports can only be accepted by the United Nations in the form of these charged. They are not being submitted to the United Nations War Crimes Commission merely in presenting the evidence as it appears without the charges, and as such it was forwarded to us, and we picked it up as an official Government report made up in the form of charges.

THE PRESIDENT: The Tribunal is of the opinion it has no probative value as far as this defendant Rondulic is concerned, and the objection will be sustained and it will not be admitted in evidence.

MR. RAPP: Then your Honor we would like to have this document remain with the identification 518-A; is that acceptable to the Tribunal?

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THE PRESIDENT: It is allright with us.

MR. RAPP: Mr. Fenstermacher will continue with Document Book 24.

MR. FENSTERMACHER: May it please the Tribunal, before beginning with the presentation of the documents in Document Book 24, I would like to hand to Dr. Latenser a copy of a memo which I received yesterday from the Yugoslav delegation attached to the Office of Chief of Counsel for War Crimes. The memo is addressed to no fr m Lt. Col. Svonimir Ostric, Chief of the Yugoslav Delegation, It is dated Nurnberg, 26 August 1947.

"In connection with your inquiry this delegation is informed by the Yugoslav National War Crimes Commission in Belgrade, Yugoslavia, as follows:

1. "General Bader, Paul, is registered by the United Nations War Crimes Commission in London as a war criminal. He is not in Yugoslav custody, and the Yugoslav National War Crimes Commission does not know his present whereabouts.
2. "General Dandkelmann, Paul, was delivered to Yugoslavia by the British Occupation Authorities in Germany, and is now in Yug Slav custody in Belgrade, Yugoslavia.
3. "General Fohn, Gustav, and General Schmidt Ritzberg are registered by the United Nations War Crimes Commission in London, as war criminals. They are not in Yugoslav custody and the Yugoslav National War Crimes Commission dies not know their present whereabouts.
4. "Col. Zellmeyer, Joseph is at present in Yugoslav custody, in Belgrade Yugoslavia."

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"The memo is signed by Lt. Col. Svonimir Ostric, as chief of the Yugoslav Delegation attached to the office of Chief of Counsel for War Crimes. This, Your Honor please, I think, takes care of all inquiries which have been addressed to the Prosecution with respect to the whereabouts of some persons in the which the defense have shown some interest with the exception of one George Kiessel. The Yugoslav delegation is attempting to contact Belgrade with regard to the whereabouts of George Kiessel, and when we find out that information I think it will take care of all outstanding requests by the defense to the prosecution.

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PRESIDENT WENNERSTRUM: There were certain requests made yesterday were there not, as to certain Norwegian witnesses?

MR. RAPP: Your Honor, we have not received any such request.

PRESIDENT WENNERSTRUM: I mean in Court here.

MR. RAPP: In court they were made of a general nature, yes, your Honor.

DR. FRITSCH: Your Honor, during the submission of the documents I pointed out that I would reserve the right for these persons mentioned in the document to be called here for cross-examination.

Formal application I have not yet made. I will make it at a suitable time, with permission of the Tribunal.

PRESIDENT WENNERSTRUM: Whenever and if you desire to make the application you may do so in the proper manner.

DR. FRITSCH: Thank you, Sir.

DR. LATERNSEER: Your Honor, I would like to recall that further such applications are on hand. I remember with reference to a Greek witness, and a witness Lenz, the Tribunal at that time, when I protested against the submission of the affidavits ruled that they should be stricken from the record of the prosecution did not bring the witnesses in for cross-examination.

The same ruling was made in the Greek witness' case, and in the case of the witness Lenz, and I can definitely remember this.

MR. FENSTERMACHER: If your Honor, please I think the Greek witness to whom Dr. Laternser refers is Verikiari, who gave a report to the Greek government with respect to his experiences in a concentration camp in Athens. That report was submitted as part of the official documents of the Greek National War Crimes Commission, and I am not sure if I understood the Tribunal's ruling, at the time the report was admitted.

Did the Tribunal mean that we should bring the witness and produce him for cross-examination without an application in that respect by the defense, or since the report of Verikiari was part of the Greek War Crimes Commission's documents, was it accepted for whatever probative value it.

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any, it had?

PRESIDENT WENNERSTRUM: I think it might be well for the defense counsel, - the respective defense counsel, - that may be interested in each particular case, to make the application so that there will be a formal record. There has been from time to time a request for the production of these witnesses, and we have indicated that if the witnesses were not brought here for cross-examination, the Tribunal then would give consideration to a motion to strike the respective documents that might be affected.

We believe, however, that it would make a better record, if the respective counsel who are interested in each particular case will make an application, and then if they are not presented, later make a motion to strike the particular document affected.

DR. LATERNSEER: Your Honor I will observe these regulations.

MR. RAPP: With your Honors' permission, since we are talking for a minute about these prospective witnesses, I would like to call to your attention that it is in every and all instances, difficult for us to produce these witnesses, that is merely administratively difficult. We will get them if we possibly can, but I would like to have defense counsel cooperate with us in putting in those applications early, so that not a week before their case is finished, we are getting those applications, and then if we cannot produce them, that will be held in some way against us.

I think defense counsel should realize that there is a lot of red tape involved in getting these witnesses from foreign countries. I believe that is a reasonable request, and we are trying everything in the world we can to get those people, but we are often depending on foreign governments, and a lot of other agencies and defense counsel should realize that.

PRESIDENT: In connection with Mr. Rapp's statement, it should be kept in mind that presenting these documents, also presents the responsibility of bringing these witnesses here for cross-examination. That is one thing.

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MR. RAPP: That is correct, your Honor.

PRESIDENT WENNERSTRUM: Second, in connection with your statement as to the request for cooperation on the part of defense counsel, it seems to the Tribunal that at the close of the prosecution's case, the defense counsel will know what witnesses, if any, they wish to have brought here for cross-examination, and it will be the Tribunal's ruling, subject to later modification, if necessary, that any request for the production of witnesses should be made prior to the commencement of the defense' case, defense' testimony.

There will be a recess period. As to how long it will be we have not yet decided, but it will at least give you time to make your request.

MR. RAPP: Very well, your Honor.

PRESIDENT: Is there any objection to that on behalf of the defense counsel?

DR. LATERNSE: No.

PRESIDENT: Defense counsel have indicated that they have no objection; so let your conduct be accordingly.

MR. FENSTERMACHER: Now we begin the final two prosecution document books today. Document books 24 and 25. The documents contained in these two books are all new documents, but we received them from Washington too late to have them included in the earlier document books.

In a sense, the final two documents, -- the final two document books -- are a review of the proceedings up to date. These extra documents received from Washington too late; are again in chronological order, and present in microcosm, the prosecution documents heretofore introduced.

We will turn first to page 1 of the English document book, page 1 Of the German document book, Document [NOKW 1660](#), which is offered as Prosecution's exhibit 526 -

DR. LATERNSE: Your Honor, I object to the submission of this document [NOKW 1660](#), for the following reasons: This document contains excerpts from the daily reports of the Commander-in-Chief Southeast to the OKW or the OKH, excerpts from the same daily reports are already present in document book No. [NOKW 251](#), Exhibit No. 128.

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This exhibit is in German Document book 5, page 70.

I have compared this document with the one which has already been submitted and I have discovered that alone in this document, 37 cases are contained which repeat themselves, and were already submitted by the prosecution in Document 128.

I repeat, - 37 cases alone in this document. Since so-called cumulative evidence is not admissible, I request that this document be rejected or that the prosecution should not submit it in such a way that cumulative evidence, which is not admissible, is contained in it.

MR. FENSTERMACHER: Document Book 5 I do not have with me, your Honors, but I should like to ask Dr. Laternser whether Exhibit 128 was also daily reports of the Commander Southeast to OKW and OKH.

DR. LATERNSE: Your Honor, I am able to show that all those 37 cases are the same reports.

MR. FENSTERMACHER: If your Honor pleases, the prosecution has no desire to submit identical evidence. If we have already introduced this it is apparently an error. We received two different documents from Washington and I had them checked, and thought that they were entirely different, but we should like to withdraw it at this time until I have further opportunity to check it, and if we agree with Dr. Laternser, after investigation, we will be very glad to withdraw it entirely. We have no intention of delaying the proceedings by offering identical evidence on more than one occasion.

JUDGE BURKE: It is not entirely that it is your intention to do what has been indicated here, but it seems to indicate carelessness in the compilation of these documents that are being presented here at the expense of the Tribunal.

MR. FENSTERMACHER: That is exactly what I want to check your Honor. We have found that the next two documents, [NOKW 1661](#) and NOKW 1663 were already introduced in evidence, so we do not propose to offer these at this time.

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We turn instead to document [NOKW 1798](#) which is on page 76 of the English document book, and page 49 of the German document book We offer it as Prosecution' Exhibit 526. This is a report to the Commander in Serbia. The document is dated Belgrade, 11 September, 1941, and he receipt stamp . "The Military Commander in Serbia, Administrative Staff" appears on the left hand portion of the document.

Your Honors will recall that at this time, 11 September 1941, the Defendant Lit is Armed Forces Commander Southeast, and his chief-of-staff is the Defendant, Foertsch.

The subject of this report is, "Unrest in Serbia".

The report is, "For information to the Deputy of the Foreign Office in Belgrade."

"The third political reason supposedly is the fact that in course of unavoidable execution, which have to be carried out in reprisal for attacks etc, often innocent people and not the real perpetrators are hanged

or imprisoned. Of course in the case of martial law the fact cannot be avoided that an example must be set immediately. Therefore it will be the task of the Occupation Forces which are now present in greater strength, to protect the people in the country in such a manner that they will be able to collaborate."

"Without fearing the revenge of bands and Communists and also to denounce ringleaders and assassins.

A fourth political reason is that Serbian Chauvinist national honor was very deeply offended by the almost dishonorable defeat of the Serbian Army which was previously considered especially brave. This was especially disgraceful for the officers and men. Besides splendid German leadership and bravery of German troops, superiority of German dive-bombers etc. there was another factor which caused Serbian soldiers to lay down their arms often without a fight - namely a complete lack of understanding this war which has been provoked. Now honor-loving Serbs, especially the youth, are ashamed of this surrender and are skillfully incited by Communist propaganda to rehabilitation, that is to fight the Germans.

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As a last reason in this respect I consider the tens of thousands of idlers whom one can see at any hour of the day, unemployed in the restaurants and inns in Belgrade and the hundreds of thousands in the major cities in Serbia, who then become the prey of the politicians and finally of the Communists. In Belgrade the closing of secondary schools alone caused about 8000 students to be unemployed for the past months, who in accordance with Balkan customs read newspapers uninterruptedly and discuss politics. Why it is not possible to send from Serbia alone one hundred thousand workers of all types to our hardworking German homeland, where a very great shortage of all types of labor is embarrassingly noticeable, is beyond my knowledge as a layman."

"As well as many other observers fail to understand this highly regrettable phenomenon. Even intelligent Serbs who are concerned about their country regret the fact that those many thousands of unemployed have not long since been included in the labor program here or in the German Reich. Perhaps the new Nedić Government upon German instruction will also make a change in this matter.

.....

Thus numerous reasons have accumulated which have led to the deplorable present conditions. I take the liberty of stating my views with regard to remedies even at the risk of mentioning things which have been already initiated or planned and therefore known or out of date.

.....

The second point is a much more effective counter propaganda than has been the case heretofore. The Serbian peasant who is still illiterate does not neither read newspaper nor does he have a radio set, and announcements are perhaps twisted by Bolshevik leaders of bands to mean the opposite for him or are misrepresented.

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In this case only oral propaganda by deputies of the government sent to all villages speaking man to man among the people, will help to clarify the lies of the Community. And if it is feared, that these official

speakers will be rejected as unreliable because of being paid by the Germans then the Commanders of the small German units or of the reliable Serbian formations should immediately take tip this clarification work by the hundreds in order to combat, from the roots the missma and atrocity reports spread by the Bolschviks."

"A further means would be the reexamination of maximum prices to see whether they really are so unpossible that the peasant are loathe to delivering their goods to markets and instead permit them to disappear in the Black Market as we experienced in desperation in the first World War. In the future the peasants would have to be given the opportunity to harvest their plums to dry them for exportation, to make Slivovitz, to raise pigs as before etc.. The population here must again be taught to have confidence in the German administration as was the case just after the war.

We of the German Red Cross are dutifully making efforts to help and to give advice wherever we can and we have gained unquestionable success and the confidence of large circles of the population our being laymen-like friends of the Serbs who believe everything implicitly that is told without criticism. But I believe from my experiences and observations based on mature judgment of the country and its people that here too, as almost everywhere else, the peasant, in Serbia this pertains to more than three quarters of the populations, is basically sound and opposed to the criminal operations. This was shown by the enthusiastic welcome given to the first Serbian Security Detachment which arrived in the country recently.

If through the present report I have helped to reestablish orderly conditions, then my duty as a member of the Red Cross who should help to heal the wounds which our word had to make and my duty as a National Socialist, whereby I am bound by oath to cooperate for the sake of the Fuehrer and the Reich is fulfilled.

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I am sending a carbon copy of this letter for information to the Headquarters of the German Red Cross."

Signed, "The Commissioner of the German Red Cross in Serbia" BY MR. FENSTERMACHER: The next document, if Your Honors please, is Document [NOKW 1666](#). It has been already introduced in the evidence, and so we also pass that.

We turn instead to page 82 of the English, page 53 of the German document [NOKW 1664](#). It is offered as Prosecution's Exhibit 527.

DR. LATERNSE: Your Honors, I have just been informed by one of my colleagues that his exhibit, - this document [NOKW 1664](#), is identical with Exhibit No. 116, in Document Book 3, page 113 of the German. I have not checked this personally.

MR. FENSTERMACHER: In order that there be no confusion, Your Honors, I ask that we pass it until we can have it rechecked.

PRESIDENT: WENNERSTRUM: Will it hold this same number, or will you give it a new document number?

MR. FENSTERMACHER: I suggest that we pass it entirely, and give it no document number, or identification number at all, until we can finally check it.

The next documents, [NOKW 1663](#) and NOKW 1662, have been checked and found to have been already introduced in the evidence. I suggest that we turn now to page 97 of the English Document book, page 62 of the German document book, [NOKW 1712](#). This is offered as Prosecution's 527.

These various extracts are from the War Diary of the 342nd Infantry Division. The first is dated 10 January 1942. Your Honors will recall that at that time the Defendant Kuntze, was the Armed Forces Commander-in-Chief of the Southeast, simultaneously Commander-in-Chief of the 12th Army, and that his chief of staff was the Defendant Foortsch.

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"War Diary, 342 Infantry Division Operational Department" "0800 hours Division Battle HQ.

Valjevo Advance of parts of the 1st Battalion of the 202nd Regiment of Cetnicke loyal to the government into the area of Stave.

On this occasion 3 Community were shot to death, 8 captured, also sleighs with food supplies and papers."

BY MR. FENSTERMACHER:

The next entry in the War Diary, is 19 January, 1942, 0915 hours.

DR. SAUTER: Your Honors, I would like to point out that this document has also been submitted before. It is identical with the document in Document Book 9, Exhibit 228, pages 66-67. The prosecution missed this.

MR. FENSTERMACHER: Your Honors, I wonder if it would not save time if the defense counsel have any more objections to any of the documents in Document Book 24, and we can pass them until I can have them checked for a second time. They already have been checked once.

PRESIDENT WENNERSTRUM: May I suggest that you confer with defense counsel, if possible, during the recess period and endeavor to ascertain whether or not there are any duplications in these proposed offered documents so that we may proceed along without interruption after we return from recess. However, if through oversight, some document may be offered and it had not been caught prior to this time, why we do not want defense counsel to hesitate to call our attention to it. We will take our recess at this time.

(Recess taken until 1115 hours)

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THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: If your Honors please, during the recess Dr. Laternser and I checked the first document, [NOKW 1660](#), and we have agreed not to offer certain pages of that document, but to offer certain pages which were apparently not duplicated. If Your Honors will turn then beginning with page 13 of your Honors' document book, [NOKW 1660](#)...

THE PRESIDENT: That's exhibit No. 526?

MR. FENSTERMACHER: Prosecution offers this as Exhibit No. 327; your Honor, page 15 of the English, page 11 of the German document book. This is, as are the other pages which we shall offer as part of this exhibit, Daily reports from the Wehrmacht Commander Southeast to the OKW in Berlin. The first is the Daily Report for August 27 1941.

"25.8 in Ravna Reka (20 kilometers northeast Cuprija) 1 bandit shot to death and 7 captured by fighter detachment.

"26.8 in the same place 6 bandits shot to death, leader captured.

"26.8 between Losnica and Krupanj 2 armed bandits shot to death fighter detachment.

"26.8 during skirmish 10 kilometers north Vel. Kikinda (Banat) 2 Communists shot to death."

And the Daily Report is signed Wehrmacht Commander Southeast Ic, or Intelligence Officer. Next on page 23 of the English...

THE PRESIDENT: You're not offering any of the...

MR. FENSTERMACHER: We're not offering any of the pages except which I specifically refer to, your Honors. The next is page 23 of the English, page 18 of the German, the Daily Report to OKW from the Wehrmacht Commander Southeast: "12 September--Search for arms in area of Nigrita (Northeast Saloniki). No important results. 3 Greeks shot to death." Next on page 23 of the English, page 19 of the German document book, Daily Report of the Wehrmacht Commander Southeast to OKH for the 15th of September 1941: "15.9 in Belgrade leader of a special Communist Group captured, one Communist shot to death. 15.9 near Lokovik (North .of Vel.

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Plana) food train attacked and looted. 30 looters shot to death." Next on page 29 of the English and page 21 of the German document book, Daily Report of the Wehrmacht Commander Southeast for the 21st of September 1941. Your Honors will recall that at this time the Defendant list was Wehrmacht Commander Southeast and simultaneously Commander of the 12th Army, and that his Chief of Staff was the defendant Foertsch: "Serbia: Near Cacak in the Banat, 24 Communists hanged for attacks on railroad line." Next on page 30 of the English, page 22 of the German, Wehrmacht Commander Southeast's Daily Report for the 23rd of September 1941: "Serbia: In Gradiste/Danube, 23 insurgents shot to death." Turning to next page 31 of the English, page 22 of the German document book, Wehrmacht Commander Southeast's Daily Report for the 24th of September 1941, under the section of

the report dealing with activity in Serbia: "Sabac will be depopulated beginning 24 September." Next on page 32 of the English, page 23 of the German, Daily Report of Wehrmacht Commander Southeast for the 26th of September 1941: "Serbia: 49 insurgents shot to death near Valjevo by the 123th Infantry Regiment." Next on page 34 of the English, page 24 of the German, Daily Report for the 20th of September 1941, from the Wehrmacht Commander Southeast to OKW: "Serbia: 34 insurgents hanged in Cuprija. Greece: 29 September 22 Greeks killed during mopping-up operation in area Northeast Saloniki. Houses burned down." Next on page 35 of the English, page 25 of the German, Daily Report of the Wehrmacht Commander Southeast for the 3rd of October 1941: "Serbia: 12 Insurgents shot to death near Lajkovac by 123 Infantry Regiment. Home Guard Company in GRN. Milanovac - 10 dead, 60 missing. Own losses: 31 dead, 2 wounded, 10 missing; Enemy: 17 dead." Next on page 36 of the English, page 26 of the German, Daily Report of the Wehrmacht Commander Southeast for the 4th of October 1941: "Serbia: A total of 43 insurgents killed." And I call your Honors' attention to the description in this Daily Report of insurgents killed with the description in the previous report of insurgents shot to death. Next on page 37 of the English, page 26 of the German, Daily Report of the Wehrmacht Commander Southeast for the 7th of October 1941:

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"Serbia: Basaid (18 Kilometers north Petovgrad/Banat) 11 Communists hanged." Next on page 39 of the English, page 27 of the German, Daily Report to the Wehrmacht Commander Southeast for the 15th of October 1941: "Serbia: III Battalion/749th Infantry Regiment on the march from Kragujevac to G. Milanovac for execution of new reprisal measures." Turning next to page 41 of the English, page 29 of the German document book, Daily Report of the Wehrmacht Commander Southeast for the 18th of October 1941:

"Serbia: 717th Infantry Division: As reprisal measure for Kraljevo 736 men and 19 women were shot. Own losses 2 dead, one wounded.

"Greece: The villages of Ano-Kerzilion and Kato-Kerzilion on the Strimon River estuary burned down since they were proven to have been Nigrita band supports. All male inhabitants (202) shot to death. while houses were being burned down, ammunition including blasting ammunition exploded. When parachutists was shot to death, the Greek who had sheltered him was also shot to death and 1 house was burned down."

Turning next to page 49 of the English, page 33 of the German, Daily Report of the Wehrmacht Commander Southeast to OKW for the 5th of November 1941. Your Honors will recall from other documents already introduced by the Prosecution that the defendant Kuntze succeeded the Defendant List as Armed Forces Commander Southeast and Commander in Chief of the 12th Army on the 27th of October 1941, and that the defendant Foertsch continued as the Chief of Staff for the Defendant Kuntze. Daily Report of the 5th of November 1941: "Serbia: In Belgrado 169 hostages from intellectual circles arrested."

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Next daily report of the Wehrmacht Commander Southeast for the 9th of November, 1941. This is on page 50 of the English, page 34 of the German:

"Serbia: 714 Infantry Division: Near Majdanpel. (East, Southeast Pozarevac) 14 insurgents shot to death."

Turning next to page 51 of the English, page 34 of the German, Wehrmacht Commander Southeast, daily report for the 10th of November, 1941:

"Serbia: 342nd Division marching on the area around Valjevo, Divisional Staff Valjevo, 1 Battalion in Lesnica (15 Kilometers North of Lesnica). 130 hostages shot to death as reprisal measure."

Next on page 56 of the English, page 37 of the German, daily report of the Wehrmacht Commander Southeast for the 6th of December, 1941 : Serbia:

342 and 113th Infantry Division continue mopping up. enemy losses: 73 dead, 91 Mihailevic-Cetniks captured. 4 machine guns, 182 rifles, 1 ration depot captured 80 Communists shot to death.

In Belgrade 50 Communist and suspects arrested.

I direct your Honors' attention again to the different description. Under enemy losses, "73 dead" and two lines below "80 Communists shot to death."

Turning next to page 57 of the English, page 37 of the German, daily report of the Wehrmacht Commander Southeast for the 7th of December, 1941.

"In Belgrade 80 Communists and suspects arrested.

"Lt. General of Artillery Bader has taken over affairs of the Commanding General-Plenipotentiary in Serbia."

Your Honors will recall that from the middle of September, 1941 until the 7th of December, 1941, General Boehme was Plenipotentiary Commanding General in Serbia, subordinate to the Armed Forces Commander Southeast and Commander in Chief of the 12th Army who, from April until October, 1941, was the defendant List and from late October, 1941 until August 1942 was the defendant Kuntze, and that the defendant Focrtsch was Chief of Staff to both List and Kuntze.

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Turning next to page 59 of the English, page 39 of the German, daily report of the Wehrmacht Commander Southeast for the 10th of December, 1941, Serbia.

"During mopping up operation around Cacak, 49 Communists including 1 leader were shot to death, 187 arrested."

Next page, 60 of the English, page 39 of the German, daily report of the Wehrmacht Commander Southeast for the 23rd of October 1941--I believe that may be a typographical error, because it is signed Wehrmacht Commander Southeast, 12 Army, 11 December, 1941.

"Serbia: 113th Infantry Division: During mopping up operation 66 insurgents captured, 34 shot to death."

Turning finally to page 7 of the English, page 43 of the German document book, daily report of the Wehrmacht Commander Southeast for the 20th of October, 1941.

"Greece: 19 Oct. members of Navy fired on near Strymon Bridge, South west Seres. 2 soldiers dead, 1 wounded. In reprisal, 13 hangings."

We continue on page 102 of the English document book, page 66 of the German document book. This is NOwW-1671 which is offered as prosecution Exhibit 528. It is a letter from General Bader who at the time the letter was written was Plenipotentiary Commanding General in Serbia to General Kuntze, who at the time was Deputy Wehrmacht Commander Southeast. The letter is dated Belgrade, 19 January 1942.

Subject: Teletype Wehrmacht Commander Southeast Ia No 188/42 top secret of 16 January 42 To The Deputy Wehrmacht Commander Southeast General of Engineer Kuntze Saloniki.

To the inquiry of the Wehrmacht Commander Southeast I reply as follows. I warn expressly against the intended measures for the extension of the Bulgarian territory. The arrest of the government after its having resigned will not help, and only increase the animosity and unrest.

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I propose the following:

As the SS Division will probably not arrive in time, a weak German garrison must be taken into account. The responsibility for the maintenance peace and order must in the first place be transferred to the Serbian government the threat that the Bulgarians will continue to occupy the country if the unrest continues. Above all the Serbians should bleed and die for their country. We have to save every man!

Signed Bader General of the Artillery Turing next to page 103 of the English Document Book, page 67 of the German, document [NOKW-1669](#), which becomes prosecution Exhibit 529, these are an exchange of messages between the Armed Forces Commander Southeast who at the time was the defendant Kuntze, and the Plenipotentiary Commanding General in Serbia who at the time was General Bader.

The first message was transmitted on the 7th of February, 1942, -I beg our pardon, the first is from the Wehrmacht Commander Southeast to the defendant Kuntze, transmitted on the 7th of February, 1942, to the Plenipotentiary Commanding General in Serbia:

"The following teletype has been received from the Chief, OKW:

The reports from the Wehrmacht Commander Southeast on the situation in Serbia and the result of the punitive expedition do not yet justify hopes that uprisings on a major scale will not commence again in Spring. The bloody losses incurred by the Insurgents and the number of those liquidated are small. The number of prisoners is much too large. Individual prisoners were even able to escape from captivity.

according to a report by a confidential agent, the people's attitude, originally depressed is supposedly giving way to increasing arrogance and Cetniks with the skull or the Yugoslav insignia on their fur caps are said to move about under the eyes of the Occupation Forces.

Numerous Serbian officers have fled and will organize the next uprisings. Others are said to move about openly in their former uniforms.

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The prevailing opinion supposedly has it that the Germans are unable to cope with the Insurgents, and that Hungarians or Bulgarians have to come. The veracity of this report cannot be established at this headquarters. Only one thing is certain, that so far it had not yet been possible to break the backbone of the Insurgents through Draconian measures and that military operations alone will also not be in a position to do so.

The most effective measure is to employ a widely spread spy system and brutal Police and Secret Police measures to recognize who formation of Insurgents right at the start of burn the out. These measures are to take place on the largest scale possible after the commitment of a Higher SS and Police Leader. I again must emphatically point out that the Wehrmacht Commander Southeast must manage in the coming year to with the Forces remaining with him, and that is his duty to employ those measures which will guarantee success.

Note Wehrmacht Commander Southeast:

The plenipotentiary Commander in Sweden is requested to present suitable proposals.

1. -Attitude about the Situation Reports

1.) All reports on the enemy available here, show that, under the influence of the fighting in the East and Anglo Russian propagando, an increased revival of the Insurgent movement within the area under the command of the Plenipotentiary Commanding General in Serbia had to be expected in the coming spring.

2) Between 1 September 1941 and 12 February 1942 the enemy suffered the following losses:

If your Honor please, during that period 1 September 1941 and 12 February 1942, the Wehrmacht Commander Southeast with the defendant List later the defendant Kuntze, Defendant Foertsch was Chief of Staff to - both of those men.

a.) Killed in action or shot: 7756 persons

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b.) Shot as preparatory measures subsequent to combat actions: 20149 persons.

3.) No prisoners were taken in the course of combat actions with the Insurgents. Who ever is found carrying or possessing a weapon or who ever is active in the serving the enemy is shot on the spot.

4.) Arrested suspects are subjected to the following procedure after investigating the question of guilt in accordance with martial law:

a.) Those found guilty are shot b.) All persons where the question of guilt cannot be clarified without doubt are transferred to a Prison Camp for the execution of reprisal measures.

c.) Those found to be innocent are released. To shoot all persons encountered in the combat area on principle, with the simultaneous burning of their homes without clarifying the question of guilt would result in the following:

a. A further decrease in food production for the troops and population, since the majority of the villages occupied by the bands are rural communities.³

h.) Further decrease in the number of employees in plant and armament factories.

c.) Further limitation of quarters for troops.

5.) Uniforms are worn in Serbia by:

The Serbian Auxiliary Police under the command of the Nedic Government, with its affiliated formations (Town police, Gendarmes, Auxiliary Gendarmes, Cetniks). These uniforms correspond to the former Yugoslav uniforms but because of lack of raw materials – have different types of changes. Uniforms worn otherwise would expose the wearers to arrest and shooting. It can therefore be regarded only as belonging to the Insurgents.

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"Inasmuch as officers on active duty, formerly with the Yugoslav Army, who are not in the service of the Nedic Government, were apprehended, they were transferred to German prisoner of war camps.

"7) Rumors about the division or the total occupation of the Serbian territory by Hungarians, Italians, or Bulgarians are repeatedly spread among the allied (Axis) nations and their newspapers. They do not help to quiet the country. So far arrogance or disregard towards the German Wehrmacht has not been shown. Moreover, it is confirmed that the Wehrmacht is respected everywhere. This also expressed by the fact that the insurgents presently try to evade any contact with German forces on the whole.

"II. Summing Up and Proposals.

"On view of the extraordinarily difficult terrain – at least half the country consists of wooded mountains 500 to 1800 meters high, more or less without roads – a complete suppression of the insurgent movement with the forces at present available seems impossible to accomplish. It must also be taken into consideration that at the present, for instance in the case of the 704th Division, 75 percent of the infantry is tied down by guard and security service at railways and industrial installations. An effective remedy can be brought about only in the following manner:

"a) through bringing in divisions which need to be re-fitted, or reserve troops, in order to station as many troops as possible in the country.

"b) by shifting the Serbo-Croatian frontier towards west as far as Bosnia, to give the Serbian state an indispensable basis for its economic and national development. At the present almost one-half of the Serbs (more than three million) live outside of the state frontiers. They are constantly being most heavily oppressed, especially in Eastern Bosnia, by the Ustascha units, and this disturbance, which expresses itself in a flow of thousands of refugees across the Drina frontier, by its very nature is transmitted to Serbian territory.

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"c) through stopping the supply of weapons from the south across the German-Italian line of demarcation, which frustrates all attempts by troops and government to seize illegally owned weapons.

"As long as the forces available are weak, troops not tied down by security duties have to put in constant appearance in the country, at one time here, at one time there, changing strength according to the situation, to carry out careful search for weapons and bandits. If the enemy is encountered, he is attacked.

"At the moment, action is being taken according to the above principles."

Signed Bader, General of the Artillery.

Turn next to page 111 in the English, page 74 in the German, Document [NOKW-1797](#), which is offered as Prosecution Exhibit 530. These are minutes of a staff meeting of Italian and German high commanders during the period 3 to 29 March 1942. At this time Your Honors will recall that the defendant Kuntze was Wehrmacht Commander Southeast and his Chief of Staff was the defendant Foertsch.

"Wehrmacht Commander Southeast, Headquarters 3 March 42.

"Subject: Conference with Italian Second Army.

"Enclosed please find the agreement made with the Second Italian Army concerning combat methods in Croatia.

"The OKW reserves approval.

"Signed for the Wehrmacht Commander Southeast (Twelfth Army), "The Chief of the General Staff."

Your Honors will note the receipt stamp of the Commanding General and Commander in Serbia in the middle of the first page of the document. The distribution list follows and then the minutes themselves:

"Minutes of the conference which took place in Abbazia on 3 March 1942 regarding the cooperation of the Italian, German, and Croatian forces for the final mopping up of the rebels in Croatia."

The participants in the conference are listed. Your Honors will note the General of Engineers Kuntze, Deputy Wehrmacht Commander South east as representative of the OKW, and General of Artillery Bader, Commanding General Plenipotentiary in Serbia, were among the participants.

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Also Brigadier General Glaise von Horstenau, the German general in Zagreb.

I think we need not read the entire minutes. They concern themselves with a good deal of tactical and purely military operational material. I call Your Honors' attention to paragraph 3 of the minutes, which is on page 113 of the English, page 76 of the German, the forces which were available for the operations, the command operations of the Italian and German units.

Next on page 114 of the English and page 77 of the German, the general plan of operations:

"General Plan of Operations:

"It was established that the fight against the insurgents in Croatia had to be carried out according to a unified point of view; i.e., a concentric operation will have to be carried out on the basis of an estimate of the significance of the individual zones of insurrection. East Bosnia was called the most important zone of insurrection. The forces available will be employed here first. Later operations will extend in a northwest direction. The Commander-in-Chief of the Second Army will lay down the plan of operation and will agree with General Bader on the method by which these operations will be carried out in Bosnia. General Bader - subordinate to the Commander-in-Chief of the Second Army - will direct the operations himself. To this end the German, Italian, and Croatian army units assigned to the operations are subordinate to him."

Next skipping to paragraph 8, "Occupation of the Areas and Police Services", which is on page 115 of the English and page 78 of the German:

"Occupation troops will be left in the territories cleaned up by the operations in order to secure quiet and police services. This police service will be carried out by occupation troops and the corresponding police organs and in addition by the Croatian Gendarmerie. It was suggested that General Laxa see to the reinforcement of this gendarmerie.

"It is agreed that the administration (civil power) in the occupied territories will be carried out in the beginning by the military authorities.

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After the pacification of the individual zones the Croatian civil authorities will be employed for administration pursuant to the decision of the Commander-in-Chief of the Second Italian Army."

Next follows the line of demarcation, which I think we need not read, but continuing with paragraph 10:

"Relation to Chetniks and to the Communists:

"It is agreed that no liaison of any sort will take place with the insurgents, neither with the Chetniks nor with the Communists.

"11) Treatment of the Rebels and of the Population:

"It is ordered that all rebels caught bearing weapons must be shot to death as well as any person in their employ or supporting them. Villages in which arms and ammunition are found or from which the rebels have been employed in any way whatsoever be burned down.

"During and after the operations the occupation units will treat the population with understanding and justly. Then the Croatian government will take measures to restore law and order. For this purpose it will immediately make the legal provisions necessary for the existence of the population."

Page 117 of the English and page 80 of the German, the minutes end. They are signed:

"Abbazia, the 3rd of March 1942, 1930 hours "By Vladimir Laxa, Major General, "By Kuntze and "By General D. Ambrosio."

Continuing on page 117 of the English, page 81 of the German, a communication from Combat Group Bader dated 29 March 1942. Your Honors will note the receipt stamp of the Commanding General in Command in Serbia for the 30th of March 1942.

"On 28 March P.M. continuation of the conference with practically the same participants as in the morning. General Roatta asks numerous questions and as a result he establishes essentially the following:

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"1. The Croatian administration actually carries out even toda sovereignty rights in the insurrection area.

"2. The territory between Save, Drina, and Bosna is declared operation area under the commanding officer of the German 718th Division. A representative of the Croatian government is with him who will transfer to Combat Group Bader with the transfer of command.

"3. The verbal note of the Croatian government according to which the taking over of the actual power by authorities other than the Croatian government signifies interference with the sovereignty of the Croatian state is based on mistaken assumptions. Not only according to German and Italian but also according to general international custom the commander of a unit exercises the executive power during an operation, in as far as the operation demands."

I think we need not spend too much time on the intervening pages of this report from Combat Group Bader. They are largely of a tactical and operational nature. I call Your Honors' attention to paragraph 14 of the communication which is on page 122 of the English and page 86 of the German:

"14. Attitude toward the Population:

"a. Insurgents encountered bearing arms or in combat.

"b. Insurgents whose participation in combat can be proven.

"c. Suspects.

"d. Unsuspected persons.

"The population under 'a' and 'b' is to be shot to death; under 'c' to be 'removed'; under 'd' to be released."

Then continuing on page 123 of the English, page 87 of the German, paragraph 19:

"19. At the conclusion, the Chetnik problem was again discussed and again very thoroughly. (As during the entire conference, each word was taken down by several stenographers.)

"General Roatta states:

"a. Communists are the enemy of all. Under no circumstances can negotiations be carried on with them.

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"b. Chetniks, it is true, are enemies of Croatia but they are not enemies of the Axis. It would be practical therefore to negotiate at first with Chetniks only, of course, with the consent of the Croatian government."

And at the bottom of the page: "The conference was concluded approximately 1130 hours. Distribution as Ia 101/42 Top Secret." Signed Bader, Lieutenant General of Artillery.

Next turn to page 126 of the English, page 88 of the German document book, Document [NOKW-1745](#), which becomes Prosecution Exhibit 531. This is an order of the Commanding General and Commander in Serbia, dated Headquarters 18 April 1943. The order is to the "Chief of the 6th Company of 4th Regiment Brandenburg":

"1) In modification of the order of the Commanding General and Commander in Serbia Ia, No. 1283/43 Secret of 14 April 43, the company is to be transferred to Trstenik on 20/21 April and to be subordinated to the I Royal Bulgarian Occupation Corps. Report of transport to be made by company.

"2) Task: Guarding of Goc area (bands Gordic and Keserovic) as well as the carrying out in cooperation with the SD of mopping up and punitive measures as proposed by the Serbian Minister of the Interior of the 16th of April; see enclosure. (Enclosure sent ahead to the Company Brandenburg) "3) In execution of paragraph one of the instructions, the commander of the security police shoots to death ten DM followers brought in from the district Trstenik during operation 'Heinrich'."4) The Commandant of the Administrative Sub-Area Headquarters 610 imposes a fine according to paragraph 2 of the proposal.

"5) Execution is to be reported. Publication and propagandists exploitation of the measures will be organized from here after conclusion."

Signed "Bader".

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We continue on page 128 of the English, page 89 of the German, Document [NOKW 1713](#), which is offered as Prosecution Exhibit 532.

"Combat Group Western Bosnia, dated Staff Headquarters, 14 July 1942. Receipt Stamp: Commanding General and Commander in Serbia, Operation Plan"

I think we need not read it. It is largely of a tactical nature. I call your Honors' attention to paragraph 6 of page 129 of the English, page 90 of the German Document Book:

"Behavior towards the Population.

"Partisans and persons who aid them are to be shot by the forces after interrogation. Important persons will be sent for detailed interrogation to higher headquarters.

"All men over 14 years old, except frail old men, of the ARE to be mopped up between Una and Sana, are to be arrested and taken to Collection Camps. Women and children are to be left in their villages or ordered to return there.

Signed Stahl," Who is Commander of Combat Group Western Bosnia.

We return next to page 131 in the English, page 91 in the German, Document [NOKW 1721](#), which is offered as Prosecution Exhibit 533. These are a series of reports and orders of the Commanding General and Commander in Serbia. First, is a report from the Commanding General and Commander in Serbia dated - Headquarters, 1 August 1942 to the Wehrmacht Commander Southeast.

Your Honors will recall at this time 1 August 1942 Commanding General and Commander in Serbia is General Bader, and his Chief of Staff is the defendant Gaitner and on 1 August 1942 the defendant Kunze is still Wehrmacht Commander Southeast and his Chief of Staff is the defendant Foertsch.

"TO Wehrmacht Commander Southeast Stamp:

SECRET 1. Enemy Situation.

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Losses up to date incurred during mopping up of the Una-Sana bend (final report not yet available):

Germans: 6 dead, 11 wounded Croatian:

11 dead, 24 wounded Enemy:

450 dead, 1946 prisoners (of this 269 were shot as convicted partisans) The German Battalions subordinated to the Railway Security Staff (for special service) BROD conducted successful mopping up operations on both sides of the railroad Zagreb-Belgrad.

Enemy sabotage is diminishing in the Fruska Gora. The enemy suffered losses, 90 convicted partisans were shot by the Croatian Police. North of the Line Nova Gradiska - Nevska the enemy was forced to move North by German operations. An additional battalion will arrive at Popovaca today."

Next is the distribution list and we might as well note on the distribution list Wehrmacht Commander Southeast and Higher SS and Police Commanders.

Continuing with the report of the Commanding General and Commander in Serbia:

"Own Losses during the period 16 - 25 July 1942:"

I call your Honors attention simply to total losses, under own losses: 85 dead, 55 wounded, 131 missing. Total under enemy losses, 1,600/dead, 49 wounded, 2,177 arrested.

Page 133 of the English, and page 92 of the German, there is another report of the Commanding General and Commander in Serbia. This one is dated Headquarters: 11 August 1942, to Wehrmacht Commander Southeast. The Wehrmacht Commander Southeast at this time, 11 August 1942, is General Loehr, whose Chief of Staff is the defendant Foertsch. The defendant Geitner continues to be Chief of Staff of the Commanding General and Commander in Serbia:

Page 2,801

"I. ENEMY SITUATION

c) Area Vrbas - Sana - Una:

In the Kozara area dispersed enemy forces of about 500 men have to be taken into consideration. Total enemy losses during the Kozara operation amount to about 4300 dead and 10,600 prisoners and people taken into temporary custody.

.....

The strength of the Serbian State Guard (Racial Germans and Hungarian origin) in the Banat amounts to 39 officers and 1063 E.M. During raids in the BANAT 60 Communists were arrested

VII. Administration No events occurred worth noticing.

In detention camps there are 102 hostages and 1481 retaliation prisoners.

Signed for the Commanding General and Commander in Serbia, Chief of Staff von Geitner."

Continuing with the bottom of page 134 of the English, and 93 of the German, I call your Donors' attention to the total losses under "Own Losses:" 96 dead, 159 wounded, 23 missing, as compared to enemy losses during the same period: 1,494 dead, 119 wounded, 1,946 prisoners.

We turn next to page 136 of the English, page 95 of the German ----

THE PRESIDENT: The Tribunal has some matters which will require some additional time during the noon hour and we will adjourn at this time until 1:30.

(A recess was taken until 1330 hours)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: Thank you, your Honor. Prior to luncheon recess we had just finished [NOKW 1721](#) which was offered as Exhibit 533 and we continue now on page 136 of the English, page 95 of the German, Document [NOKW 1668](#) which is offered as Prosecution Exhibit 534.

This is an exchange of correspondence between the Armed Forces Commander Southeast and Commanding General in Serbia covering the period 23 August 1943 to 11 November 1942 during which period General Loehr was Armed Forces Commander Southeast and his Chief of Staff was the defendant Foertsch and General Bader was Commanding General and Commander in Serbia and his Chief of Staff was the defendant Geitner. The first communication is from Wehrmacht Commander Southeast, dated Army Headquarters, 23 August 1942.

"Subject: Conversation between Colonel Kogard and Lieutenant Colonel in the General Staff Pfafferott.

"To the Commanding General and Commander in Serbia:

"We issue in the following an excerpt of an operational order of the 7 Company Demonstration Regiment "Brandenburg":

"Mission: In order to make the presence of German troops felt, the group Wedel gives the following order to the company: The company is to advance again into the area of Marini and is to shoot to death all persons men, women and children who are still there.

Signed:

"For the Wehrmacht Commander (12th Army Headquarters) The Chief of the General Staff I A Pfafferott Lieutenant Colonel in the General Staff" Your Honors will note receipt stamp of Commanding General and Commander in Serbia dated 28 August 1942.

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Page 137 of the English, page 96 of the German: This is a communication of the Commanding General and Commander in Serbia dated 1 September 1942:

"Reference: Conversation between Colonel Kogard and Major in the General Staff Gehm.

"Subject: Order of the Combat group West Bosnia to shoot to death insurgents.

"To the 714 Infantry Division.

"The OKH Office Counter Intelligence has objected to an order issued to the 7 Company Demonstration Regiment "Brandenburg" to shoot to death men, women and children. Such an order was unknown here."

The order which now has been transmitted in excerpt by the OKH Office Counter Intelligence reads as follows:

"Mission: In order to make the presence of German Troops felt, the group Wedel gives the following order to the company: The company is to advance again into the area Marini and is to shoot to death all persons men, women and children who are still there."

We request an immediate answer.

Signed:

For the Commanding General and Commander in Serbia The Chief of the General Staff:

Geitner Next on page 138 of the English, page 97 of the German, Communication from the 714 Infantry Division dated 5 September 1942.

Commanding General and Commander in Serbia.

Subject: Shooting to death of insurgents, Combat Group West Bosnia.

Reference: Commanding General and Commander in Serbia, Department Ia No. 406/42 top secret, of 1 September 42.

We beg to be permitted to present our answer to the above matter on 9 September instead of 16 September as the Commander of the 721 Infantry Division is on leave.

Page 2,804

Signed:

For the Division Headquarters The Ia Major Then at the bottom of page 138 of the English, 98 in the German, communication from the 714 Infantry Division, dated 18 September 1942 to the Commanding General and Commander in Serbia, with respect to the same matter.

The next follows on page 139 of the English and 98 of the German:

The requested answer could only now be submitted because of the leave and subsequent commitment of Lieutenant Colonel von Wedel.

The Combat Group Westbosnia of Lieutenant Colonel von Wedel did not give an order either in writing or orally to shoot to death women and children.

During the operation of the Company Demonstration Regiment Brandenburg the deputy company commander once drew the attention of Lieutenant Colonel von Wedel to the fact that women were often encountered among the fighting partisans. Thereupon Lieutenant Colonel von Wedel answered that no clemency could be shown to such rifle women. Children on the other hand were not mentioned:

To stress the presence of German troops was not necessary as their performances and successes were sufficiently known to the partisans as well as to the population.

Continuing a communication from the Commanding General and Commander in Serbia Local Headquarters dated 23 September 1942.

To Wehrmacht Commander Southeast Saloniki.

The following answer was received by the 714 Infantry Division:

The text is the same as in the preceeding memorandum from Stahl except that it is signed for the Commanding General and Commander in Serbia, Chief of General Staff Geitner.

Continuing on the bottom of page 140 of the English and 100 of the German, is another communication from the Wehrmacht Commander Southeast dated 11 November, 1942:

Page 2,805

"Subject: Shooting to death of women and children.

"To the Commanding General and Commander in Serbia.

"Original Document will be sent in supplement to your report of 23 September concerning the enquiry of the OKW/Office Counter Intelligence of 2 November 42 requesting another answer after examination of the matter.

Signed for the Wehrmacht Commander Southeast.

(12 th Army Headquarters)

The Chief of the General Staff. I.A."

The receipt stamp of the Commanding General and Commander in Serbia for the 14th of November appears on the bottom of that particular page and document. At the bottom of page 141 of the English and 101 of the German is a communication from the Commanding General and Commander in Serbia dated 17 November 1942:

To the Wehrmacht Commander Southeast. After conversation with the Commander of the 714 Infantry Division it was confirmed that his attitude of 18 September 42 Ia No 328/42 top secret is entirely maintained. This attitude is given literally in the letter of the Commanding General and Commander of 23 September 42.

The character of Lieutenant Colonel von Wedel guarantees that an order, in the style of the order issued by the 7th company of the Demonstration Regiment Brandenburg was not issued.

and the letter is initialed "B" The next document [NOKW 722](#) has already been introduced in evidence, in document book IX so we will pass it, and continue on page 153 of the English and 110 of the German, [NOKW 793](#) which is offered as Prosecution Exhibit 535.

This is an order of the XXII Infantry Division of 13 December 1942. At the time that division was operating on Crete, the Wehrmacht was directly subordinated to Wehrmacht Commander Southeast who at the time was General Loehr whose Chief of Staff was the defendant Foertsch.

Page 2,806

"Subject: Alert Plan, Arrest of Hostages.

"1. The arrest of hostages is to be considered in the alert plans, according to the order referred to. The setting-up of lists of hostages serves for the preparation of this measure. The lists of hostages are to be set up and presented by the section and sub-section heads, according to expert and local suggestions of the Secret Field Police and the District Headquarters. This is to be carried out according to the following principles:

"a) Lists of hostages are to be set up for all localities and their neighboring localities occupied by troops. The section heads are to determine which localities are to be considered as neighboring localities. The

concept 'neighboring locality' is to be construed as narrowly as possible with regard for the strong load on the fighting units. Localities which lie more than three kilometers away from the quarters of the troops are not, in general, to be regarded as neighboring localities.

"b) Those persons, if occasion arises also of the female sex, are especially to be regarded as hostages who have shown an attitude inimical to the Germans or allow such to be expected. Mayors in office and local clergy are not to be utilized as hostages.

"c) In general one percent of the local residents, however not less than 5 and not more than 150 per locality, are to be considered for hostages. The arrest of substitute hostages is to be prepared for hostages who have fled.

"d) The lists of hostages are to be presented to the division, branch Ic, by 1 Jan 43 for examination by the counter intelligence agencies.

"II. Arrest and collection of hostages in prepared shelters (churches, schools, and similar) is to be ordered by the section and subsection heads. The arrest and guarding of the hostages is to be carried out by the unit. The feeding of the hostages is to be the obligation of the communities.

Page 2,807

"III. The section commanders are to decide about the further use of hostages. Shooting may take place only with the approval of the division. The section commanders have the right to decide about the lives of the hostages only in the prospect of danger.

"IV. The arresting of hostages according to special decree (in searches for weapons and similar measures) remains unaffected by this.

"(Signed) Mueller."

The order is signed by Mueller, Commanding Officer 22nd Infantry Division, who Your Honors will recall was executed in Greece as a war criminal sometime in May of this year.

The next document is [NOKW-1710](#), which has previously been submitted in evidence in Document Book 9, so we will pass it at this time and continue instead to page 158 of the English and page 114 of the German. This exhibit is [NOKW-1807](#), offered as Prosecution Exhibit 536. This is a photograph which we were unable to put into the document book itself. We have put into the document book the translation of the writing which appeared on the photograph. I now hand Your Honors three copies of the photograph which is to be inserted at page 158 of the document book, and copies for the Secretary General. Attached to it is a certificate issued by Vincent Zeisler, a research analyst in charge of the Washington screening team, which certifies the photograph showing a group of soldiers in the Yugoslav Army was secured by him from the files of the XV Mountain Corps and that the file at the present time is located in the Document Center in the Pentagon Building, Washington, D.C. On the back of the photograph there is certain writing in the Yugoslav language which we have translated. It reads:

"VIS to 2 January 1943 - souvenir from a trip of a group of Likanians. Starcevic, Stjel...? Miskovic, Antic, Uselac."

We call Your Honors attention to the full uniform which the men in the photograph are wearing and to the red stars appearing on their capes. The photograph was found in the files of the XV Mountain Corps, and from the writing on the back of the photograph, "2 January 1943," we may feel that this was the date on or about which the photograph was taken.

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I call Your Honors' attention to the date and type of uniform which the men in the photograph were wearing at that time.

We turn next to page 159 of the English and page 115 of the German document book, [NOKW-1755](#), which is offered as Prosecution Exhibit 537. This exhibit is a series of excerpts from the War Diary of the Commanding General and Commander of Serbia, February 2, 1943. At that time the Commanding General and Commander in Serbia was Bader, and his Chief of Staff was the defendant Geitner. The Commanding General and Commander in Serbia was subordinate to the Commander-in-Chief Southeast, who at that time was Loehr, and whose Chief of Staff was the defendant Foertsch. The entry in the War Diary is:

"2 February 1943.

"Teletype orders to 610th Administrative Sub Area Headquarters to shoot to death a total of 16 communists and D.M. followers in reprisal for destruction of telephone line Krusevac-Aleksandrovac 25 and 27 January. The above to be made known publicly and the execution to be reported. The Chief of the Security Police---"

THE PRESIDENT: From what page are you reading?

MR. FENSTERMACHER: Page 159 English, page 115 the German document book. The entry in the War Diary for the Commanding General and Commander in Serbia, February 2, 1943.

"---will see that prisoners for reprisal measures are available.

"Teletype reprisal orders to the 610th Administrative Sub Area Headquarters for the blasting of the line Lajkovac-Cacak on 31 January for the shooting to death 20 communists and 20 D.M. followers, additional reprisal orders for the murder of the official in the taxation department in Boljkovac for the shooting to death of five communists and five followers of D.M."

Next, the entry for 3 February 1943:

"The Commandant of District Headquarters of Zajecar complains about independent arrest of hostages by the SD and proposes the removal of the confidential agent Arsenijevic.

Page 2,809

The Chief orders a settling of the matter by personal conversation with SS-Standartenfuehrer Schaefer (compare enclosure)."

Continuing the entry for 16 February 1943:

"The civilians arrested after the murder of Colonel Hens of the 704th Infantry Division are not to be shot to death as reprisal as formerly intended but deported for work as most of them are innocent. Four hundred communists from the camp in Belgrade are to be shot to death as reprisal measure. Corresponding teletype instructions to the Commander of the 704th Infantry Division and the Commander of the Security Police."

Finally, the entry in the War Diary of the Commanding General and Commander in Serbia for 18 February 1943:

"Teletype message to 809th Administrative Sub Area Headquarters that there is no objection to the use of the 2000 male persons considered as hostages in the District Leskovac, as workers for B, provided that a sufficient number of reprisal prisoners remain available."

Turning next to page 161 of the English, page 117 of the German, [NOKW-1748](#), which is offered as Prosecution Exhibit 538. This is a telephone message from Reserve Grenadier Battalion of 135th Regiment to Group West, dated 7 February 1947.

"Yesterday the area of the group Hofmann was combed according to orders. In Novi Grabovac and in Subockigrad three partisans were encountered with weapons and communist papers, and were shot to death. In the rest of the area no bands were encountered. Novi Grabovac was half burned down and fifty percent of the population was sent to the transit camp in Sisak as partisan suspects. The number of hostages from this place, including women and children, amounts to about 70 persons; the exact number will follow.

"The communist papers as well as a list will be forwarded to the division via the courier service.

"Group Hofmann requests information where requisitioned cattle is evacuated."

Page 2,810

Signed "Captain Hofmann".

On page 162 of English, page 118 of the German, is a document NOKW1806, which is offered as Prosecution Exhibit 539. This exhibit contains excerpts from a booklet on the Draza Mihajlovic movement, which was issued by the OKH, the Army High Command in Berlin. I call Your Honors' attention to the date of this booklet, February 9, 1943.

"The Draza Mihajlovic Movement as of 1 February 1943.

"The present report issued in limited distribution may not be forwarded to other offices."

Signed "Commander-in-Chief Southeast (High Command Army Group E)".

Your Honors will recall at this time, February 9, 1943, General Loehr was Commander-in-Chief Southeast, and his Chief of Staff was the defendant Foertsch.

Your Honors will note from the table of contents which appears on page 163 a complete report on this partisan movement. This booklet is broken down into:

"General Information.

"1) Development.

"2) Aims of the Movement.

"3) The Personality of Draza Mihajlovic.

"B) Political Relations.

"C) Military Organization.

"D) 'The General Revolt'.

"E) Final Conclusions."

Page 2,811

I think we need not read it all. I should like to find out as we go through certain dates, I should like your Honors to pay particular attention to.

Part II contains a series of enclosures. Your Honors will note one section of Part II "Brigades ascertained up until now," that is until February 1, 1943. Also a section on "Commanders and Confidential Agents."

I should like to begin on page 164 of the English, page 121 of the German. Since the Draza Mihajlovic Movement is one of the two Draza movements which was operated during the entire German occupation in Yugoslavia, the German report on the movement is of particular importance.

"A) General Information

1.) Development "Among the various Insurgent Movements which increasingly cause trouble in the area of the former Yugoslav State, the Movement of Draza Mihajlovic stands in first place with regard to leadership, organization and activity.

It is composed of the following groups:

1.) "Cetnic-Units"

2.) "Followers of DM".

"In the former Yugoslavia the "Cetnici" were a reliable voluntary Combat Organization which however was organized by the State and supported with arms and money. At the beginning of the war they were organized as Shock- (Jurisni) - Battalions for the carrying out of special tasks. Immediately after the capitulation of the Yugoslavian Army most of these Cetnici grouped together in Great Serbian Combat Units under the leadership of their officers thus forming the foundation of the DM Movement.

In order to be able to work unmolested in the scope of their overall organization they camouflage themselves in Serbia under the cover of "Cetnik-Units loyal to the Government", in Montenegro as "National Militia", in Dalmatia as "Anti-communists" and in Bosnia as "Loyal Cetnik-units". "The Followers of DM come from all classes of the population and at present comprise about 80% of the Serbian people.

Hoping for the liberation from the "alien yoke" and for a better new order and an economical and social new balance their number is continuously increasing.

"2.) Aims of the Movement "The aim of the DM-Movement is the creation of a Great-Serbian State which is to comprise former Yugoslavia as well as the frontier regions of Hungary, Albania and Bulgaria under the leadership of King Peter II, from the House Karadjordje.

The DM-Movement the attitude of which is more great-serbiannational than Yugoslav conceives as its primary task the liberation of the Serbian people.

The future State shall therefore be governed by Serbian Leaders only. To all other peoples being "Minorities" rising to leading positions in the new State is to be made impossible.

"3.) The Personality of Draza Mihajlovic.

Draza Mihajlovic was born in 1893 as the son of a Serbian Officer in Cacak. His ancestors were Serbian peasants. Shortly after he had joined the Serbian Army the Balkan Wars began in the course of which he was twice decorated and rose to the grade of 2nd Lieutenant. On 1 September 1918 he was promoted Lieutenant and took part in that rank in the combats at the Salonika front. After being wounded he was decorated by the King for his courage with the order of "White Eagle".

He was taken over into the Yugoslav Army, graduated from the War Academy and was then employed alternately in offices of the General Staff and with the troops.

"As Military Attache in Prague and Sofia he was able to gain a good insight into the political relations in the Balkans.

"In 1937 DM was relieved as Colonel in the General Staff. The reason presumably for this were his continuous differences of opinion with his superiors and his morbid ambition and selfwilledness.

Soon after the breaking up of Yugoslavia he tried to take into his own hands the fate of his people.

"As a fanatic fighter for the Great-Serbian idea and enthusiastic follower of the Royal House he began to build in Western Serbia a movement which today extends over all of Serbia, Bosnia, Dalmatia as well as into the frontier areas of Hungary, Rumania and Bulgaria.

"The center of the movement is located in Montenegro. There DM believes himself to be out of danger of being caught by the German occupations troops.

"In January 1942 the Yugoslav Government in Exile appointed DM General of the Army, and at the same time he was appointed "Commander -in -Chief of the Yugoslav Home-Army"; a short time afterwards he was appointed Minister of War.

"On account of his absolute undisputed position as Military Leader the large majority of the Serbian people also look towards him as the coming political leader of the new Yugoslavia."

-Then follows the Political Relations, and Political Organization of the DM- Movement.

I should like to pick up the text on page 167 of English, and page 124 of the German:

"Each Region is under the orders of a "Regional Commander". He supervises within his region the entire political and military organization and propaganda. At the time of the "General Revolt" he is responsible for the quick reestablishing of peace and order.

Page 2,814

"The regions are subdivided according to their size into districts. The District Commanders have in their areas essentially the same tasks as the Regional Commanders. In addition at the time of the General Revolt they are commissioned to take over the office of Heads of Community.

"The political organization of the regions:

Dalmatia Slovenia Montenegro Syrmia Backa Banate is not completely known at present".Turning to page 168 of the English, page 125 of the German, page 2 of the report of the DM movement, dealing with "2.) Relation to the Yugoslav Government.

DM depends only partially on the Yugoslav Government in Exile in London. Therefore he takes the decisive political and military measures on his own.

"3.) Relation to the Allies.

England aids the Movement by supporting it with funds, war materials and by sending officers and men. For this reason DM approves of the relation of his government to England. He is however opposed to English attempts to gain stronger political influence on the Movement.

"The relations to Russia are at present characterized by the combating of communist bands. DM however regards this conflict as an Internal-Yugoslavian affair and he himself strives to achieve good relations with Soviet-Russian Government. Therein he is supported by the efforts of the Yugoslav Government in Exile in London.

Page 2,815

"At the time of the General Revolt therefore one must count on large parts of the Communist Bands joining DM.

"4.) Relations to the Occupying Powers.

"Germany is considered to be the main adversary. Her occupation troops must as the occupiers be destroyed. In order to avoid measures of reprisal against the Serbian population DM however always warns against premature single operations.

"The Serbian Government headed by General Nedic is considered a traitor towards the Serbian people. The removal of this Government is therefore one of the first demands.

"The Italian Forces of Occupation either tolerate the DMMovement or even support it. Often Cetnik-Units employed by the Italians for combatting Communists.

"The Bulgarian Troops of Occupation are also considered to be "Occupiers". In an increasing measure the attempt is becoming apparent to destroy their morale by a planned inflammatory propaganda."

We now come to the most important part of this report on the DM Movement on page 169 of the English, page 127 of the German, the portion of the report which deals with military organization. Again Your Honors' attention is called to the report dated February 1, 1943.

"Overall Organization of the armed DM-Units.

"Within the DM-Movement there are armed units organized militarily (see Enclosure 3) which form the Yugoslavian Home Army".

This has at present a strength of about 150,000 men in the entire Yugoslavian Area and is composed as follows:

"a) High Command of the Yugoslav Home Army

b) Higher Commanders of Insurgents.

c) Corps of Insurgents.

d) Brigades of Insurgents.

e) Mobile Brigades.

Page 2,816

f) Other Units.

To a) DM being the Chief of the High Command of the Yugoslav Home Army is the Commander-in-Chief of the Yugoslav Home Army. He has unlimited authority over all armed units of the Movement, appoints all Commanders and is the supreme Judiciary. He orders the establishing of new units and negotiates with foreign countries. He gives the signal for the "General Revolt".

"The High Command of the Yugoslav Army is composed of:" --I think here we need only point out the following:

"Operations Department Adjutant's Office Administration Department Chief Propaganda Department Signal Officer Liaison Staff of the British Army Bodyguard of DM Organization Staff Serbia:

Sphere of Work: Competent for all military and political matters (sabotage included) in the oldSerbia area.

to b) The "Higher Commanders of Insurgents" being "Commanders" of "Regions" have military functions.

"All armed units and military installations belonging to them which are in their region are subordinated to them.

"Their authority is in general small. All political and military measures in their area must be approved by the Commander-in-Chief.

to c) The largest military units of the DM-Movement are the Corps of Insurgents (see enclosure5). They are designated as a rule by the name of the range of mountains where they are located. Each Corps is composed of the Staff and 3-8 Brigades.

Page 2,817

to d) The Brigade of Insurgents is the real combat unit. It is composed of 3 companies, of which only two are regularly organized and armed. The third appears to serve as a reserve unit. to e) The Mobile Brigades are mobile units which are directly subordinated to the Higher Commanders of Insurgents. They are composed in general of 2 Battalions each having a strength of 500 to 1000 men and when employed are subordinated to a corps, to f) In a few regions according to the situation temporary smaller units having a strength of 100 to 5000 men are formed, and are not listed in the Overall Organization".

Then follows a portion of the report which deals with Armament and Equipment of the DM organization.' The report states, page 172 of the English, page 130 of the German, that the Armament and Equipment DM movement is continually supplemented by, "a) Arms of the former Yugoslav Army.

b) Arms of the Italian Army of Occupation.

c) Arms dropped by British airplanes.

d) Arms captured."

I think we need only point out a few of the remaining sections in this very complete German report on the DM Movement. Section 3, dealing with Commanders and Confidential Agents, Section 4, dealing with Signal Communications.

Your Honors will note on page 173 of the English, and page 131 of the German:

"The following means of signal communications are in use:

Radio Couriers Enemy (British) Broadcasting.

"Up until now 14 working Radio transmitting stations have been ascertained which are in direct connection with star traffic with the main office of the High Command in Montenegro. In the future every regional Commander is to have his radio transmitting station.

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"In many cases British soldiers are employed as personnel for the transmitting apparatus. Supplementary supplies of radio installations and new supplies of radio apparatus and personnel are effected nearly exclusively by supplies - dropped by British planes.

"Couriers are employed for the transmission of important orders and to send money. Up to now courier connections were ascertained to:

"Cairo Ankara Greece Bulgaria". Roumania, Poland, Switzerland, and on to London.

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Section 5 deals with supplies, 6 with propaganda, 7 with sabotage and espionage.

I should like to direct your Honors' attention to the next portion of the report, beginning on page 176 of the English, 134 of the German:

D) "The General Revolt" By the General Revolt the occupying powers are to be chased away, the present governments overthrown and the new Yugoslavia established.

The order for the General Revolt will be given by the leader Draza Mihajlovic. He alone after having taken into consideration the situation determines the right time. The signal will be given by radio to all the Higher Commanders of Insurgents.

Strengths and Units At the beginning of the General Revolt the following approximate strengths may be presumed in the entire territory of the former Yugoslav area:

a) Serbia 318 000 men

b) Croatia 35 000 men

c) Montenegro 30 000 men these will be presumably joined by Elements of the Pecanac-Cetnik-Units *) 5 000 men Elements of the Serbian State Guards **) 16 000 men Elements of the Ljotic Movement ***) 3 000 men Elements of the Communist Bands in all regions 40 000 men Elements of smaller minorities (Poles, Czechs, Mohammedans) 10 000 men Total Strength 457 000 men Of these about 250,000 men will be armed with rifles."

Your Honors will note on page 177 of the English, and 135 of the German, the various units listed. You will notice a total altogether of 56 Brigades.

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On page 178 of the English and 136 of the German, is a list of operational units of the Draza Mihailovic movement known up until now which is 1 February 1943.

On page 179 of the English, of the German, the total units available, giving one division 27 corps, with 15 brigades:

"When the order "General Revolt" is issued all units will assemble in their mobilization areas.

Final Conclusions By the creation of the DM-Movement an organization has been formed which based on the fanatic will of every individual may gain as revolutionary movement a considerable political and military importance in critical situations in the Balkans.

The combatants' excellent knowledge of the country and the positive attitude of the majority of the Serbian population favor the movement.

The fighting value of the DM-Movement does not correspond to that of a modern unit. The reason for this lies in their insufficient leadership, armament and equipment.

The leaders are young and have little military training. They have no experience in the command of large units.

The armament is insufficient except for rifles. Heavy infantry weapons and artillery exist only in small numbers, anti-tank weapons and anti-aircraft are almost completely lacking.

In its present composition the DM-Movement is inferior to the occupying powers if the latter employ sufficient forces.

In order to suppress successfully a revolt started suddenly and at the right moment supplementary forces in addition to the present occupation forces will be necessary."

Then follows a list of the units of the Draja Mihailovic organization which were known to the Germans as of 1 February 1943, and the various areas of the occupied territories in which those units were operating.

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Your Honors will note that there is a total of 75 individual brigades listed on page 182 of the English, 140 of the German, the Commanders and Confidential Agents of the DM-Movement, The Co-Workers in the Staff of DM, the Liaison men of the DM-Movement in Foreign Countries, and finally the Liaison men of the DM-Movement in the Serbian Government.

Turning next to page 184 in the English Document Book, page 142 in the German Document Book, [NOKW 1757](#), it is offered as Prosecution 540. These are various situation reports from the Commanding General, Commander in Serbia, to the Armed Forces Commander Southeast during the month of March, 1943. Your Honors will recall that during that period the Commanding General and Commander in Serbia was General Bader, whose Chief of Staff was the defendant Geitner, Commander-in-Chief Southeast Loehr, who was then simultaneously commander of Army Group E.

The first report is dated 1 March 1943. Headquarters, Commanding General, Commander in Serbia. It is a situation report from the period 21 February, 28 February, 1943. The report is sent to the Commander-in-Chief, Southeast, High Command Army Group E:

"I. Political Situation The mood of the broad masses of the population is depressed, expectant.

The Goebbels speech and the proclamation of the Fuehrer have had favorable repercussions for us, from a fear that after the collapse of Germany the Balkans would be inundated by Bolshevism. In the Nedic government a certain crisis-mood is again to be perceived as its hopes for an increase of independence, especially with regard to its own executive have so far not been fulfilled.

II. Enemy Situation The increase of enemy activity which occurred at the end of the last report period has again diminished a little during this report period.

The number of cases of sabotage and surprise attacks fell from 125 to 99. In these the Communists were essentially the main participants."

Page 2,822

I call your Honors' attention to the next paragraph, page 185 of the English, 142 of the German:

"The sudden severe reaction of the occupying powers of shooting to death nearly 600 persons as reprisal during the report period, has prevented for the present an increased effect of the appeals for sabotage of Tito and DM. Those bands which are still active are probably not to be influenced however serious the reprisal measures. They can only be destroyed by an offensive battle.

The center of the DM movement lies at present in the Herzegowinian and Bosnian area. In Serbia during the report period only the railway staff of DM tried for the first time to damage rolling stock to a greater extent by building infernal machines along the line NischSkoplje. The supervision measures which were ordered after the intentions became known, proved themselves completely. All attempts except one were discovered in time."

Then follows a report on the sabotage and surprise attacks, and finally the losses from 16 February to 25 February, 1943. Again I call your Honors attention to a comparison of the losses suffered by the occupying forces: 39 dead, 31 wounded, 24 missing.

Losses suffered by the enemy: 291 dead, 12 wounded, 945 taken prisoner and arrested.

Turning next to page 188 of the English, page 144 in the German Document Book, [NOKW 1750](#), which is offered as Prosecutions' Exhibit 541, this is a letter from the Commanding General, Commander in Serbia, dated 3 March 1943, to the President of the Serbian Council of Ministers:

"Subject: Reprisal measures.

1.) On 23 February the commander Marenkovic of the rural guard in Krcevac, North of Topola, and the Serbian State Guard man Kikic were murdered there by Communists.

2.) On 28 February Communists attacked the station of Dedina near Krusevac, destroyed the telephone and telegraph lines and wounded nearby guard of the Serbian State Guard by shots.

Page 2,823

3.) On 28 February the power center of the Soko mine, Soko Banja district was destroyed by Communists.

Since the perpetrators were not apprehended, I have ordered the shooting of 10 Communists for each of them.

4.) During the night of 27/28 February, the cable-car of Majdan Pek was destroyed in an attack of DM - Chetniks on the intermediary station of Rajkovo.

As retaliation for this sabotage act I have ordered the shooting of 30 DM-followers from the Negotin camp.

Signed: Bader General, Artillery" At this time, March, 1943, the defendant, Geitner, was Chief-of-Staff for General Bader.

Next, on page 189 of the English, and 145 of the German, Document [NOKW 1756](#), is offered as Prosecution's Exhibit 542. These are a series of orders of the Commanding General, Commander in Serbia, to the various area units under his command and jurisdiction.

The first is dated 2 May 1943, to the 610th Administrative subarea Headquarters:

"1.) For the reprisal measures ordered for destructions in the Morava mine on 13 April 1943 prisoners can also be drawn from other districts. Burning of houses does not have to be carried out in this case. In the future only proposals for retaliation are to be presented which, after approval, can be carried out within a reasonable time.

2.) As reprisal measures for the attack on the railway station Dedina and for sawing off telephone poles between Kalanjevci and Zivkovci the communities concerned will be fined in proportion to their competence.

(Signed) Commanding General and Commander in Serbia" Next is a communication from the Commanding General, Commander in Serbia, dated 5 May 1943, to the Senior SS and Police Commander:

Page 2,824

"On 4 May 1943 2 tugs on the Danube were fired on 6 km Southeast of Drencova. 1 Captain was seriously wounded and 1 machinist lightly wounded. The guilt of D.M. followers has been established.

In retaliation and to discourage further plots directed against traffic on the Danube 50 D.M. followers from the Homolje area are to be shot immediately.

The draft for a poster concerning the retaliation is to be submitted. Public notice will be issued by this headquarters.

(signature) Bader" I direct your Honors attention to the fact that this order was sent to the Commanding General, Commander in Serbia, and to the Senior SS and Police Commander.

Page 2,825

Continuing with the next order, dated 5 May, 1943, Commanding General, Commander in Serbia, to the 809th Administrative Sub-Area Headquarters:

"In retaliation for the murder of the Head of the village on 27 April by Communists, as well as for the murder of the former platoon leader of the village militia, G. Jeschanitza, 10 Communists are to be shot.

Execution is to be reported together with enclosure of a copy of the public notice."

The next is an order dated 6 May 1943 to the 610th Sub-Area Headquarters:

"In retaliation for the attack on the station at Kosevi on 2 May 10 Communists are to be shot.

Execution is to be reported together with inclusion of a copy of the public notice."

Continuing with the daily report of the 7th of May, 1943, bottom of page 191 of the English, page 147 of the German, Daily report of 7 May 1943, sent from the Commanding General Commander in Serbia, to the Commander in Chief Southeast:

Communists: dead 34, of these 27 shot as reprisal, wounded 4, captured 4, arrested 10. D.M. Supporters: 62 dead, of these 50 shot as reprisal, 3 captured, 112 arrested.

Continuing on page 192 of the English, 147 of the German, the daily report of the 8 of May, 1943, from the Commanding General, Commander in Serbia, to Commander-in-Chief Southeast:

"Communists: dead 38 (reprisal shootings) arrested 38; DM followers 17 (reprisal shootings) captured 1, arrested 3." Next an order dated 11 May 1943 to the Commanding General Commander in Serbia, to the 599th Administrative Sub-Area Headquarters:

Page 2,826

Subject: Retaliation measures In retaliation for the murder of 4 and the wounding of 5 German soldiers as well as for the killing of 12 Serbian Police in the district of Smederevo on 23 April 1943 a total of 150 Communist reprisal prisoners, if possible from the districts of Mladenovac, Arandjelovac, and Palanka, are to be shot.

The public notice must lay special emphasis on the treacherous and cruel execution of the deed. Also it must be mentioned that the villages in the neighborhood were only saved from being burned because the inhabitants, according to their duty, informed German and Serbian headquarters of the presence of the band.

Execution is to be reported together with enclosure of a copy of the public notice.

Continuing daily report 15 May 1943, sent from the Commanding General Commander in Serbia, to the Commander in Chief Southeast:

"Communists: 34 dead (including 20 shot in reprisal) 11 captured, 6 arrested."

On the bottom of the page 194 of the English, and 149 of the German, from the Commanding General Commander in Serbia, to the 823rd District Headquarters, dated 19 May 1943:

"In retaliation for the murder of the two Custom Officials, Wolf and Gahner, of the Frontier Guard Station at Rebenberg during the night of 12/13 May 1943, 100 Communists are to be shot."

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Your Honors will note the ratio there of 50 to 1.

Next, the order from the Commanding General Commander in Serbia, dated 20 May 1943, to the 809th Administrative Sub-area Headquarters:

In retaliation for the Bulgarian soldier murdered while carrying out Railway Security duties, on 1 May 1943 by Communists 8 km South of Leskovac, 50 Communists are to be shot."

There, your Honors, will note the application of a ratio of 50 to 1.

Next on page 196 of the English, page 150 of the German, another order dated 21 May, 1943, Commanding General, Commander in Serbia, to 809th Administrative Sub-Area Headquarters:

"In retaliation for the murder of the Serbian Chief of Police in Leskovac 10 Communists are to be shot."

At the bottom of the page 196 of the English, and 150 of the German, Daily report 25 May 1943, Commanding General, Commander in Serbia, and Commander in Chief, Southeast:

"Communists: 103 dead, including 100 reprisal prisoners, 5 arrested. DM followers: 2 captured, 2 dead.

At Zajecar 25 persons arrested. (As yet not known to whom they belong.)" On page 197 of the English, 151 of the German, is a survey of reprisal measures carried out during the period 1 January, 28 May, 1943:

Page 2,828

"Cases avenged by human lives (execution by firing squad) during the period: 80 4 more cases of telephone sabotage are being avenged by monetary fine or extra guard duty."

Then there follows a breakdown of the types of attacks which make up the 80 cases mentioned.

Finally, at the bottom of page 197 of the English, and 152 of the German:

"In retaliation for the 80 attacks and plots, during the period 1 January - 28 May, 1943, 2332 persons were shot, i.e. 1628 Communists, 704 DM followers.

The shooting of 235 Communists and 105 DM followers is ordered but not yet carried out. The total will then be 2672."

Continuing with the daily report of the Commanding General Commander in Serbia, Commander in Chief Southeast, for the 28 May, 1943;

"Communists: 25 dead, including 20 shot in reprisal, 1 wounded, 1 captured, 1 arrested.

DM followers: 1 dead, 23 arrested."

Continuing now on page 200 of the English Document Book, page 153 of the German, Document NOKW 1759, which is offered as Prosecution's Exhibit 543, these are directives of the 118th Jaeger Division for the behavior of troops in operation.

The order is dated Division Staff Headquarters 12 May 1943:

2.) "Prisoners:

Page 2,829

Whoever openly participated in combat against the German Wehrmacht and is captured is to be shot to death after interrogation. Deserters and other arrested persons (suspect persons) are to be delivered to the prisoner collecting points. Sufficient guards! Leaders and persons who are able to make important statements are to be presented to the Division (point 1). Prisoners and those arrested should be interrogated briefly. The minutes of the interrogation are to be delivered when the persons are transferred. When the statements are the same, a collective interrogation is sufficient. The interrogations

must also contain personal data, place of the arrest or capture. The delivering office is also to be noted down.

3.) Cetniks:

All Cetniks without exception are to be disarmed; if necessary by using force. In compliance with the orders of the Duce, all Cetniks bound by duty to the Italians up until now or under Italian leadership are also to be disarmed, if necessary by force. In case of Intervention of Italian offices against the disarming of Cetniks which is to be carried out ruthlessly all German commanders are to refer to the order of the Duce to disarm Cetniks which is known to all German troops. Non-execution of this order of the Duce is to be designated as treason. All offices are to be informed about this on x - 1 day. Report of execution to the Division on x day. Cetniks who have used arms against German troops are to be treated like Communist bands, otherwise they are to be transferred as prisoners of war to the prisoner collection points.

Page 2,830

.....

DM followers who are not directly under the leadership of Italian troops are to be considered completely as enemies to which the regulations of point 2 of these instructions are applicable.

.....

8.) Attitude toward the population:

The unit has to operate without consideration and with brutal severity against the population which proves hostile and is to take away from the enemy every possibility of existence by destroying abandoned villages and securing existing food supplies. Important water points which are not destroyed because of our own needs and the ****ds of the peaceful population must be guarded. The peaceful population in the occupied area is to be treated kindly and to be employed in the service of the purpose as far as possible. For guide and scouting services rewards in money or kind up to 100 Reichsmark may be offered. The customs of the population and especially religious customs of the Moslems must be taken into consideration. Churches, Mosques, and church yards are never to be used as billets or for horse stables or warehouses. Rooms and their furnishings used for billets are to be treated with consideration and are to be handed over in a proper and clean state."

"Severest measures must be taken from the very beginning against plundering even if it is carried out in a camouflaged form ("requisitioning" "organizing" etc.)

Page 2,831

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.....

11.) The commanders are responsible to me, that these important directions are made known immediately and most clearly to all members of the division and of the 4th Croatian Jaeger Brigade and especially to all Commanders."

Signed: "Kuebler Brigadier General" Commander of the 118th Infantry Division.

We continue now on page 203 of the English, page 155 of the German, Document [NOKW 1761](#), which is offered as Prosecution's Exhibit 544. These are excerpts from the War Diary of the 1st Panzer Division, and your Honors will note at the top of the page 203 of the English, and 155 of the German, the 1st Panzer Division was subordinated from one June 1943 to 16 October 1943 to the Corps Headquarters of the 68th Infantry Corps for Special Employment. Entry in the War Diary for 12 July 1943:

In the night of the 11th to 12th July two members of bands were captured by the 1st Panzer Grenadier Regiment. By negotiations with the civilian population they tried to draw over to their side a Russian voluntary helper who was with the 1st Panzer Grenadier Regiment. According to their statements the bands consist of groups which in part are well equipped, they have radio etc. The 2 partisans were shot to death in compliance with the Fuehrer's order.

.....

Page 2,832

I think we may skip the entry of 20 July 1943 at this time, and continue on page 205 of the English, and 156 of the German.

Page 2,833

MR. FENSTERMACHER: The entry of 29 July 1943 in the War Diary of the 1st Panzer Division:

"29 July 43:

"The relief group led by Colonel Neumeister at first reaches Kalandritsa where a Carabinieri post was also attacked by bandits. The place has been evacuated by the civilian population members of bands could not be captured. As a reprisal measure the place was destroyed by fire. In Erimanthia which was reached at 1300 hours several dead and wounded Italians were found. In other respects, the situation resembles that in Kaladritsa. Erimanthia too is being destroyed. According to statements of an escaped Italian, 25 Italian soldiers are supposed to be in the hands of the bandits. The bands are said to have expressed the intention of killing these prisoners in case any relief group approaches Erimanthia, Therefore, by order of the division several hostages were picked up from the vicinity and later on turned over to the jurisdiction of the Italians. Furthermore all civilians mayors in the neighborhood were told that for every German or Italian soldier killed the severest reprisal measures will be taken against the civilian Greek population."

Continuing with the entry in the War Diary for 22 August 1943 at the bottom of Page 206 in the English, Page 158 in the German:

"In the evening two serious incidents occurred with civilians. An NCO, of the auxiliary anti-aircraft detachment 299 was molested, a corporal of the same detachment was attacked. His bayonet was taken from him. The garrison commander immediately had 10 hostages arrested.

"At the same time he ordered the mayor to find out the actual perpetrators and to hand them over the next day."

Next, the entry for 24 August 1943:

"24 August 43:

"At 1800 hours three of the arrested were shot to death after a partial confession, the others were released.

Page 2,834

As the Italians continue to complicate matters, among others things they abrogate orders of the German garrison Commanders to the Greek civilian population, the Division demanded the subordination of the Settere Argolide, Hqs. The request was granted at 2400 hours."

I think we may skip the intervening entries and pick up again on Page 208 of the English, Page 159 of the German, the entry for 5 October 1943. "As the weapons of the German soldiers were attacked near Dimena were not delivered according to the imposed conditions 4 hostages were hanged at 1300 hours in Chiliomedon." Finally, at the bottom of Page 208 in the English, Page 159 in the German, the entry for 9 October 1943: "At 1030 hours the 5th company reached the villages of Charma and Kathara (12 kilometers southeast of Molov) they were destroyed because weapons and ammunition were found there." That, if Your Honors please, completes the reading of the excerpts from the War Diary of the 1st Panzer Division, which, during the period mentioned, was under the command which was subordinate to the Defendant Felmy. We continue now on Page 209 of the English, Page 160 of the German, Document [NOKW-1751](#), which is offered as Prosecution's Exhibit 545. This exhibit consists of extracts from the War Diary of the Commanding General and Commander in Serbia during the month of June, 1943. During that period the Commanding General and Commander in Serbia was General Bader, and his Chief of Staff was the Defendant Geitner. The entry for the 19th of June 1943: "Telephone authorization to Senior SS and Police Leader for the execution 550 hostages for attack on Auxiliary Police Detachment (8 dead, 7 wounded)." And then the entry for the 27th of June 1943: "Commanding Officer of District Headquarters Krusevac reports by telephone that 320 guilty persona are available by the SD from other areas." And the entry in the War Diary for the 28th of June 1943: "Order for execution by shooting of 25 Communists to Administrative Sub-area Headquarters 599 for the German Police Sergeant wounded during an attack Ralja on 24 May 1943."

Page 2,835

Your Honors will note the retaliation quota applied in that case 25 to 1 for the wounding of a German soldier. Next, on Page 211 of the English document book, Page 161 of the German, Document [NOKW-1762](#), which is offered as Prosecution's Exhibit No. 546. This exhibit consists of a series of three reports which were sent by the Commander of Southern Greece to the Commander in Chief

Southeast, who was simultaneously Commander in Chief Army Group E. The first report is dated 4 June 1943; the Commander in Southern Greece at that time was the Defendant Speidel. The first portion of the report deals with the political situation. Yours Honors will recall that at this time, June, 1943, when the Defendant Speidel was Commander of Southern Greece, the Defendant Foertsch was the Chief of Staff to the Commander in Chief Southeast, to whom the report of the Commander in Southern Greece was sent.

I. Overall impression:

"The abandonment of the North African front has made a profound impression on the Greek populace. Enemy propaganda which started immediately has tried to exploit the success of this so-called "boxing of the Germans and Italians out of Africa" in every respect and liberation of Greece from its "conquerors".

"The Greeks are thereby kept in a state of excitement this psychological effect seems to be carefully calculated - and their sense of resistance and desire for liberty is constantly being whetted. This also explains why the appeal for a cessation of bandit warfare has met with no decisive or tangible success.

"Outwardly, the situation - irrespective of political attacks on the present Government - remains perfectly quiet. The steady rise in prices on all vital consumer goods which is due to the rise of the gold Pound, is cleverly exploited in the form of strike slogans by the Communists.

Page 2,836

In the Italian area the onset of strikes has been detected. The Rallis Government order, peace and security, to reinforce the police and gendarmerie and to purge it of unreliable elements.

"The relative peace in the "State of Athens" is to be attributed to a great extent to the energetic measures taken by Rallis. A vehement struggle has started on the part of all political parties in order to assume the leadership and patronage of the two police battalions. Democrats, royalists, Denizelists and even Communists are trying to take over the leadership."

The next portion of the report from Commander of Southern Greece, at that time, the defendant Speidel, deals with strikes and demonstration: "Food supplies for the population were plentiful to be sure at very high prices and therefore despite all instigations there was no reason for strikes and demonstration. The following incidents have been reported during the period covered by this report:" I am calling Your Honors' attention to sub-paragraph "b" of this section, dealing with strikes and demonstrations:

"The workers of the Chemical Plant "Lipasmata" in Pirieus staged a sit down strike on 24 May 1943; other employees joined the next day.

"District Headquarters Piraeus had ten hostages seized from among the workers and ordered the resumption of work. The order was followed immediately.

"In Athens, bank employees started a sit down strike. When on 29 May 1943, almost all banks had gone on strike, the Greek Prime Minister decreed the closing of all banks in Athens on 31 May 1943.

"In Piraeus work was not interrupted again. The officials were informed by District Headquarters that all strikes would be considered as directed against the German Occupation authorities and would be dealt with accordingly."

Page 2,837

Finally on Page 214 of the English, Page 162 of the German, the section of the report from the Commander in Southern Greece dealing with economic development enemy situation?

"Overall impression: The bandit amnesty was proclaimed at a most unfavorable time. The fall of Tunis has incited the will to resist of the Greek populace and even of those people who have thus far looked on passively. It has convinced the insurgents that they would be able to vanquish the axis Troops just like the "Sacred army of the Greeks" which fought in Tunis had done. Nevertheless, the opinion was expressed that after 20 May 1943, the German occupation troops in particular would carry out an extensive operation against the bandits.

"The successful mopping up operations in the Olympus and Othry's area were not the least important factors which contributed to this belief. This is the only way of explaining the movement of the bandits from the more open area of Eastern Greece to the less accessible mountains of the middle and of the West. Apparently, the Giona Massif has become the central headquarters of the bandits.

"It is possible that this movement to the West Coast was prompted by an English directive in preparation for an eventual landing in these somewhat inaccessible areas.

"Bands have been observed on the Pelopennesus. They crossed the ocean East of Patras near Lepanto and infiltrated to the Southern tip of the Pelopennesus."

I think we need not read the remainder of this particular report. Your Honors will note what full exposition the activities in Greece are given by the Commander of Southern Greece, the Defendant Speidel at this time, in his report to the Commander in Chief Southeast, who at this time was General Loehr, whose Chief of Staff was the Defendant Foertsch. I call Your Honors' attention to Page 219 in the English, Page 165 in the German, which is the estimate of the situation made in his report by the Commander of Southern Greece:

Page 2,838

"Expecting a sudden large scale action by German Troops after 20 May 1943 - the last day of the amnesty - the bands have withdrawn West into more inaccessible areas.

"The Giena Mountains must be regarded as their central headquarters. The reputation of the German troops has suffered considerably because no operation has taken place. In general Greek circles define this attitude of the German troops as weakness. Thus the door has been left wide open for British propaganda. The blasting of the tunnel located near 255 kilometers during the night of the first be the second of the month in the course of which an Italian Troop Transport Train has been destroyed completely and the railroad line Saloniki Athens was interrupted for two days must be regarded as a sign that the resistance will of the bandits has flared up. The threat to the only supply line Saloniki Athens

and continuing to the Pelopennesus, will presumably increase during the next period. Even the German troops recently brought into the area of Southern Greece are unable to suppress the bands and the insurrection movement on the area of Attica and Boeotia because the greater part of them has been assigned to the Pelopennesus which has also become a center of unrest.

"The reputation of the German Occupation Troops and ultimate peace and order (which in view of an eventual English landing is more necessary than ever) and the reputation of the German occupation can be established and maintained only by the ruthless resistance of bandits which has been demanded repeatedly."

And the report is signed for the Commander South Greece, by the Chief of Staff.

THE PRESIDENT: We'll take our afternoon recess at this time.

THE MARSHAL: The Tribunal will be in recess for fifteen minutes.

(The Tribunal recessed at 1500)

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THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

THE PRESIDENT: You may proceed.

MR. FENSTERMACHER: If Your Honors please, prior to the recess, we were looking at Exhibit 546, which is a series of three reports from the Commander of Southern Greece to the Commander in Chief Southeast. We had finished the first report and now we look at the second, which is on page 221 of the English and page 166 of the German. This is a report from the Commanding General and Commander of Southern Greece, dated 5 July 1943. At this time, the defendant Speidel is the Commander Southern Greece. The report covers the period 4 June to 3 July 1943.

"Political Situation Overall impression:

The rapid defeat of the Italian Isles of Panetelleria and Lampadusa, the almost undisturbed control of the Mediterranean Area by allied naval and air forces, the decrease of German U-boat successes as well as the constantly increasing air attacks on Germany and Italy were exploited by enemy radio and whisper propaganda, by dropping of pertinent illustrated papers and leaflets which try to prove the superiority of the Allies. The greater part of the Greek population at this time is convinced of the imminent landing of the Allies in Greece and in particular of the final victory of the Democratic Powers. The lack of any larger operation against the bandits contributes to this opinion. It is also interpreted as a weakness of the Germans that the Allies were successful in attacking the important air fields of Kalamaki and Eleusis without suffering any losses.

"Any visible success of the Allies, no matter how small, now is exaggerated because of the total situation and is considered to be a weakness of the Axis Powers.

Page 2,840

Only thus can it be understood that the anti-axis movement in the Greek population increases more and more.

"90 per cent of the Greeks today are unanimously hostile toward the Axis Powers and are ready for open revolt. The fact that all strike attempts and all strikes up to now were camouflaged with economic reasons, and that the general strike attempted on 25 July 1943 was carried out openly under the slogan of a protest against the hostage shootings of 17 July 1943, prove the correctness of the statement. The extent which this strike seemed to achieve at first, made its political significance perfectly clear.

"Those Greeks who are still pro-Axis --- they usually make money by supplying the German or Italian Wehrmacht decrease more and more or they do not dare to confess themselves to be friends of the Axis. The enemy radio publishes the names of Greeks working in German offices. If people are particularly prominent, their death sentences, pronounced in absentia, are published.

The EAM also publishes the names of the Greeks working for the Axis powers in its numerous party papers and party leaflets. It warns and exhorts the to join their ranks. An additional important argument expounded to the Greeks who are still willing to work is the small wages paid by German offices.

"The indigenous volunteer forces serving with German units -- identifiable as such by their uniform -- are being molested and threatened right out in the streets. The Communists movement has gained in strength impact, and reputation in particular by its indisputably great political successes in all of Greece, mainly however in and around Athens.

Page 2,841

By use of clever camouflage, the EAM including all its subsidiary groups has succeeded in gaining the direct support of the British Secret Service. A major contributing factor to an abatement of the struggle against Communism is the belief that England will be strong enough after the war to keep Communism out of Greece at least. This has made the EAM with its combat organizations the main bearers of the entire resistance movement against the Axis powers. The greater part of the bands is subordinated to it. It is in a leading position, politically speaking and, because it is very active and enjoys a co-ordinated leadership it represents the greatest danger to the occupying powers."

Then follows a section on Strikes and demonstrations.

"The food supply for the indigenous population is asbefore--more than sufficient and to a great degree it is better than that of the German soldiers. However, wages are unable to keep up with the rapid rise in prices. Nevertheless, economic reasons are the decisive factors for only a very few of the attempts at strikes. All strikes carried out thus far have been organized and led by Communists. They have tried to shake the reputation of the occupying powers and to weaken whichever Greek Government was in power. Simultaneously, however, they were endeavoring to determine the resistance power of the Axis. Unfulfillable demands such as a 7 hour day, granting of credits, supplying shoes, garments, food stuff, were to serve as camouflage for these operations. Thus it was all the more surprising that all camouflage was dropped when the general strike of 25 June 1943 was called and the political strike was proclaimed

openly. It is true that only minor strike attempts have been observed in the entire area which is under German Sovereignty because the careful interference by German offices prevented any outbreak.

Page 2,842

Yet, the reputation of the occupying powers was greatly impaired because the Italians in Athens did not apply the same severe measures as was the case in the area of German Sovereignty. The Greek does not differentiate between the German and Italian occupying power. He only knows the axis powers.

"The shooting of hostages on 17 June 1943 and the ensuing strikes must be considered from that point of view. On 25 June many plants in Athens actually went on strike and the owners were compelled by the Strike leaders to close their factories. Several columns of demonstrators tried to march through the city but they were dispersed within a short time. The political impetus of the strike called by the Communists in protest against the shooting of hostages was particularly emphasized by the fact that most of Athens Police Officials (about 1200 men) went on strike. On 2 July 1943, the Police returned to duty after the Government had disarmed 395 officials and dismissed them from the service. 35 of these striking officials were arrested by the Italians. The table enclosed shows the strikes which occurred in the month of June. The decree issued by the Commanding General and Commander South Greece -- and that, if Your Honors please, is the defendant Speidel --- "on 27 June 1943 which threatened particularly severe procedure in case of strikes in the area of German Sovereignty - - - - - was revealing and served as a deterrent.

" The report next deals with enemy propaganda, economic development, and finally we have a portion on the enemy situation.

Page 2,843

I ask Your Honors to pay particular attention to this next portion because it is quite a good description of the ELAS organization, one of the two large Greek partisan organizations which came into being during the German occupation of Greece. Your Honors will recall the oral testimony of the witness Triandaphylidis on the nature, size, military structure, and organization of the EDES partisan organization, and now we have in the report from the Commander of Southern Greece, the defendant Speidel, an account of the ELAS partisan organization.

"Enemy Situation.

"Overall Impression.

"The ELAS (Greek National Army of Liberation) includes about 70 percent of all the bands. About 20 percent of the bandits consist of so-called nationalist bands, leader, Colonel Zervas." This is on page 226 of the English, Your Honors, page 168 of the German. "About 20 percent' of the bandits consist of so-called nationalist bands, leader, Colonel Zervas, The rest must be considered as politically uncertain. According to a report received here, the ELAS is organized as follows:"

Then Your Honors will note the diagram which appears on page 227 of the English document book, page 109 of the German document book, showing the organization of the ELAS units: General Leader Athanasios Klaras, Lamia, and the 1st, 2nd, 3rd General Staffs.

And on page 228 of the English and 169 of the German, the numerical strength of the ELAS:

"RED Andartes in action - 7,000 men.

"RED Adnartes in reserve - 24,000 men.

"All of these are armed, but for practical reasons the majority of them remains hidden in the guise of 'peaceful, working' population.

"The bandit situation is as follows:

"The majority of the bands controls the high mountain range of Pinbos-Giona Massif. Staffs and main forces are located in a switch position which extends through north and central Greece from northwest to southeast.

Page 2,844

"The nationalist bands under Colonel Zervas, whose English advisor is Colonel 'Eddy', are situated north of the line Agrinion-MacrokomUpper Sperohia Valley. Headquarters is in Metsovon. The communist bands under their leader Aris - whose deputy is Belis - have their headquarters on the east side of the Giona Mountains. The bands have no uniform equipment. There is a lack of uniforms and shoes. Armament is of English, Italian, and German origin. Every large bandit group has radio equipment. U-boats and small sailing boats take care of the supply. The northeast coast of Euboea, the northern coast of the Gulf of Corinth, south of Parnassus and of Helikon, as well as the west coast from Preveza to Astakos, are the main landing places. Frequently the population procures the foodstuff.

"Since the German counter measures expected after the amnesty period had expired did not occur, a considerable number of the bandits have been returning since about the middle of July to the territory which they occupied before. The movement is coming from the west and the east. The greater number of the bandits still continues to remain in the Goina Mountains.

"Communication with the English, who fly in almost every night to bring supplies, takes place by means of light signals. About 4,000 bandits are in the villages of Kukuvista, Diaselon, and Sideroport on the eastern slope of the Giona Massif.

"An attempt was made to blow up the steamer 'Citta di Savona' in the harbor of Piraeus by a magnetic mine fastened to the bow of the ship. A leak 50 x 70 was sprung. The bow sank about two meters and then touched bottom. Sixty-nine horses were drowned. No casualties. After a few days the ship was serviceable again. There is a possibility that the mine was put in at the port of Patras on 11 June. Investigations still under way. As a counter measure from the German side, ten hostages -- mostly communist leaders -- were shot to death on 17 June.

Page 2,845

The Italians shot to death nine hostages. The impression on the population was strong, as proven by the demonstrations on 25 June 1943."

The next portion of the report deals with railroad and cable sabotage. On page 231 of the English and 170 of the German, counter intelligence situation.

Now, turning to page 232 of the English and 171 of the German, that first portion of the Commander Southern Greece's report which deals with his estimate of the situation:

"The increased activity of the RAF, the serious cases of sabotage against the transport 'Citta di Savona' and against the railroad line Saloniki-Athens, the attempted general strike and the demonstration on 25 June 1943 prove that there is cooperation between saboteurs, communists, and bands in all spheres. The central direction of these operations rests in the hands of the English officers, who are with the bands and who certainly are also temporarily with the direction of the EAM in Athens. This coordinated leadership leads one to expect coordinated measures in the event of an enemy landing either on the Peloponnesus or on the west coast of central Greece. These measures will have a dangerous effect, the more so because only minor units of German troops can be used in the Command Area against the insurgent movement which is at least 50 to 20,000 men strong. In addition, it must be expected that a general strike will be proclaimed in Athens and immediate vicinity by the EAM followers (estimated strength about 20,000 men according to Greek sources). Also that the EAM followers - pursuant to directives of the EAM and of English band leadership - will carry out pillaging and attempt sabotage in the objects hit even while the attacks are still in progress. The intimidation of the Greek workers in German plants is disturbing slowing up all important war work. The occupying powers can no longer look on passively at such activities. In view of the known weakness of the Italian occupation, it must be made possible for the German commander to intercede effectively in the Italian area as well, in order that the aforementioned dangers might be averted. He should be able to do this by exploiting the fear for the German soldier and his resolute behavior which is still prevalent among the Greeks.

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The authority he holds at present is insufficient. If the German Wehrmacht is not to suffer heavy losses in Greece, the bandits must be opposed forcibly and with the employment of strong forces. The inner political and the economic situation is in the last analysis dependent also on the result of the battle against the bandits.

"Notwithstanding certain initial successes, the Rallis Government was unable to maintain itself among the population. Without effective support by the occupying powers, its days seem numbered. It is a moot point whether it will be succeeded after its fall by a capable government which is willing to cooperate honestly with the occupying powers."

And the report is signed: "For the Commanding General and Commander South Greece, The Chief of General Staff."

On page 235 of the English and 173 of the German we have the final report. Your Honors will recall that in the end of August 1943 the whole Southeast Command was reorganized and in line with that

reorganization the title of the defendant Speidel as Commanding General and Commander in Southern Greece was changed to Military Commander Greece. In the document which begins on page 235 of the English and 173 of the German we find the defendant Speidel now Military Commander Greece sending a report on the date of the 4th of September 1943 to the Military Commander Southeast who at this time was General Felber. Your Honors will recall that Felber's Chief of Staff was the defendant Geitner. This is a report from the Military Commander Greece for the period from 1 September to 3 October 1943:

"Political Situation.

"Survey.

"The conclusion of the armistice by Badoglio caused open joy among the entire Greek population. The collapse of the European defense front seemed to be very imminent. The speedy disarmament of the Italian Wehrmacht by numerically inferior German forces which took place mostly with out friction caused dismay and fear.

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The liberation of Mussolini was taken for what it actually was: a courageous coup and the fulfillment of a friend's word. The departure of the Italians, who frequently were hated because of their unjust behavior, their lack of military demeanor, and because they were defeated in the Albanian campaign, evoked joy and even pity in the widest circles. Those Greeks who had the right attitude rejoiced when the Germans assumed control of the security and administration of all Greece. They expected a just procedure and performance in particular in the economic sphere, in the black market, and hoped for an improvement of the situation and of the economic problem."

The next portion of the report deals with:

"Strike Situation:

"After the collapse of the general strike of 31 August 1943 work was resumed almost everywhere on 1 September 1943. Only the employees of the small banks continued to strike, and a part of the office force of the gas and electricity works and the majority of workers in the tobacco industry. On 5 September 1943 work was fully resumed everywhere.

"Up to now there were hardly any strikes in the area of German sovereignty. Now that the Germans had taken over executive power in all of Greece the strike instigators were fearful lest the same rigid procedure be applied to them as was done hitherto in the area which was formerly under German sovereignty. The decree of the Military Commander Greece" -- and that, if Your Honors please, is the defendant Speidel -- "stating that any strike would be considered as directed against the German Wehrmacht and would be treated accordingly, was an additional factor.

"The strike which broke out on 1 October 1943 in the Athens gas works - 160 men and four women of the entire force stopped working - was suppressed by the immediate interference of the field

gendarmarie. This strike must be regarded as an attempt to determine whether the Germans would actually apply their severe measures against striking workers."

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Next is an account of the enemy situation. I think we need not read the portion dealing with the Italians but continue on page 238 of the English, 174 of the German, with the account of the Military Commander Greece on the insurgent movement. Paragraph B, Insurgent Movement:

"The distribution of bandit groups has remained essentially unchanged. Pursuant to orders of the English High Command, the bands evade larger operations. They limit themselves to acts of sabotage on march roads and to occasional attacks on columns. Larger combat actions did not develop anywhere.

"The bandit movement has been strengthened essentially by the collapse of the Italian Wehrmacht. Considerable supplies of arms and ammunition and some rations also have been placed into the hands of the bands by the Italians. On Euboea the Italians turned over almost all their equipment to the bands and some of the Italians joined the bands.

"The main areas of band activity are situated in the Pindus and in the mountain ranges closing off the Hiakmon valley, further southwest and northwest of Thebes on both sides of the railroad line Thebes-Lamia. On the Peloponnesus the area northwest of Tripoli primarily is endangered by bands. Smaller bandit territories are situated in the area of Parnis, north of Athens, and in the southeast Peloponnesus. In the area of Agrinion and Arta also, bands have been observed with a changing circle of activity. It is of special importance that according to reports of confidential agents the opposition between nationalist and communist bands at this time is increasing. Even the English threat of withdrawal of all supplies unless hostilities cease has removed the tension only superficially. In addition, the English Colonel 'Eddy', the actual leader of the Greek band movement, has been recalled to Egypt because he is too pro-communist (reports from reliable confidential agents)."

And next follows a section of the report dealing with counter intelligence situation. I think we need not read it at this time but I call Your Honors' attention to the final paragraph of that portion of the report which appears on page 240 of the English and 176 of the German:

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"According to a careful estimate the number of armed insurgents situated in Athens and neighborhood is supposed to be somewhere between 20 and 30,000. The RO was newly established during the period covered by this report. The Greek Minister of the Interior Tavoularis is said to have founded this organization."

The report deals next with sabotage activity, enemy propaganda, and finally the important section of the report dealing with the estimate of the situation by the Military Commander Greece:

"Greece at this time is in a state of economic, political, and financial disintegration. It is a widely held belief that the AngloAmerican troops, once they have arrived, will stop this disintegration and make Greece into a great and great country. That is why the three largest political parties, the Democrats, the

Royalists, and the Communists, are preparing to seize power during the period which will elapse from the departure of the Germans until the arrival of Allied troops. Each one of the groups mentioned above is trying to arm its followers. At this time, the Democrats, who still hold certain elements of the state authority, are in the best position to retain power with the help of the gendarmerie and the police. Inter--politically, the Communists are the most dangerous because they represent the most active group, and because they have considerable forces available and are very well organized. Mainly, however, they can call attention to the catastrophic economic development which has brought the Greek people to the brink of an abyss. Consequently, it does not lack followers. The other political parties are slowly permeated with the thought that a further development of the Communist Party signifies the greatest danger. In this connection, it is significant to note that it is the so-called Anglophiles who are most persistent in demanding that the Germans take action against the Communists.

"Since 15 September 1943 the economic situation is becoming increasingly worse. The gold pound rose to almost 600,000 Drachmas.

Page 2,850

The most important foodstuffs have become three to four times as expensive. One oka of oil now costs 60,000 Drachmas. The general increase of wages and salaries as decreed by the Greek Government with the support of the Special Plenipotentiary on 2 September also contributes to the deterioration of prices and to the increase of the inflation. Economic measures alone can no longer stop this price development which is leading to chaos. The German occupying power will interfere with draconic measures in order to stop the black market which increases prices and to check the hoarding of basic consumer goods. The economic situation can be stabilized only if continued inflation and additional price rises are stopped.

"The political danger inherent in this development is very great.

"The bands all over Greece are the advance guards of an AngloAmerican landing. To smash them is as important as it is to improve the economic and social situation."

The report is signed: "For the Military Commander Greece, The Chief of General Staff, v. Bogen."

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The next document, [NOKW 1494](#), has already been introduced into evidence in Document Book XII so we pass it at this time and turn instead to page 246 in the English, 180 of the German, which is offered as Prosecution Exhibit 547.

DR. BERGLER (Deputizing for Dr. Weisgerber, attorney for defendant Speidel): Your Honor, I object to the introduction of [NOKW 1783](#), which document is a report of the 611th secret police, detachment, Iraklion 5 July 1943, to the Commander of the 22nd Infantry Division, Fortress Command Post. The 22nd Infantry Division was at that time in Crete, Iraklion is likewise situated on Crete. Crete, however, is not part of the authority command of the Commander in Greece who at that time was Speidel.

MR. FENSTERMACHER: If your Honors please, we have no intention of offering this document against the defendant Speidel. The 22nd Division which was operating on Crete was subordinate to the Commander in Chief Southeast Who was simultaneously subordinate to the Commander of Army Group E, and we offer it against the defendant Foertsch, who was Chief of Staff to the Commander in Chief Southeast, and we do not offer it against the defendant Speidel.

THE PRESIDENT: By reason of the statements made by the Prosecution, the objection will be overruled.

MR. FENSTERMACHER: On page 246 of the English Document Book, page 180 of the German, Document NOKW 1783, Prosecution Exhibit 487. If your Honors please this is a report dated Iraklion District Headquarters, 611th Secret Field Police Detachment.

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Dated Iraklion 5 July 1943, Sent to the Commander of the 22nd Infantry Division.

"Subject: Report on the executions ordered.

The undersigned offices submit the persons hereafter named for execution, according to order:"

I think we need not read the remarks which appear beside the first several names, your Honors. I will just read the first ones. The following ones are similar.

"Fundukidis, Georges: of Michael, born 1916 at Sechum, Soviet Russia, resident at Chania, carpenter, single, 1 child, was always active as Communist. Suspected spy."

The next man, Pronakis, Dimitries, was discovered with leaflets, enemy propaganda, communist activity.

Third, Pronakis, Johann, was also discovered with leaflets, enemy propaganda and communist activity.

The fifth, sixth and seventh men were suspected spies. The eighth, ninth, and tenth are labeled brutal criminals, punished several times previously, as is the eleventh person listed. The 12th is said to be a law breaker, punished several times previously.

I call your Honors' attention to the remarks after the following men on the list: No. 13, on page 248 of the English, 181 of the German:

13. Heim, Michael of Isaak, born 1904 in Kerkira, resident at Iraklion, hat maker, married, 2 children, Politically suspect Jew.

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14. Sambaton, Elias of Samboton, born 1902 in Chaina, resident at Iraklion, Pedler, married, 2 children, Politically suspect Jew.

15. Elchai, Abraham of Isaak, born 1870 at Iraklion, resident at Iraklion, plumber, married, 11 children. Politically suspect Jew.

16. Welenis, David of Samuel, born 1902 at Kerkira, resident at Iraklion, cabinetmaker, married, 2 children. Politically suspect Jew.

17. Elchais, Jakob of Abraham, born 1900 at Iraklion.

18. Abigador, Simon of Matthaeus, born 1911 at Chania, resident at Iraklion, official, married, 3 children, Politically suspect Jew.

Your Honors will note in the left hand portion of the document, "District Headquarters Commander, Approved 6 July 1943, signed Mueller."

Your Honors will recall that Frederick Wilhelm Mueller was at this time the Commander of the 22nd Infantry Division, the same Mueller who was executed in May of this year in Greece as a war criminal.

"The execution was finished at 0525 hours. Death was sealed by shooting. Signed: Knebel. 6 July 43."

If Your Honors please, I have been asked by My. Rapp to state for the record, the Prosecution today has handed to Defense Counsel for the defendant Foertsch, one copy of a handbook for the General Staff Officer, a German Army publication which is commonly referred to as "Roter Esel."

We continue now on 250 of the English Document Book, page 183 of the German, Document [NOKW 1760](#), which is offered as Prosecution Exhibit 548.

Page 2,854

This is a report from the First Mountain Division to the Commander Saloniki Aegean, dated 25 July 1943. Your Honors will recall that at this time the Commander Saloniki Aegean was subordinate to the Commander in Chief Southeast who at this time was General Loehr, with his Chief of Staff General Foertsch. This is an Intermediate Report for the period from 24 July 1700 hours to 25 July 0900 hours.

I think the only portion of the report which I need call to your Honors attention is paragraph under c.

"c) 24 July 0400 and 6700 hours 2 counterattacks of bands in strength of 30 to 50 man against Eleftheron. The bands in the area of Eleftheron are mostly uniformed."

The report is signed First Mountain Division, by the I A, and operations officer.

Turning next to page 251 of the English Document Book, page 184 of the German, Document NOKW 1758 which is offered as Prosecution Exhibit 549. Those are a series of daily reports from the 187th Infantry Reserve Division to Higher Headquarters. The first is the daily report for the 24 August 1943.

187th Reserve Division 462nd Reserve Infantry RegimentIn retaliation for an attack on a truck at Paljevina (see Daily Report 21 August 1943) and on gendarmes at Cazma, hostages were taken in both placesI think we need not read the rest of the report at this time but turn next to page 252 of the English, page 185 of the German, Daily Report for 9 September 1943, from the 187th Reserve Division, to Higher Headquarters.

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Your Honors will recall that the 137th Reserve Division was at this time subordinate to the 69th Special Reserve Corps which at that time was under the command of the defendant Dehner, and the 69th Corps was in turn subordinate to the 2nd Panzer Army under the Command of the defendant Rendulic and continuing with the military pyramid, the 2nd Panzer Army at this time, was subordinate to the Commander in Chief Southeast who was simultaneously Commander of Army Group F, defendant Weichs, and his chief of staff, the defendant Foertsch.

Daily Report for 9 September 1943, 0900 "Take 10 hostages each at Mucna and Rijeka, 20 at Spisic Bukovi Comply with order for counter intelligence and retaliation measures Section Ic No. 5379/43 secret dated 24 August.

Notify the villages that another attack on the railway will result in being hanged or shot at the scene of attack."

The report is signed 187th Reserve Division.

Next the 187th Reserve Division for 20th September 1943.

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In retaliation for an attack on a truck of the 202nd Panzer Regiment the entire village of Trnava will be burned down. Population deported. 10 hostages from Medari and Trnavagn will be hanged at the scene of the attack. Large posters in the Croatian language are to give the reasons as being constant surprise attacks and to threaten further such measures.

187th Reserve Division Finally an entry in the war diary for the 24th of September 1943, Headquarters 69th Reserve Corps:

"For information by teletype to: 187th Reserve Division."

DAILY REPORT FOR 24 SEPTEMBER 1943

187th Reserve Division, 462nd Infantry Reserve Regiment Attack on Virovitica (see Daily Report 23rd September) repulsed.

Since shots were fired from private homes, 100 hostages will be taken at Virovitica. Own losses: 1 German Gendarme dead. Enemy losses unknown.

187th Reserve Division Section Ia,

DR. VON TAGWITZ: (Attorney for defendant Rendulic):

Your Honor, regret to have to object against the words of the representative of the Prosecution which he used to connect those various documents, or rather which he used to connect the document he just read, Exhibit 548, inasmuch as he said that the defendant Rendulic was the Commander in Chief of the 2nd Panzer Army at this time. Earlier the Prosecution had always named the correct date at which he took over the command, that is, the 26th of August 1943, whereas now I assume that the Prosecutor made a slight error inasmuch as he said that already in July, as a fixed date, the defendant Rendulic was Commander in Chief of the 2nd Army.

MR. FENSTERMACHER: I don't believe I said that. The first report in this exhibit is a daily report for 24 August 1943. I carefully refrained from mentioning any of the defendant's names in connection with the report of that date. However, the next report was for 9 September 1943 and it was in connection with that report at that I remanded that the 187th Division was subordinate to the 69th Corps under command of the defendant Dehner at that time and that the corps was in turn subordinate to the 2nd Panzer Army in command of the defendant Rendulic at that time.

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I carefully limited my remarks to the period for the end of August 1943.

THE PRESIDENT: The objection will be over-ruled. If the defense wishes to make any further showing in respect to this document, and as it may apply to this defendant he may do so as to the case in chief.

MR. FENSTERMACHER: If your Honors will turn to page 97 in your document book, page 62 in the German. I believe defense counsel opposed the introduction of this document this morning on the ground that it had been previously introduced. During a conference with defense counsel we determined that it had not been introduced.

THE PRESIDENT: Well you kindly give the page again.

MR. FENSTERMACHER: Page 97 of the English, page 62 of the German. Document [NOKW 1712](#). The Prosecution now offers this as Exhibit 550. These are various extracts from the war diary, 342 Infantry Division, for the month of January 1942.

Your Honors will recall that at this time the 342nd Division was subordinate to the Plenipotentiary Commanding General in Serbia, General Bader, and that General Bader was in turn subordinate to the Commander in Chief Southeast; he was at that time the Commander of the 12th Army; at that time the Commander in Chief was defendant Kuntze and his chief of staff the defendant Foertsch. I direct your Honor's attention to the entry in the war diary for 19th of January 1942:

"09.15 hours; Group 698 reports: Rogitaca mopped up. Enemy losses on 17th and 18th: 85 dead; 12 wounded, 230 prisoners, 29 shot to death. Own losses: 1 wounded. Booty: 25 rifles, 50,000 rounds rifle ammunition."

The entry next in the war diary:

"1920 hours: Group 689 reports: Connection with IInd Battalion established. Regiment in the Area Kram-Ziljebovi. Enemy today 24 dead, 15 shot to death, Booty; 39 rifles.

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I call your Honors attention to the description: "24 dead, 15 shot to death."

We offer next, if your Honors please, as Prosecution Exhibit 551, a series of photographs which we have received from the Yugoslav National War Crimes Commission, certified by them as having been captured by them and brought to us by the Yugoslavian delegation to the Office of Chief of Counsel

for War Crimes. This is a series of six photographs and I suggest that your Honors paginate them 1 through 6 putting the figures on the English page which accompanies the photograph.

I call your Honors attention to the inscription which is found on the back portion of the first photograph. The captured prisoners.....

THE PRESIDENT: What is the exhibit number, please?

MR. FENSTERMACHER: Exhibit 551 your Honor.

THE PRESIDENT: How do you propose to paginate these?

MR. FENSTERMACHER: I would suggest paginating them 1 through 6.

THE PRESIDENT: All of them?

MR. FENSTERMACHER: Yes, page 1 on the first English page; then the second picture will be page 2 and so on.

JUDGE CARTER: Why not call them 551-1 etc?

MR. FENSTERMACHER: We can do that, call them 551-1; through 6. The first photograph bears the inscription on the back:

"Captured partisan, who does not know what Communism is and who fights on the side of Comrade Tito in spite of this."

I direct your Honors attention to the cap and the red star on the cap which the person in the photograph is wearing—despite the fact that the rest of his garb seems to be civilian clothes.

The next photograph is 551-2, and bears the inscription on the back:

"A captured partisan with Serbian cap and Soviet star, student of technology by profession, orthodox."

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And, I call your Honors attention to the uniform which the person on the photograph seems to be wearing, especially to the red star on his cap.

DR. LATERNER: Your Honor I would only like to point out that in the first picture which has been presented I could not discover the soviet star, and in this second picture – it is quite obvious that it is a Germany Army coat.

MR. FENSTERMACHER: Your Honor, if the deputy Secretary General will pass the original photographs of the Exhibit to the Tribunal and then to Dr. Laterner?

Dr. Laterner has raised the question about the star on the cap in the first photograph.

Referring to the next photograph, 551-3. The photograph bears the inscription on the back:

"The Cetnik Communist Jovo Suvic from Prnjavora, photograph after he was captured. On his cap and on the butt of his rifle has the Bolshevich Red Star."

DR. LATERNSEER: Your Honor, not even on the original, can I see it, It says here the person on the picture is a Cetnik after capture. This is a prisoner with ammunition and arms.

THE PRESIDENT: You are now referring, Dr. Laternser, to 551-3. The comments made by counsel will be considered in connection with the conception of this exhibit. The objection such as made will be over-ruled.

MR. FENSTERMACHER: Turning to the next photograph, 551-4, it bears the inscription on the back: "Partisan Commissar, Serb, captured on Croatian Territory."

I again call your Honors' attention to the insignia on the cap.

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Turning next to Photograph 551-5, the photograph bears the following inscription on the back:

"One of the captured. Serbian partisans with Serbian Army cap and red star."

I simply want to call Your Honors' attention to the star on the cap.

The next photograph, 551-6, bears on the back the inscription "Partisans". May I call Your Honors' attention to the uniforms which the men were wearing and to the red stars on their caps.

The final photograph is 551-7; it is of a German poster which according to the chairman of the Legal Section of the State Commission of the Yugoslav National Commission for Investigation of War Crimes was found in the collection of Josef Getz, a former member of the German Wehrmacht. It was posted on January 6, 1941, by the German occupation authorities in Serbia. Your Honors will note it is printed in both the German and Serbian-Croatian languages. The text reads as follows:

"The irresponsible acts of the bandits cause the greatest troubles to the Serbian people. Many innocent people have to suffer for it.

"Bandit warfare is contrary to international law and compels the German Wehrmacht to use the most severe measures. The Wehrmacht has only the good intention of preventing the downfall of Serbia.

"The German Wehrmacht is not responsible for the misery being caused to Serbia. The following measures will be carried out and are hereby announced publicly:

"If a German soldier is killed in an attack, 100 Serbs will be shot. Any family providing bandits with shelter or food will be shot, the house burned down, the property confiscated by the Wehrmacht.

"For each demolition attempted or carried out 50 Serbs will be shot. If German soldiers are fired on from a village, the village will be burned down, the male population arrested, and every other man shot. The property will be confiscated by the German Wehrmacht.

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"Anyone who fails to give information about bandits, or gives false or delayed information, will pay forfeit with his life and his family will be imprisoned.

"Whoever favors or aids communists in any way pays forfeit with his life."

The poster is dated 6 October 1941, signed "The Commander of Post Headquarters".

Your Honors will recall on the date October 6, 1941, General Boehme was Commanding General in Serbia, subordinate to the Armed Forces Commander Southeast and Commander-in-Chief Twelfth Army, the defendant List, whose Chief of Staff was the defendant Foertsch.

The next document, Your Honors, is a series of documents which we have again received from the Yugoslav National Commission for War Crimes. They are documents which were captured in Yugoslavia or else documents which were a part of the files of the Yugoslavian partisan movement during the German occupation. The first is headed "Independent State of Croatia". Headquarters, Field Gendarmerie Regiment, dated Banja Luka, 1 September 1941, sent to the Main Security Department of the Independent State of Croatia.

THE PRESIDENT: What exhibit is this?

MR. FENSTERMACHER: I beg pardon, it is offered as Exhibit 552.

THE PRESIDENT: It is Yugoslav J-116?

MR. FENSTERMACHER: That is correct, Your Honor. And I suggest we paginate the first document pages 1 and 2 in both the English and German and call it 552/1.

This is dated Banja Luka, 1 September 1941:

"The head of the Gen. Station Skender Vakuff in his written report dated 20 August 1941 notified as follows:

"The aggressors had five-cornered red stars on their sleeves, caps, and hats."

I direct Your Honors' attention to the date of the document, 1 September 1941.

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The next document should be marked pages 3, 4, and 5 in the English and German document books, and should be marked Exhibit 552/2. This is a bulletin of the Supreme Command of the Yugoslav People Partisan Units of Liberation. It is dated October 1, 1941:

"Official Order.

"It is requested that all headquarters and commandants of partisan Yugoslav units have immediate measures in order to provide all partisans, as far as it is possible, with uniform clothes and appropriate insignia on the caps:

"1. Throughout Yugoslavia partisans have to wear on the caps the anti-fascist insignia: red five-cornered star.

"2. In Serbia, apart from the red star, partisans have to put a Serbian tricolored band, 3 cm long and 1½ cm wide. The band is to be put below the star, in horizontal position.

"3. In Bosnia and Herzegovine, apart from the red star, partisans have to wear on their caps above the red star a Croatian tricolored band in the form of a triangle.

"4. In Croatian areas, where the population is pure Croatian, partisans have to wear apart from red star, Croatian band tricolor below the star. In the areas where Serbian and Croatian population is mixed, partisans have to wear, apart from the star, Serbian and Croatian band tricolor of the same kind as in Bosnia.

"5. In Slovenia, apart from the red star, partisans have to wear Slovenian band tricolor below the star.

"6. In Montenegro, apart from the red star, partisans have to wear Montenegro tricolor below the star.

"II. All partisan headquarters and commandants have to take immediate steps in order to provide their units with national banners. In the middle of the colors is a five-cornered red star.

"The headquarters of the Supreme Command of the People Partisan Units of Liberation has following banner: red, with Yugoslav tricolor and five-cornered star in the right upper corner.

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"III. Salute for all fighters of the National Movement of Liberation is a tight fist put at the temple."

Signed "For the Supreme Command of the Yugoslav People Partisan Units of Liberation, Tito."

Then follows the certification by the head of the Legal Department of the State Commission that this is a true and correct excerpt of the original bulletin issued by the Supreme Command of the Yugoslav National Army of Liberation.

THE PRESIDENT: Before you proceed any further, Mr. Fenstermacher, may I inquire as to whether or not you are in a position to tell us when the prosecution will complete its case?

MR. FENSTERMACHER: I believe, Your Honor, we will be able to finish sometime tomorrow afternoon. There are only two or three more documents to be inserted and Document Book 25, which I think we can put in tomorrow afternoon.

THE PRESIDENT: That being true, I suggest the Tribunal will discontinue the reading of any further documents at this time. We have some matters which I believe should be called to the attention of counsel for the prosecution and the defense. There was submitted to the Tribunal yesterday a memorandum presented by the prosecution in connection with Exhibit 338-A. Heretofore, the Tribunal refused to admit this document. The memorandum as presented gives certain reasons why it should be admitted and we have given consideration to this document as submitted, rather the memorandum. Inasmuch as this is a captured document and applies somewhat to the questions involved, it will be admitted subject to the statement that the Tribunal will give it such consideration as it deems it merits when it shall give full and final consideration to the full record. That completes the matter of the Exhibit 338-A.

Inasmuch as we are coming down near the close of the prosecution's case, I have certain things which I believe should be commented upon. In order that there may be no question as to where the documents are and what may have happened to them, will the Deputy Secretary General advise me in the morning, or the Tribunal, as to whether or not all documents have been returned to your office that may have been offered in evidence?

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I should also like to be advised by the prosecution and the defense counsel as to whether or not there has been a ruling made by the Tribunal on all applications that have been submitted to it. Now, I know there are one or two in my office which are in the process of being handled and disposed of, but in order that nothing will be overlooked I would like to have counsel both for the defense and the prosecution submit a list of any applications that have not been ruled on by the Tribunal.

The third matter I think perhaps should be brought to the attention particularly of the defense counsel is that we have received, as a result of conversations and requests, what might be termed a bibliography or a list of books, articles, and authorities which bear upon the case that is now being tried. There are no quotations, just a list of the books and a list of articles and authorities. The Tribunal is of the opinion that this fact should be called to the attention of the defense counsel and perhaps they may be in a position also to furnish us a list of books or articles, we hope in English, that we may read during the next month or so, and prepare so that we may make a proper decision in connection with this case.

I am calling this to your attention so that you may submit to us, if you care to, not quotations from these articles, but the list of the articles themselves. At a later time if you wish to submit a brief quoting from these articles we will be happy to receive that. If you can submit such a list or care to do so -- that refers to any English documents or translations from German documents or any other publications that may have been translated into or published in English -- we will appreciate it.

The Tribunal will adjourn until tomorrow morning at 9:30.

(Thereupon an adjournment was taken until 0930 hours, 28 August 1947.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 28 August 1947, 0930-1630, Justice Wennerstrum, presiding.

THE MARSHALL: Persons in the courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

THE PRESIDENT: The Marshall will ascertain if all defendants are present in the Courtroom.

THE MARSHALL: May it please Your Honor all defendants are present in the courtroom.

THE PRESIDENT: Judge George J. Burke will preside at this days session.

DR. LATERNSEER: Your Honor, I just want to submit a request from the defense counsel as follows: Before the Tribunal rules on the duration of the adjournment I request that the defense be heard on this point once more.

JUDGE BURKE: The Tribunal will be glad to entertain the views of defense counsel presented briefly.

DR. LATERNSEER: (For defendant List.) Your Honor, I shall try to be as brief as possible. In the preparation for the defense it is first of all of the greatest importance to know whether the defense counsel will be in a position to send two delegates to Washington, or whether the material will be brought to Nurnberg by the Prosecution. If it should be possible to send these delegates to Washington, then a normal time should be taken as a basis which is necessary for the trip itself, and for carrying out of the task in Washington. Then the result of the investigation of the files would have to be made use of in order to be put down in the form of document books.

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This will take a considerable period of time, and I believe that the defense can only then start to work once it has its own document books in its hands, in order to determine the course its defense will take.

Your Honor, I want to point out the following points, for even if, which we do not hope, we should not be able to carry out this trip, the defense cannot start before the expiration of four weeks. As a sample reason for this, I have made inquiries from colleagues who are acting as defense counsel in a common trial, and I was told that from the time the document book in German is submitted it takes three weeks until the defense counsel has come into the possession of the necessary copies, and into possession of the necessary copies, and into possession of the document book translated into English. That is to say, from the date the document book has been submitted at the competent quarters it takes until the carrying out of the technical processes, the multigraphing and translations, at least three weeks.

I have already drawn the Tribunal's attention to the fact that we, as regards the procuring of evidence, are experiencing the greatest difficulties. The time mail takes and the return of an affidavit which we have requested, all takes considerable time. For instance, when making inquiries in Austria where some of the witnesses live, only a very few answers were returned. We were told, for instance, that a questionnaire which we had enclosed had not arrived, this was apparently taken out by the censorship or some other authorities.

JUDGE BURKE: Will you repeat your observation about the abstraction of things from your communication?

MR. LATERNSEER: I said that letters which we had, for instance, sent to Austria and which had contained questionnaires and instructions how to make affidavits, the enclosures were taken out of the envelopes. Whether they were taken out by the censorship or some other postal authorities, I don't know. We have gotten word that the letters arrived, but not the questionnaires.

After all, the prosecution only started its case on July 15, and only five to six weeks have elapsed up until now, and the time is not sufficient for us to get all our evidence.

I should further like to ask you to take into account, that during the whole duration of this trial the climatic conditions were very unfavorable for mental activities. All those concerned in this trial know how tiring these sessions have been. The defense counsel only had time in the evening between 1800 and 2000 hours during which they could talk to their clients, not only the defense but also the defendants, who are also in most cases of an advanced age, were so tired that the time at their disposal could only be used for discussion of current matters which had just happened in the trial. A preparation of the defense was not possible in this time in the measure required.

It would be interesting for the Court to find out under what conditions we have to work. The rooms in which our discussions take place are as well equipped as they could be equipped under the conditions obtaining here. But we are certainly confined, and the room was exceedingly hot during that time we discussed these matters, so it was very difficult to carry them out at all.

Another point which I want to make here, the Prosecution has arranged its evidence in a chronological order, I certainly don't want to criticize this arrangements but I am of the view that a purely chronological order is not something which eases the work of the defense. May I just quote one point, if for instance the defense wants to refute a statement of the prosecution which stated that the bands appeared in uniforms, the defense must look for the material offered in this context, not in one document book but may have to go through all the 25 document books in order to extract what may be of use to itself. The way the subject matter of this trial was ordered, this chronological arrangement, has made things exceedingly difficult for the defense.

I can only explain to the Tribunal that a briefer adjournment than four weeks would provide the greatest difficulties for the defense in this connection.

I ask the High Tribunal to take into account that the defense itself only began its case after the prosecution had finished its preparations, and as far as I know the prosecution had at least one year at its disposal to make its preparations. For this reason the defense cannot be expected to cope with 25 document books in a period of time of about two weeks. I believe that according to the principles of justice it is justified that the defense obtain at least four weeks for the preparation of its case.

DR. RAUSCHENBACH: (for the defendant Foertsch) Your Honor, may I permit myself to add one point to what my colleague, Dr. Laternser, has said. I am referring to the translation of the document books. As defense counsel in Case IV against Pohl and others, I have observed how unfavorable it may be and at least how difficult it is if the defendants sitting in the first benches of the dock at the beginning of the evidence are not in a possession of the document book, that is, their document books have not been translated. If the documents are given later, that is after the defendant has been for sometime on the witness stand, then the case is so severed that it is very difficult to present it to the court in some

kind of completeness, and since the material cannot be submitted in a unified form it is to be feared the defense cannot present its case in a successful manner. For this reason, too, the adjournment should be extended until such time as those defendants who appear on the witness stand at the beginning, are in possession of most of the translated documents, so that they can be used when these defendants are testifying. This does not exclude that further document books or additions are submitted at a later date.

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DR. MENZEL: (For defendant Kuntze) Your Honors, I want to add to the reasons which my colleagues have presented here, one point which often appears, and which is additional to the previous reasons. I have, for instance, found a witness who was a Yugoslav National, and for that reason knew well the conditions in the Balkans. I have written to him and this witness answered, and a number of points in evidence were submitted by him. When I wrote to him the second time in regard to an affidavit he refused all statements, and the reason he gave was that he was afraid of reprisals. He writes to me that he is still a Yugoslav National, that his dependents are still living in Yugoslavia, and he adds "how can he under such circumstances state or testify without hindrance, in view of what might happen to my family." He writes further "who can give me a guarantee today that my statements do not bring distress to my family and my acquaintances and friends." I could submit further points from this letter which are of a much grosser nature, but I want consciously to avoid this. You will surely see from this, the psychological difficulties with which the witnesses have to contend, and I don't have to tell you how long it takes to overcome these obstacles and to dispel the doubts of these witnesses, and to convince them they will not be prosecuted because they tell the truth before this Tribunal.

DR. FRITSCH: (for the defendant Rendulic) I only want to mention one quite brief point. My colleagues have spoken about the difficulties of procuring witnesses. But there are other difficulties as well which should be possible to overcome quite easily. First of all, I must state that the prosecution has certainly endeavored to help us by making material available to us as far as it seemed expedient to the prosecution. I applied for, and the Tribunal has granted it to me, that the bandit regulations of 1942 should be handed out to us. These bandit regulations are necessary for us. These bandit regulations have been submitted by the prosecution to one or another of the defendants, but now they can't get hold of them. And it is necessary for me now to take up a lot of writing work, and even to travel in order to obtain these regulations.

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In order to submit them to the Tribunal. Apart from these regulations other material also has to be submitted, and I should like to ask the Court to consider that a journey, only for instance to Hanover, that is a distance which took two days formerly requires at least a week under today's conditions. Here again there are considerable difficulties present, which in the six weeks which have been at our disposal from the date when we heard of the prosecution's charges, could not be overcome. We need for these things the time limit which we have requested.

JUDGE BURKE: Are there other remarks from defense counsel on the subject?

(No response.)

Mr. Denney, the court would be pleased to have your views with the same limitation of brevity which I suggested to the defense counsel.

MR. DENNEY: If your Honor please, I don't think we should try to tell the Court how long defense counsel should take. I should like, however, with reference to Dr. Fritsch's remark to make this comment, he requested the regulations of which he spoke. We did not oppose the request. We as yet have been unable to find them. We are trying to find them. I saw Dr. Fritsch in the hall last night, and I suggested that he go to the document room -- or perhaps it was his assistant, Dr. Jagwitz, -- I suggested he go to the document room with the blank, that is the blank form filled in which indicated we had approved the request, and he asked me where the document room was. This in the sixth week of the trial, the indictment having been served in early May. Now we are doing everything we can to get the book for him. I have never seen it myself. I don't think it is relevant. But we have not objected. We have said he can have it. I certainly think when he gets up and makes a statement with reference to application they make, he should state all the facts to the Tribunal, and not indicate by under-statement that we are complying insofar as we find it expedient, because that is certainly not our attitude and we are not trying in any way to forestall them or impede them.

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JUDGE BURKE: The Tribunal will make an announcement on the matter after the noon recess.

You may proceed, Mr. Denney.

MR. DENNEY: Thank you, your Honor. If your Honors, please, I should like to state that I have been very remiss with reference to the Greek documents. It suddenly occurs to me they have no page numbers in the document book. Of course, the documents are all separate by number, and they are all paginated within themselves. However, I shall endeavor to work out some arrangement whereby we can run them serratim at the close of the document book, where they were offered, which I believe is 21, and as soon as I work something out if we are still here, I will make a statement on the record, and if not I will send a memo to all Your Honors' secretaries so that they can be advised, and I will personally explain the pagination problem to them, and also the Secretary General.

JUDGE BURKE: Very well, Mr. Denney. You may proceed.

MR. DENNEY: I am sorry that has happened. If your Honors will recall that at the time the first part of the Yugoslav report, which was Exhibit 100, was put in evidence, there were certain portions which I agreed with Dr. Laternser in Yugoslav to have translated to German, which we were not using. People speaking Yugoslav, German and English are somewhat few and far between locally, and we have now been able to get copies of them, and for the convenience of defense counsel I will give them two copies of each of the additional German portions, and will hand one copy to the Secretary General. This is the balance, Dr. Laternser which I am giving you now. I believe it will be apparent from the material as to what it covers. And Dr. Laternser agreed, on behalf of the defense counsel, that we did not have to submit the long list of names that were in the reports. There were several pages of names and he said that it would be all right to omit them.

PRESIDING JUDGE BURKE: Is that your understanding, Dr. Laternser? Dr. Laternser indicates that it is his judgment as well.

MR. DENNEY: And this is for the Secretary General. This is the balance of the exhibit. Now, with reference to the exhibit which was appended at the end of Document Book 21, I now have a final page for each of Your Honors' document books, which should be put in instead of the last page which is presently there. I believe the exhibit number is 498-A, and I'm sorry I don't have the page number. The only thing is to list these brief documents here which I neglected to do.

PRESIDING JUDGE BURKE: 498-A, Mr. Denney?

MR. DENNEY: Yes, Your Honor. That's that sheet that we always put in at the close of the document book. That's the one from Document Book 21, and this page should be substituted. I have copies here for the translators and interpreters and for the Secretary General, and the defense counsel copies will be right up. I just sent for those. This one which goes at the close of Document Book 22 should be marked "510-A for Identification" and called Page 27. And then on the next document book, this should be marked 525-A and inserted at the close of Document Book 23, and there again I have neglected to paginate the certificate of General Taylor's which is Exhibit No. 525; and I will do that and then advise the Court as to the page numbers which this should get. Your Honors will notice one thing--that is at the close of Document Book 22 there is an Exhibit 510, which was the Norwegian film, and at the beginning of Document Book 23 there is another Exhibit 510, which is Norway 13B. Well, 13B is the sub-title of Exhibit No. 510. That is the reason that it is done that way. The other copies for defense counsel of the insert in Document Book 21 have not been received; however, rather than delay the Court I will withdraw, and I shall be sure that they get the balance of these copies this morning. It should be a matter of moments until they get here. Mr. Fenstermacher will continue with the last document book.

MR. FENSTERMACHER: If Your Honors please.

PRESIDING JUDGE BURKE: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: Thank you, Your Honor. Yesterday, prior to the adjournment, we were discussing some Yugoslavian documents which had been given the Exhibit No. 552, and we had completed, I believe, the first two of those portions of Exhibit 552,--one and two. Now, if Your Honors will turn please to Page 6 of Exhibit 552--this will be Exhibit No. 552/3. Do Your Honors have it?

PRESIDING JUDGE BURKE: [NOKW-1660](#)?

MR. FENSTERMACHER: No, Your Honor, this is a Yugoslavian document. J-116 is on the cover page of the document. This is a report from Police Headquarters Sarajevo, dated Sarajevo 20 October 1941. Tchetniks in Srednje wear uniforms like our soldiers. The only difference is that they wear stars on

headgears." And the report is signed "Police Chief." Certification on the document is to the effect that "this is a true and correct excerpt of the original document, captured by the Yugoslavian Army of Liberation in files of the Main Security Department of the Independent State of Croatia." We call Your Honors' attention to the date of the document, 20 October 1941. Turning next then to Page 8 of this exhibit, document labelled Y-114. It can be identified more readily as Exhibit No. 552/4. This is an order from the Headquarters of the Kalinovic Detachment of the People Partisan Army of Liberation, dated 28 October 1941, Treskavica, sent to the Headquarters of the Precansky Battalion.

In compliance with the general order of the High Command of the Partisan Detachment of Bosnia and Herzegovine, all partisan units have immediately to give allegiance.

Accordingly, your Hqs. has to do so without delay. Enclosed are several copies of allegiance text. Before giving allegiance partisans should be instructed about its contents and meaning. Commanding officer and political commissar, or at least one of them, have to be present at the ceremony.

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New partisans joining detachment after given allegiance have to be immediately instructed about the contents of allegiance obligations and meaning of it, and have to give allegiance also.

Insignia and Salute. In Serbian areas of Bosnia and Herzegovina our banner is Serbian and in Croatian areas - Croatian, with the five-cornered star in the middle. Five-cornered star with Serbian respectively Croatian, band tri-color has to be worn on headgear. Salute - tight fist as follows:

Military: fist at temple Civilian:

fist slightly above shoulder (Circular of the High Command of the Partisan Detachment of Bosnka and Herzegovina, dated 19 Oct.

1941.)

Banners will be supplied as soon as we receive them. If impossible to provide partisans with insignia -- send request to our Hqs.

Regards Death to fascism - Liberty to the people.

Pol. Commissar Commandant Scepan Rade The certificate of the Head of the Legal Department of the State commission is to the effect that "this is a true and correct excerpt of an original document issued by the Headquarters of the Kalinovic Detachment of the Peoples Partisan Army of Liberation."

And again I call Your Honors' attention to the reference in the document to insignia and to the date of the document, 28 October 1941.

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DR. LATERNSE: Your Honor, may I look at the original?

(Dr. Laternser examining document) Thank you very much.

MR. FENSTERMACHER: If your Honors, will turn now to page 10 of this particular document, that page marked J 129, it should be marked as Exhibit 552/5. This document is addressed to the Bailiff of the village of Totchionik:

"In order to activate the Peoples Liberation Committee there will be a meeting tomorrow in the village of Totchionik. Your task is to gather all farmers near some of the buildings. Our comrades will come and activate a Peoples Liberation Committee. The farmers have to be on the spot at 12 o'clock."

It is dated, "Battlefield 1 April 1942" and is signed "Commander R. Rovatchevitch."

The certificate is to the effect that "this is a true and correct copy of the original document issued by the Hqs of the 1 Battalion the II Proletarian Shock Brigade."

I call your Honors attention to the date of the document 1 April 1942.

Turning to the next page, page 11, Document Y 117, it should be marked Exhibit 552/6. This is General Order No. 8, issued by the Commandant of Croatian Partisan People Detachments of Liberation on the 20 May 1942:

"I In compliance with the general order of the Supreme Hqs. of the Yugoslav Partisan People and Volunteer Army of Liberation, commanders have to wear the following insignia:

Section Leader: One red five-cornered star on the left sleeve above elbow.

Platoon Leader: Two red five-cornered star on the left sleeve above elbow.

Company Commander: One red five-cornered star and one stripe below it.

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(6 cm. long and 1½ cm. width.)

Battalion Commander: One red five-cornered star and two stripes below it. (6 cm. long and 1½ width.)

Detachment Commander: One red five-cornered star and three stripes below it. (6 cm. long and 1½ width) Commander of Group of Detachments:

and brigade commander as well as members of Highest Hqa, have to wear on left sleeve above elbow a stripe like Roman V turned down. Between points of V is a red five-cornered star.

Political Commissars: wear the same, above-mentioned insignias, and in addition, sickle and hammer on the red star.

This Hqs will prescribe special insignia for deputy commanders, deputy political commissars and chiefs of staff of small detachments.

II Group's and Detachment's Commanders will issue necessary orders to all subordinated units to provide their men as soon as possible with aforementioned insignia wearing of which is obligatory."

"This order has to be made public in front of formation.

Death to fascism -- Liberty to the People (Signed): Commander Ivo Vladitch.

Political Commissar Vlado Katitch."

The certificate states that, "this is a true and correct copy of the original document issued by this Higher Hqs of the Croatian Partisan People Detachments of Liberation."

I call your Honors attention to the date of this document, 20 May 1942.

Turning next to page 13, Document J/127, it should be marked Exhibit 552/7. This is an order from, the Headquarters of the Third Zone of Operations of the People Partisan Detachments:

"2 December 1942 To the:

Hqs of the 1 Slavonian Shock Brigade of the N.O.P. Hqs of the I and II Detachments of the III Zone of Operation.

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Our Circular No. 767 of 28 November 1942, and circular entitled "To all Political Commissars" dated 19 November 1942, - subject of wearing of national insignia - tri-colored stripes on partisans caps, - is amended as follows:

The tri-colored stripe is to be worn in form of letter V turned down, according to instruction given in circular, and not in the way as it was explained in our letter of the same No. that it is to be worn below the five-cornered star.

It is emphasized again that wearing of this tripe is not obligatory. It is requested to put the aforementioned amendment into practice. Death to Fascism - Liberty to the People."

Turning next to page 15, document labelled Y/128, this should be marked Exhibit 552/8, and introducing this deposition of a witness taken in Belgrade, Yugoslavia, the prosecution is mindful of the fact that should there be an application by the defense, the witness should be produced for cross examination purposes.

"Deposition of witness "Comrade Vlade Zetchevitch, Minister of Public Buildings of the F.N.R.Y. on subject of collecting evidence against former German Genarals and Commanders in the South Eastern Territories Field Marshals List, von Weichs and others, now on trial in Nuremburg.

Deposition made on the 5 June 1947.

Mr. Milan Markovitch, representative of the Head of Legal Department of the Yugoslav State Commission is present at the interrogation.

Questioned with respect to the subject of this interrogation -- i.e. treatment of German PWs captured during the war by partisan detachments and units of Yugoslav National Army of Liberation - witness made the following deposition:

"I remember that in battles in the Podzinsky area, conducted for the liberation of the cities of Loznica, Matchva, Etolica (miners settlement 4 miles from Krupanj), Krupnja and other localities, our detachments have captured a great number of German soldiers.

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This happened in September or October of 1941. Even at that time our detachments were formed according to rules which applied to a regular army. The organization was carried out according to the regulations of the Hague Convention and units had commanders appointed, soldiers wore prescribed insignia and bore arms quite openly. The regulations of the Hague Convention were applied with respect to PWs and our men treated German PWs strictly according to the rules of International Law and Conventions concerning treatment of PWs. In spite of the fact that the German Commanders and German Army did not adhere to the Hague Convention and the regulations of International Law with respect to land warfare, and were killing innocent population, bombing open cities, murdering our PWs -- we have always treated German PWs in a human way, strictly according to the Hague Convention. The German PWs were always sent to the rear zone and collected in Uzice. A number of German PWs was kept that time in a temporary camp in the apartment building of the monastery of Petkovitza in Jadar County -- and was about to be transported further to the rear zone. The German fliers, not caring for the Hague Convention, bombed this monastery and killed on this occasion most of the PWs (about 60 German PWs and some of our military guards.)

I remember also, that there was a number of German PWs in a camp in Krupanj. German PWs, knowing well that their fliers were to bomb open cities and PW camps, put on the meadow of the camp, a warning appeal to their fliers written in large white letters: "Do not fire. We are German PWs."

At the end of 1941, when the Yugoslav territory liberated this year, had to be evacuated by our Army, -- the partisan detachments could not evacuate German PWs from Uzice. Appropriate measures were taken and these PWs were left in a school building at Zlatibora near Uzice. Later they were liberated by the German units.

With regard to the general treatment applied to German PWs, I have to say that it was very humane -- for instance they were getting the same food as partisans.

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I do not know whether there were in 1941 some cases of exchange of German PWs for our prisoners, but this does not mean that such a practice was not applied at some later date. There are even some documents testifying that such procedure was applied during the later period of the National fight for Liberation.

I have nothing more to tell on the subject."

Read, checked and approved.

Signed Vlada Zetchevitch.

Certified: Head of the Legal Department Legal Adviser Urosh Bjelitch M.D. Markovitch."

DR. LATERNSEER: Your Honor, I move to have this witness called for cross examination.

DR. FENSTERMACHER: I think, if your Honors please, there was a ruling from the Tribunal yesterday, that such an application had to be in writing, and could not be made orally on the record.

DR. LATERNSEER: Your Honor, I made this motion right now, and I shall be glad to do it in writing also.

PRESIDING JUSTICE BURKE: I think that would be the desirable thing for the record.

DR. FENSTERMACHER: That, if your Honors, please, completes Exhibit 552.

PRESIDENT WENNERSTRUM: Mr. Fenstermacher, in what book is this to be attached?

MR. FENSTERMACHER: If your Honors please, I think it can just be kept separate, after Book 24.

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The next document, which is [NOKW-1639](#), consists of several parts, all of which have been sent to us by the Yugoslav National Commission for the Investigation of War Crimes. It is offered as Prosecution's Exhibit 553 and should be paginated 1 and following. The first portion of the document is an interrogation consisting of five pages and should be marked 125, and also marked Exhibit 553/1.

We are offering this interrogation, which is in the German language. We are mindful of the fact that, should defense counsel request, we will have to produce the witness for cross examination.

DR. LATERNSEER: Your Honor, I object to the introduction of this document. This is not an affidavit or testimony. Instead it is a responsive interrogation, I assume, of a defendant. Therefore this is not evidence of a witness. It cannot be used.

MR. FENSTERMACHER: If Your Honors please, I do not share Dr. Laternser's assumption that this is an interrogation of a defendant. This is simply an interrogation of a German soldier, if Your Honors please; it is in the proper form, certified, and has the stamp of the Yugoslav National War Crimes Commission.

DR. LATERNSEER: Your Honor, I believe that this whole document has several faults. For instance, the interrogation could not have been carried out in German for in this interrogation there is one sentence which really does not make sense.

PRESIDING JUDGE BURKE: You are referring now to an error in translation, Dr. Laternser?

DR. LATERNSEER: In case that this document should be admitted, in that case I shall then point out these errors when the prosecution reaches these pages in the document. In any case, Your Honor, I object against the introduction of this document because it is not a statement of a witness.

It can be seen from the document itself that it is the interrogation of a defendant, of an accused person, for it states "from protective custody", that such and such a person was presented, and then the name follows.

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PRESIDING JUDGE BURKE: For the reasons given by the Presiding Judge at yesterday's session, the document will be received with the definite limitations indicated by his views on the subject at that time. You may proceed.

MR. FENSTERMACHER:

"Interrogation.

"Made on 12 March 1947 on behalf of the city of Belgrade in a court martial procedure by members of the National Commission for the Investigation of Crimes committed by the occupation forces and their accomplices, Belgrade.

"Present:

"Sambaher Vladislav, Referent of the National Commission as interpreter.

"Mihailovic Lepasava, stenographer and interpreter.

"Josef Selmayr, former German Army colonel and Chief (IA) of the Operations Branch of Army Group [F was](#) brought in from the detention prison. He answered the questions put to him as follows:

"My name is Josef Selmayr. I was born on 7 July 1905 in Straubing/ Danube (Southern Bavaria). I am married and have three children. My family residence is in Wiesbaden, Idsteinerstrasse 16. My religion is Catholic. I was a colonel in the German Army.

"I came to Yugoslavia from the Russian Theater of Operations. In August 1943, I reported to General Alezander Loehr in Saloniki. He informed me of the impending organization of Army Group [F which](#) was to include territorially the Southeast Area of that period. According to plan, Field Marshal Rommel originally was to become Commander-in-Chief Southeast. However, it was decided later on that Field Marshal Freiherr Maximilian von Weichs was to take over High Command Southeast. Thus, Army Group [F was](#) organized 26 August 1943. It was composed of the following elements:

"1) Army Group E, which included the troops in area Greece, under the command of General Alexander Loehr.

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"2) The Second Panzer Army which until June (?) 1944 was commanded by General Lothar Rendulic. He was relieved by General Boehme at the beginning of June 1944 who in turn was relieved by General Maximilian de Angelis in the second half of the month of July 1944. This Panzer Army included the following corps: the V SS Mountain Corps, XV Mountain Corps, XXI Mountain Corps, and the LXIX Corps. The territorial authority of the Second Panzer Army extended to Albania, Montenegro, and NDH (including the territories coming under its authority after the surrender of Italy). Area Serbia did not come within the competency of the Second Panzer Army except as far as the provisioning of the units of the Army and the securing of these supplies from the railroad unloading points to the Army limits was concerned.

"3) The command authority over those troops which were stationed in Serbia, which was headed by Commander Serbia. Subordinated to him were: the Bulgarian Occupation Corps, the Russian Defense Corps, and the indigenous armed units. Commander Serbia was subordinated to Army Group F only tactically. This organization of Commander-in-Chief Southeast was based on the situation at that time, i.e., light defense of the expected landing of the Anglo Americans on the Balkan and the withdrawal of Italy from the war which was being counted on. The duty of Army Group F was: defense of the Adriatic and Aegean coast in the event of an enemy landing and the protection of signal communications within this area, in connection with the fight against the People's Liberation Army(NOVJ) and against other insurgent groups in the Balkans.

"The Chief of Staff of Army Group F up to 25 April 1944 was General Foertsch. He was succeeded by General Winter. I was Chief of the Operation Branch of the Staff (Ia). Colonel Zorn was Oberquartiermeister (Qu). The subordinate command authorities had the same staff organization as that of Army Group F, however, on a smaller scale.

"During the period of my activity in Yugoslavia, three sizable operations against the Yugoslavian People's Liberation Army took place. The first of these operations was executed in fall 1943 with the cover name 'Kugelblitz'. Since the majority of the enemy was not annihilated in this operation, an additional operation was undertaken toward the end of May 1944 with the cover name 'Roesselsprung'. Its mission was to destroy the headquarters of the People's Liberation Army (NOVJ). The third operation took place in July/August 1944 from the Ibar Valley under the cover name 'Ruebezahl'. These three operations were executed pursuant to the suggestion and order of Army Group F, naturally in agreement with the OKW because the OKW had to approve all plans for the execution of large scale operations.

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During the last years, it was a regulation in the German Army that the OKW had to approve any operation of this kind before its execution, notwithstanding the adverse effect of this procedure if the situation required rapid action. However, if it was a question of a operation, the execution of which required troops not over one division strong, the OKW generally did not have to be notified in advance, but afterwards via Commander-in-Chief Southeast.

"For operations, the execution of which required troops up to one regiment strong, the approval of Army Group F generally was not needed in advance. Of course, in both cases High Command Southeast had to be informed subsequently. The plan for the 'Roesselsprung' Operation was drafted by the staff of the Second Panzer Army. General Lothar Rendulic submitted this plan to Field Marshal von Weichs who on his part transmitted the plan to OKW. After approval by the OKW von Weichs issued the order for the start of the operation. General Lothar Rendulic was responsible for its execution. Von Weichs was 100 percent informed regarding the course of this and of the other two operations in as far as it was of an operational significance, since reports from the field arrived every 24 hours. The command of Operation 'Kugelblitz' was transferred by General Rendulic to the Commanding Officer of the V SS Mountain Corps, General Arthur Phleps."

DR. LATERNSEER: Your Honor, this sentence which has just been read, and which reads, "...regarding the course of the action..., since reports from the field came in every 24 hours" -- this is a sentence which in German does not make sense.

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I can definitely assume that the witness Selmayr had never uttered this sentence as it reads here. I assert that this testimony is wrong.

PRESIDING JUDGE BURKE: It is your contention the testimony is wrong because of your conclusion or because of an error in translation?

DR. LATERNSEER: Your Honor, I am not asserting that the witness has made a wrong testimony. That would be an objection against the probative value which I cannot make at this point. I am merely saying that the interrogation -- the witness cannot have said that. That is, that the record must have been taken down mistakenly.

PRESIDING JUDGE BURKE: Is it a matter, Dr. Laternser, that you would care to have submitted to a competent interpreter?

DR. LATERNSEER: Your Honor, may I have a look at the original for a moment?

PRESIDING JUDGE BURKE: Surely.

DR. LATERNSEER: Your Honor, I can just see here that the signature Selmayr is written under this interrogation. Therefore he has only signed it in the way as it is in this document here.

PRESIDING JUDGE BURKE: Will you repeat that, please.

INTERPRETER: I just notice here that Selmayr's signature is under this interrogation. Therefore he has signed the document as we see it here.

DR. LATERNSEER: Your Honor, I cannot explain this at all, and will have to hear about it when he is here for cross examination.

PRESIDING JUDGE BURKE: Very well.

MR. FENSTERMACHER: Continuing with the fifth line at the bottom of page 3:

"Pursuant to a basic Hitler Order of the year 1941, the partisans fighting behind the German lines were not to be called this 'honorable name'. They were to be designated as bands and to be treated as such. This was valid for all theaters of operation and until the end of the war, "De jure, this also applied to the People's Liberation Army since for political reasons Hitler refused to recognize it as a belligerent power.

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"De facto, there was no doubt within the Staff of Army Group E from the first day on of my activity in the Southeast that the People's Liberation Army, as a whole, now fulfilled all the requirements of international law. Hence, all orders of the Commander-in-Chief Southeast provided for the same methods of warfare as in any other theater of operation against regular enemy forces. I know that the

problem of reprisal measures against the civilian population was discussed during the conferences participated in by Field Marshal von Weichs, Hermann Neubacher, and Commander Serbia Felber. Accordingly, as also on the basis of the orders issued by the troop commanders, as, for instance, by General Fritz Neidhold, General Josef Brauner, and others, I believe that these reprisal measures in the field were carried out by the troops. The issuance of such orders by the individual commanders and the carrying out of such orders in fact, as far as they surpassed collective punishment as permissible and customary in international law, is contrary to the principles of humanity. However, it is a fact that this corresponded to the generally known ruthlessness of Hitler who recognized in that sort of commander, people of his own way of thinking, people who were always willing to transform his intentions into fact. The above mentioned orders were not passed on via me because, according to my office, I carried on work of an operational character exclusively. As far as they were handled at all in the staff of High Command of Army Group F, they pertained by their nature to the duties of the Quartiermeister. I personally, even if I had received such an order, would never have carried it out or transmitted it.

"Further, I am aware that there was talk of cessation of reprisal measures against the civilian population during the above mentioned conferences. However, its result was only a certain mitigation of these reprisal measures as, for instance, that 50 civilians were permitted to be shot for one German soldier instead of 100 as before.

"I was Chief of the Operation Branch of the Staff of Army Group F until March 1944.

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"The above has been read to me and I state that all of it corresponds to my statement which I made voluntarily and without compulsion.

"Certified:

"Interrogator:

"Signed: Sambaher Vladislav "Stenographer:

Mihailovic Leposava "Signed:

Josef Selmayr

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PRESIDING JUDGE BURKE: Mr. Fenstermacher, at this time the Court will stand in recess until 11:05.

(A recess was taken.)

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THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

PRESIDING JUDGE BURKE: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: Your Honor, prior to the recess, we were looking at Exhibit 553 and we had completed the first part of that 553/1. If your Honors will now turn to page 6, Document [NOKW-1639](#), and mark this 553/2, this and the next part of the Exhibit reflect the relationship between the German troops and the Croatian Wehrmacht in the Southeast area. This first document is an order from the Headquarters of the 6th Infantry Regiment, dated Brcko, 5 February 1943;

"To Headquarters, I, II, III, IV, V. Battalion of the 6th Infantry Regiment and of the 13, 14, 15, 25 and 27 Company of the 6th Infantry Regiment."

These are Croatian units.

The Subject is:

"Proclamation of General Fortner to the Croatian Officers in the Operations Area of the 718th German Infantry Division.

The Headquarters of the 3rd Infantry Division under No. 693/Secret of 31 January 1943 has transmitted the following:

The Headquarters of the IIInd Home Guard Corps under No. 1075/ Secret of 28 January 1943 has transmitted the following:

Enclosed, please find the Proclamation of General Fortner to the Croatian Officers in the Operations Area of the 718th German Infantry Division.

Please transmit this proclamation to all subordinate units so that there is no Croatian Officer who has not read this proclamation. The above is transmitted in order that the previously mentioned order will be carried out exactly in all details.

Signed; Executive Officer, 1st Lieutenant Radej" Then turning to the next page is the enclosure, which was forwarded to the Croatian subordinate units.

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This is the order, the proclamation of General Fortner, dated 718 Infantry Division, Headquarters, 21 January 1943.

"Commanding Officer Headquarters, 21 January 1943 To all Croatian Officers of my Area of Command Gentlemen:

With this letter, I am addressing you directly because I feel that many of you are not conscious of the great significance of our common struggle and of the great danger in which your homeland finds itself.

What is at stake?

Briefly, the existence or non-existence of Croatia, the happiness or misery of your Nation, of your families, you cities and villages. Will Croatia remain an independent, free and proud state or will it decline to a Communist Bolshevich province, administered by Jews and dominated by a still greater

poverty than the one which already has been caused by the senseless murders, the looting and the pillaging by Bolshevist criminal hands of Tito, the Stalin Mercenary?

I believe the choice is not hard between a "Free Independent Proud Croatia in a New Europe" and "devastated Bolshevist Province in the service of Stalin". You gentlemen carry the main weight of responsibility. You are the exponents in this struggle and it will be your heroism, your attitude and your appreciation of the situation which will serve as to yardstick by which history will measure the value of the Croatian nation.

What is to be done?

Comrades of the Croatian Officer Corps.

During the first World War, the Croatian and Bosnian Regiments were among the very best. Why should it be different today. Your homeguard and Ustasha is composed of hard, courageous, tenacious and modest and to a great part single people, which means that they want to be led by someone.

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They look to their leaders with unlimited confidence. No wonder they fail in battle when their leader is the first one to withdraw. Wherever the officers were resilient and tenacious, the soldiers fought in an exemplary manner. I will mention only TESLIC where units of the 8th Infantry Regiments together with the Jaeger Battalion of the German Volksgruppe under the Command of MIFEKA, the Commander of the 8th Infantry Regiment who was killed in battle from 8 to 19 January 1943 successfully repelled with insignificant losses to themselves and great to the enemy the exceedingly strong attacks of Communist Bands which outnumbered them.

3) In my area of Command, battle will be avoided or withdrawal executed by my personal order. Not otherwise! During the movements which up to now have been executed with the purpose of avoiding battle and during withdrawals dictated by ordinary panic and cowardice, the troops have suffered great losses of men, arms and supplies.

In the future, any commanding officer who without my written order avoids battle, or orders or tolerates withdrawal will be held fully responsible by me and will face a court martial. According to German Law, cowardice in the face of the enemy is punishable by death.

4) Great losses can only be avoided by heroism and activity. The defense too must be active. Steady, well-distributed action, which has momentum and which comes from the defense position, must cause the enemy to incur losses and destroy his preparations for attack.

5) The heroic deeds of Croatian Officers and men performed to date, have, up until now, not been sufficiently recognized and rewarded. In this respect, too, I want help. The opinion that a subordinate cannot receive a decoration which his superior has not earned as yet, is entirely mistaken.

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All of you are asked to co-operate and to make suggestions so that the deeds of courageous soldiers may be properly rewarded possibly also with German decorations.

Comrades -- Croatian Officers.

Take these lines to heart and with our old tried Comradeship-inarms we shall repel and annihilate the Communist enemy wherever we meet him.

Ready for the Poglavnik and the Homeland.

H e i l H i t l e r.

Sgd. F O R T N E R Major General and Division Commander" Then at the bottom of the document appears the staff:

INDEPENDENT STATE OF CROATIA STAFF Turning next to page 11 for the final part of this exhibit, it should be marked 553/3. This is another order from the headquarters of the 6th Infantry Regiment to various subordinate Croatian units.

"Subject: Transmission in translation of the order of the 718th German Division."

The last paragraph states: "Enclosed, please find the above mentioned translation. Commanders concerned will disseminate this order among all offices and the entire Home Guard personnel concerned."

Turning to the next page is a copy of the translation which was forwarded. This is at the bottom of page 12 of the English Document Look:

C O P Y T R A N S L A T I O N S E C R E T 718 Infantry Division Branch Ia The Commander of German Troops in Croatia issued the following directives are applicable:

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1) Any measure is justified which is necessary for the security of the troops and which simultaneously serves to pacify the country."

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"2) Extensive and responsible cooperation by Croatian Military and Civilian Offices is desired.

"3) No one is to be called to account for over-severe measures, of course this does not cover any action showing a dishonorable attitude (for instance personal profit, mistreatment of women and children); against such cases severe measures will have to be taken.

"4) Treatment of the Population:

Anybody who participates or has participated in the fight against the defense groups or against the Croatian State is to be hanged or to be shot to death. This also includes all non-residents or anyone else encountered on the field of battle. People suspected of participation are to be arrested. Leaders are to be kept with the Division as exchange prisoners, the other suspects for shooting to death in case of reprisal

measures. All other men capable of bearing arms (from 15 years of age) are to be deported under guard from territories where there is danger that they will desert to the partisans into special collection camps. The Division is responsible for guard, rations, etc. until they are transferred to the collection camp.

"5) Villages which are inaccessible as well as other points established as partisan support points or otherwise suitable (caves, barrack camps, etc.) are to be destroyed. The same applies to villages from which shots were fired. Beyond that, villages are to be destroyed only if the Division Commander has ordered this especially as a reprisal measure."

I think we may skip over the next part of the order and continue with the last paragraph which is on page 14 of the English:

"Implementation by Division:

"I am again pointing out that everybody who has acted energetically and decisively will be covered by me but that officers and men who have harmed or caused disadvantage to the Croatian State, to the German or Croatian Army by cowardice, inability of decision or inactivity will be called to account by me ruthlessly, will come before a court martial and without regard to rank, social standing or origin will be sentenced without mercy."

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This order was signed by:

Fortner If your Honors will now turn to Book 24, there is one more document from that book which we would like to introduce.

This is Document NOKW 1664.

I beg your pardon, your Honors, If you will just hold that one minute, I have one other one first. The next document your Honors, we offer for judicial notice only and not as evidence. This consists of excerpts from an official publication of the U. S. Government entitled:

"UNITED STATES AND ITALY 1936-1946 Documentary Record Published by UNITED STATES GOVERNMENT PRINTING OFFICE Washington, 1946."

I think, for purposes of identification, however, we might mark it Exhibit 554.

PRESIDING JUDGE BURKE: You are not anticipating reading it, I take.

MR. FENSTERMACHER: No, I just want to go through it very briefly, your Honors, and point out just a very few things. I shan't spend very much time on it at all.

On the second page, page 1-A, your Honors will note there a communication:

"Churches and Religious Institutions Spared Devastations of War:

"President Roosevelt to Pope Pius XII, July 10, 1943.

"Released to the press by the White House July 16.

"By the time this message reaches your Holiness a landing in force by American and British troops will have taken place on Italian soil."

And then the footnote: Next on page 2:

"Developments in Italy: Statement by Secretary of State Hull, July 26, 1943.

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"At his press conference on July 26, 1943 the Secretary of State was asked whether he anticipated any change in our policy of unconditional surrender in respect to Italy as a result of the conditions that had taken place. Mr. Hull said that he had no information to that effect from either the president or the War Department, who are dealing immediately with that matter. He added that he was not anticipating anything from them to the contrary."

I call your Honors' attention only to footnote 55:

"King Victor Emmanuel announced on July 25 the resignation of Prime Minister Mussolini and his cabinet. Field Marshal Pietro Badoglio was appointed Prime Minister, Head of the Government."

Next on the bottom of page 2, Document entitled No. 38:

"Allied Occupation of Italy: Statement by Secretary of State Hull, September 3, 1943.

"We are all observing the occupation of a portion of continental Europe."

Then the footnote 62: "General Eisenhower reported.....Nine months after the first landings in North Africa, the Allied Force had not merely cleared its shore of enemy forces, but had wrested from him the Sicilian bridge to use as our own in an advance onto the Italian mainland."

Then we come to No. 39: "Italian Military Armistice: Radio Announcement by General Eisenhower September 8, 1943.

"COUNTRIES IN A STATE OF ARMISTICE RELATIONS "Italy "An announcement which was issued by the Allied headquarters in North Africa at noon on September 8, 1943, and which was read over the radio by General Eisenhower beginning at noon on September 8, 1943, reads in part as follows:"

I think we need not read that but I call your Honors' attention to footnote 63a: "ALLIED HEADQUARTERS IN NORTH AFRICA. Sept. 8." I ask your Honors to make note of that date because I am sure it will come up in the future, September 8, 1943.

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"A special communique: The unconditional surrender of the Italian armed forces was announced today by Gen. Dwight D. Eisenhower. The following statement from the Allied Commander in Chief was broadcast at 16:30 G.M.T. on the United Nations Radio:

"The Italian Government has surrendered its armed forces unconditionally. As Allied Commander in Chief I have granted a military armistice, the terms of which have been approved by the Government of the United Kingdom, the United States and the Union of Soviet Socialist Republics.

"Thus I am acting in the interest of the United Nations. The Italian Government has bound itself to abide by these terms without reservation. The armistice was signed by my representative and representative of Marshal Badoglio, and it becomes effective this instant.

"Hostilities between the armed forces of the United Nations and those of Italy terminate at once.

"All Italians who now act to help eject the German aggressor from Italian soil will have the assistance and the support of the United Nations."

Document 40 consists of a series of documents relating to the Italian Armistice. We call your Honors' attention only to a few of the conditions of the Armistice which was presented on September 3, 1943.

"The following conditions of an Armistice are presented by GENERAL DWIGHT D. EISENHOWER Commander-in-Chief of the Allied Forces, acting by authority of the Government of the United States and Great Britain and in the interest of the United Nations, and are accepted by MARSHAL PIETRO BADOGLIO Head of the Italian Government "1. Immediate cessation of all hostile activity by the Italian armed forces.

"2. Italy will use its best endeavors to deny, to the Germans, facilities that might be used against the United Nations.

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"3. All prisoners or internees of the United Nations to be immediately turned over to the Allied Commander in Chief, and none of these may now or at any time be evacuated to Germany."

And I call your Honors' attention especially to paragraph 8, which is on page 5 of the English, termed No. 8 of the Armistice.

"8. Immediate withdrawal to Italy of Italian armed forces from all participation in the current war from whatever areas in which they may be now engaged.

"9. Guarantee by the Italian Government that if necessary it will employ all its available armed forces to insure prompt and exact compliance with all the provisions of this armistice."

On page 6, the signatures of Marshal Pietro Badoglio, Head of the Italian Government, and General Eisenhower, appear and then in Document, Subject 3: "ADDITIONAL CONDITIONS OF THE ARMISTICE WITH ITALY, September 29, 1943."

I call your Honors' attention only to sub-paragraph 1, which is on page 7:

"1. (A) Italian participation in the war in all Theaters will cease immediately. There will be no opposition to landings, movements or other operations of the Land, Sea and Air Forces of the United Nations. Accordingly, the Italian Supreme Command will order the immediate cessation of hostilities of any kind against the Forces of the United Nations and will direct the Italian Navy, Military and Air

Force authorities in all Theaters to issue forthwith the appropriate instructions to those under their Command."

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And, on page 13 of the English, sub-paragraph 25, the Armistice terms:

"Relations with countries at war with any of the United Nations, or occupied by any such country, will be broken off. Italian diplomatic consular and other officials and members of the Italian Land, Sea and Air Forces accredited to or serving on missions with any such country or in any other territory specified by the United Nations will be recalled. Diplomatic and consular officials of such countries will be dealt with as the United Nations may prescribe."

Then turning to page 20 of the Declaration of War by Italy against Germany, and the message of Marshall Badoglio to General Eisenhower, October 13, 1943:

EXCERPTS FROM BOOK: UNITED STATES AND ITALY 1936-1946. CONTINUED (page 69 of original) 43.

DECLARATION OF WAR BY ITALY AGAINST GERMANY (1) MESSAGE OF MARSHAL BADOGLIO TO GENERAL EISENHOWER, OCTOBER 13, 1943 I take great pleasure in informing you that His Majesty the King of Italy has declared war on Germany.

The declaration will be handed by our Ambassador in Madrid to the German Ambassador, at 3 o'clock p.m. (Greenwich time) on October thirteenth. By this act all ties with the dreadful past are broken and my Government will be proud to be able to march with you on to the inevitable victory. Will you be good enough, my dear General, to communicate the foregoing to the Anglo-American, Russian and the other United Nations Governments. I should also be grateful to you if you would be kind enough to inform the Italian Embassies in Ankara, in Buenos Aires and the Legations in Bern, Stockholm, Dublin and Lisbon.

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(2) PROCLAMATION BY MARSHAL BADOGLIO TO THE ITALIAN TROOPS TO THE ITALIAN PEOPLE:

Italians, with the declaration made September 8th, 1943, the Government headed by me, in announcing that the Commander in Chief of the Anglo-American Forces in the Mediterranean had accepted the Armistice requested by us, ordered the Italian troops to remain with their arms at rest but prepared to repel any act of violence directed at them from whatever other source it might come. With a synchronized action, which clearly reversed an order previously given by some high authority, German troops compelled some of our units to disarm, while, in most cases, they proceeded to a decisive attack against our troops. But German arrogance and ferocity did not stop here. We had already seen some examples of their behavior in the abuses of power, robbery, and violence of all kinds perpetrated in Catania while they were still our allies. Even more savage incidents against our unarmed populations took place in Calabria, in the Puglie and in the area of Salerne. But where the ferocity of the enemy

surpassed every limit of the human imagination was at Naples. The heroic population of that city, which for weeks suffered every form of torment, strongly cooperated with the Anglo-American troops in putting the hated Germans to flight. Italians! There will not be peace in Italy as long as a single German remains upon our soil. Shoulder to shoulder, we must march forward with our friends of the United States, of Great Britain, of Russia, and of all the other United Nations. Wherever Italian troops may be, in the Balkans, Yugoslavia, Albania, and in Greece, they have witnessed similar acts of aggression and cruelty and they must fight against the Germans to the last man.

I think we need not read the remainder of the document, your Honors.

Now, if your Honors will turn to Document Book XXIV, for one final document from that book, [NOKW 1664](#) which is on page 82 of the English, and page 53 of the German Document Book.

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Your Honors will recall that ten documents were passed from Document Book XXIV because they had previously been introduced into evidence. The Prosecution is prepared now to offer seven of those because they checked and discovered the error of itself, and of the other three, one was pointed out by Dr. Latenser and was admitted in part and withheld in part, the other two, upon recheck were found to have been errors made by the defense counsel in protesting so we offered one yesterday and we offer the final one today. I make this statement only that our hard working research staff may be protected from any allegations of carelessness in the compilation.

PRESIDING JUDGE BURKE: The best proof of their evidence is to present that document in proper form and shape and let the Tribunal attempt to judge for itself.

MR. FENSTERMACHER: Page 82 of the English, page 53 of the German, a series of reports from the 65th Special Corps Command to the Armed Forces Commander Southeast. The first is War Diary of the Commanding General, Commander in Serbia, to Wehrmacht Commander Southeast, Daily Report, under Wehrmacht activity.

I think we can skip most of paragraph 1 and pick it up again on page 83 of the English, page 33 of the German:

"As reprisal for the soldier shot to death on 3 September in Belgrade on the open road 50 Communists executed."

The report is signed Commander in Serbia, Command Staff, Department Ia, 4 September 1941.

And on page 84 of the English, and page 54 of the German, daily report of the 8 September 1941 from the 65th Corps Command to the Wehrmacht Commander Southeast, who at that time was the defendant List and his Chief of Staff the defendant Foertsch; that section of the report dealing with activities of the 714th Infantry Division.

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PRESIDING JUDGE BURKE: Will you kindly orient the Tribunal as to the page.

MR. FENSTERMACHER: I am reading now from page 84 of the English, your Honor, page 54 of the German.

PRESIDING JUDGE BURKE: Document Book XXIV?

MR. FENSTERMACHER: Document Book XXIV.

PRESIDING JUDGE BURKE: Designated Exhibit number?

MR. FENSTERMACHER: [NOKW 1664](#).

PRESIDING JUDGE BURKE: 1664?

MR. FENSTERMACHER: Yes, your Honor.

JUDGE WENNERSTRUM: The page 84 I have is [NOKW 1660](#).

MR. FENSTERMACHER: Perhaps we can get you another copy of your Honor, of [NOKW 1664](#). Is it in your other copy?

PRESIDING JUDGE BURKE: It will be a matter of some convenience to the Tribunal to be able to refer to the appropriate page designated by Council and not some other page, upon personal investigation.

JUDGE WENNERSTRUM: Go ahead.

MR. FENSTERMACHER: This is daily report of 8 September 1941 for the 65th Corps Command of the Wehrmacht Corps Commander Southeast, 714th Infantry Division:

"One-half armored train 23 guards the repairing of the place of the explosive attempt on railway near Mala Krana.

"By order of the Commander in Serbia in the Benat in Mokrin, Melenci, Kumane 10 Communists hanged in each place by 721st Infantry Regiment as reprisal measure."

Next, the daily report from the Commander in Serbia, to the Wehrmacht Commander Southeast, bottom of page 84, of the English 54 of the German:

"Daily Report:

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"Appeal of Prime Minister Nedic repeated on the radio since it evidently had good effect. Distribution by leaflets.

"Decree concerning civilian court martial available.

"Encircled works at Baric (East of Obrenovac) was liberated by Stuka attacks. 50 guilty communists executed as reprisal for attack on soldier at the station Belgrade-Topicer."

I think we need not read the rest of the report, signed on page 86 of the English, 55 of the German, Commander in Serbia, Command Staff Ia, 16 September 1941.

Next the report of the Commander Serbia dated Belgrade 29 September 1941, to Plenipotentiary Commanding General in Belgrade, at bottom of page 86 of the English, page 56 of the German, Daily Report:

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which is offered as Prosecution Exhibit 556. These are a series of extracts from the war diary of the 22nd Infantry Division. The entry in the war diary for 8 October 1943. Your Honors will recall that the 22nd Infantry Division was active on Crete at this time and was directly subordinate to the Commander in Chief Southeast simultaneously Commander of Army Group F, defendant Weichs.

The Schubert Detachment was able to arrest 50 suspicious men who were not resident in the locality in the upper Rethimnon sector during the pursuit bands in the locality of Kalikrates. The following was secured in weapons: 7 rifles, 1 hunting rifle, 7 pistols, among them 1 Italian army pistol. The 50 men, bandit suspects, were shot by the Schubert Special Detachment.

Next on page 2 of the English, page 2 of the German, Document NOK W 812, which is offered as Prosecution Exhibit 557. This is an extract from the War Diary XXI Army Corps. Your Honors will note the XXI Mountain Corps was from 5 September, and those words crossed out and 25 August inserted instead in the blame under the command of the 2nd Panzer Army. The 2nd Panzer Army at this time was commanded by the defendant Rendulic. Headquarters, 12 March 1944. Down at the bottom of the English page 2 and German page 2, handwritten in pencil, Enclosures 57;

"225 Serbian Concentration camp prisoners are being brought by truck via Skutari - Urvsevac to Mitrovica to work in the Trapca mines."

Next on page 4 of the English, page 3 of the German, Document NOK W 1790, which is offered as Prosecution Exhibit 558. These are various reports from and to the XV Mountain Corps. The first one, Ic Activity Report for October 1943:

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Court5 , Case 7 Enclosure to 114th Jaeger Division Section, Ic No.1339/43 secret, dated 15 October 1943.

The mission is:

To advance from the Slavica plant into the area South of the road Mandio-Drnis, to discover the bandits living here and to ascertain their intentions.

On 10 October 1943, 2100, the squad left the plant by truck and was brought to a point on the road to Dranis, about 500 m East of Mandic. The squad set up camp in the area Knesic (see map). The inhabitants of Knesic were very careful in their statements. No information could be obtained from them. However, it was clearly established that inhabitants of this village went in and out with weapons. Furthermore, it was established without a count that inhabitants participated in the attack on the Slavica plant during the morning of 11 October 1943, for several of them returned individually with arms.

Unfortunately, it was not possible to apprehend these bandits since because of the deficiency of cover in the terrain and many stone walls it was impossible to effect a speedy approach.

During the morning of the 11 October 1943 the camp site was moved East of Pekas (see map.). During this 3 civilians whom the squad met on the way were eliminated. When my scouts appeared the male inhabitants of the small village of Pekas stated that they were ready at any time to fight with us (bandits) so that Yugoslavia would be free again, that one should kill the "German pigs" whenever they were met, what do the Germans really want in our country. These men were eliminated.

Through personal observation and through scouts it was ascertained that patrol activity exists between Knesic across height 274 (1½ km South of Konjevrate) and that there are local bandits in this sector.

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Furthermore bandit positions and sentries were confirmed on the heights 270 (Glavica) and 384.

On the basis of these findings the local partisans from the village of Knesic were asked to build road blocks in the evening of 12 October 1943 and to bring their arms along. They enthusiastically responded to this request but without weapons. Hereupon they were shot at a distance from the village. In spite of searches no weapons were seized because the hiding places are very well made (probably underneath stones, etc.) A total of 19 (nineteen) bandits from the village were shot.

I abstained from advancing in to the villages of Goris - Labori as well as Brnjica of Sv. Ivan (Konjevrate).

The squad returned at 2000 hrs on 12 December 1943 to the strongpoint at Slavica.

Next on page 6 of the English, page 5 of the German, the report To 2nd Panzer Army Ic/Counter Intelligence, dated 14 October 1943:

Daily Report 14 October:

114th Jaeger Division Strong bands around Gospic.

Croatian units yielded Bilaj (Southeast of Gospic) on account of enemy Artillery fire (crosses out: on account of enemy pressure). According to prisoners' statements, on 10 October a band 2000 strong (presumably North Dalmatian Division) crosses over by ship from Razanac to Stari Grad (20 km and 28 km Northeast of Zara). Strong band with truck 22 km Northwest of Drnis. During mopping Southeast of Sibenik 30 enemy dead.

Then under that section of the report, 15th Army Corps, 2nd Panzer Army which deals with 373rd Infantry Division:

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122 counted and 360 estimated enemy dead, 3 prisoners, 42 arrests Reprisal measures: 7 hostages arrested, 2 villages burned down.

Next is the Daily report from the XVth Mountain Corps, to the 2nd Panzer Army for 16 October 1943, on page 8 of the English, page 6 of the German, that section of the report which reads as follows:

369th Infantry Division and IIInd Croatian Corps:

Enemy was unable to prevent us from bringing strong forces to Travnik (in course of this a band 500 men strong was repelled Northwest of Vitez partly in close combat), but attacked Travnik in spite of this during the night with Artillery and Panzer support.

20 arrestees were hanged for attempting to blow up the railway (near Metkovic).

Signed: XVth Mountain Corps, Page 9 of the English, and page 8 of the German, Document NOKW 1747, which is offered as Prosecution Exhibit 559.

This is an order from the Commander in Chief of the 2nd Panzer Army to the Commanding General of the XV Mountain Corps.

"I agree with the measures taken. In case of capture the three escaped officers are to be shot dead."

The order is signed Rendulic.

DR. VON TAGWITZ: (Attorney for defendant Rendulic):

Your Honor, I would like to interrupt here on principle to object on the following grounds: In my opinion there has to be a border line, that is, a border line according to which documents, which belong together, should be submitted under one exhibit number together and presented that way; the document which has just been presented, Exhibit 559, NOW 1747, consists as we can see here, of only one page, and thus is not incomprehensible only in itself but it becomes apart of the section where it belongs, and it belongs to a document which has already been submitted, and that is, [NOKW 1242](#), Exhibit 328 that is contained in Document Book XIII, and I move this document [NOKW 1747](#) not to be admitted as Exhibit 559, But instead it be incorporated as a page of Exhibit 328, [NOKW 1242](#), contained in Document Book XIII.

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MR FENSTERMACHER: If Your Honor pleases, this particular document was only received from Washington last week. We put it in here and I think it speaks for itself.

PRESIDING JUDGE BURKE: Is it a part of the document which has previously been admitted by the Tribunal under another exhibit number?

MR. FENSTERMACHER: That I don't know; I only had the same information that was given by Dr. Tagwitz just now.

PRESIDING JUDGE BURKE: For the reasons heretofore assigned by the Tribunal it will be admitted. The objection is over-ruled.

MR. FENSTERMACHER: Next on page 10 of the English, page 9 of the German Document Book [NOKW 1784](#), which is offered as Prosecution Exhibit 560. This is a report from the 22nd Infantry

Division, dated Division Staff 20 October 1943; this is a situation report to the Commandant of the Crete Fortress. I think we need not read much of this report into the record at this time. I call Your Honors attention to sub-paragraph c, Intelligence Situation, which is on page 12 of the English, and page 10 of the German.

c) Intelligence Situation:

3 cases of cable sabotage were reported, in the report period; of these, 2 in upper Rethimnon sector where it was a matter of a repetition. In the Eastern upper Sector the telephone line of Lazida was out by the means of a cloud trust. It is supposed that the sabotage there was carried out by Italian soldiers.

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A total of 5 Italian officers and 18 men who tried to resist when arrested when captured in a raid action in the mountains. The officers were shot by sentence of a court-martial; the soldiers were evacuated as prisoners of war.

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The report is signed on page 13 of the English, page 11 of the German: "For the Division Headquarters, the first General Staff Officer."

Next, on page 14 of the English, page 12 of the German, Document NOKW-1796 which is offered as Prosecution exhibit 561. These are various extracts from the War Diary of the 15th Mountain Corps and, as is indicated on the first page of the document "the 15th Mountain Corps was subordinate from 26 August 1943 until further notice to the 2nd Panzer Army."

On page 15 of the English and page 12 of the German under the entry in the War Diary for the 22nd of October 1943:

"Banja Luka: Lieutenant General Infantry von Leyser (now Commanding General) arrived."

And then under the entry for the 23rd of October, 1943:

"Banja Luka: The Germany Ambassador in Zagreb, SA Obergruppenfuehrer Kasche, Croatian Minister of the Interior Lorkovic and Croatian Minister for the Devastated Territories Dr. Alajbegovic for conference at headquarters.

Present: Lt. General Infantry von Leyser, Chief of the General Staff Chief of the Civil Administration with the XV Mtn. Corps, Dr. Benak."

And then the entry for the 23rd of October 1943, Banja Luka, continuation:

"In case of increase in tension of the situation, Lieutenant General Inf. von Leyser demands unilateral, concise executive authority, which was confirmed to him on the part of the Ministers (draft of the Law of the XV Mtn. Corps Adm. No. 154/43 Secret of 29 Oct. 43).

Next the entry in the War Diary for the 27th of October 1943:

"Banja Luka: Lt. Gen. von Leyser flies to Sink-Split. Farewell evening of Commanding General Lueters."

Entry for the 26th of October 1943, Banja Luka:

"Return of the Commanding General from Sinj-Split because of the weather situation not possible.

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Transfer of command General Lueters General von Leyser delayed accordingly."

Finally, the entry of November 1, 1943, "Turning over the headquarters to Lieutenant General Infantry von Leyser by Lieutenant General Infantry Lueters."

If your Honors will make note of that date, 1 November 1943, as the date when the defendant Leyser took over command of the 15th Mountain Corps -- the war diary which is enclosed on 31 December 1943 is signed in his own hand by the Commanding General of the 15th Mountain Corps, "Lieutenant General Infantry von Leyser."

Next document [NOKW-1754](#) has already been introduced in evidence so we do not offer it. We turn instead to page 25 of the English, page 21 of the German document book, [NOKW-1746](#), which is offered as Prosecution exhibit 562.

DR. GAWLIK (Counsel for defendant Dehner): Your Honors, I ask you not to admit the document 1746 because this document has no probative value. It is not relevant and for the following reasons:

The document originates from the 187th Reserve Division and is addressed to the Commanding General of the 69th Reserve Corps. This is merely a proposal which the 187th Reserve Division made and I draw the attention of the Tribunal to the first sentence and that is: "The Division suggests." It is not quite relevant what somebody else suggests. The only decisive point is what the Commanding General of the 69th Corps did subsequently and that, unfortunately, we do not have here.

PRESIDING JUDGE BURKE: It should be a comparatively simple matter for defense counsel at an appropriate time to point out the deficiency as shown by the offered exhibit and if a portion of the document is not available to you, it should be made available to you at the appropriate time also.

MR. FENSTERMACHER: Page 25 of the English, page 21 of the German, from the 187th Reserve Division, dated "Staff Headquarters 1 November 1943", "Subject:

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Application for transfer of a reinforced battalion of 367th Infantry Division to Dubrava", and the application is sent to "Corps Headquarters 69th Reserve Corps", which on this date, 1 November 1943, was commanded by the defendant Dehner.

I call your Honors' attention only to the reference in the middle of the page, 25 of the English, 21 of the German, to:

"Communist brigades have begun to transfer from the Moslavine into the Kalnik Mountains and vice versa via Dubrava. The attack with about 5000 men on Xv. Ivan Zabno on 21 September during which the police headquarters were destroyed by direct artillery hits started from there. Numerous blastings of the railroad line Krizevci-Bjelovar and Dugo Sel-Ivanic Grad were carried out from Dubrava."

I call your Honors' attention only to the final paragraph of the application which is on page 26 of the English, page 21 of the German:

"The population of the villages around Dubrava are up to 80% house partisans. Large scale seizure of hostages by a fairly large operation is necessary."

"Signed in draft: Brauner, Major General."

Next on page 27 of the English and page 22 of the German Document Book is [NOKW-1808](#) which is offered as Prosecution Exhibit 543.

PRESIDING JUDGE BURKE: I think you are in error. That number should be 563, should it not?

MR. FENSTERMACHER: I beg your pardon, your Honor?

PRESIDING JUDGE BURKE: Isn't that Exhibit No. 563?

MR. FENSTERMACHER: That is what I thought I said, your Honor.

PRESIDING JUDGE BURKE: We understood you to say "543".

MR. FENSTERMACHER: I am sorry, your Honors. It should be Exhibit No. 563.

This, if Your Honors please, is a military identification card of Miles Uzelac of the National Liberation Army, Croatia.

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It gives his name, date of birth, place of birth, rank and profession, as well as the unit or organization to which he belonged, Staff of the 19th S.D. (North Dalmatian) Division of the N.O.V. (National Liberation Army) Yugoslavia. It also lists the personal characteristics of the man, his identification number -- he entered the National Liberation Army 27 July 1941.

Your Honors will note the date at the bottom of the document, 24 November 1943 and on the final page of the document; which is 28 of the English and page 22 of the German, is the stamp of the 19th North Dalmatian Division, National Liberation Army Croatia, signed: "Kommandant Lieutenant Colonel Kupresanin."

Signed: "Political Commissar: Petar Babic."

Turning now to page 29 of the English, 24 of the German -

THE PRESIDENT: Before you get to that, where is this to be inserted?

MR. FENSTERMACHER: That's the photograph, your Honors, which accompanies, which is [NOKW-1808](#) and it should be inserted at page 27 of the English Document Book.

THE PRESIDENT: All right.

MR. FENSTERMACHER: Next, on page 29 of the English, 24 of the German, [NOKW-1752](#), which is offered as Prosecution Exhibit 564. This is an order of the Military Commander Southeast to a subordinate unit, the administrative sub-area headquarters 610. The order Appears in the bar Diary of the Military Commander Southeast under the entry for the 1st of December, 1943. Your Honors will recall that at this time the Military Commander Southeast is General Felber as Chief of Staff of the defendant Geitner. I call your Honors' attention only to the final 4 lines of the document which is on page 30 of the English, page 24 of the German;

"610th Administrative sub-area headquarters receives a teletype to shoot 10 Communist reprisal prisoners in retaliation for the murder of the Mayor of Lemmica on 15 November 1943". That is on page 31 of the English.

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PRESIDING JUDGE BURKE: At this point, Mr. Fenstermacher, we will recess until one--thirty this afternoon.

THE MARSHAL: The Court will recess until one-thirty this afternoon.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours, 22 May 1947)

THE MARSHAL: The Tribunal is again in session.

PRESIDING JUDGE BURKE: The Tribunal is prepared at this time to dispose of the matter of the application of the defendants for recess at the conclusion of today's session.

The application of the defendants for a four weeks recess has received the very serious consideration of this Tribunal. We desire to afford the defendants every reasonable opportunity to present all evidence favorable to the defendants. On the other hand, unnecessary delay must be avoided.

It appears that the principal impediment to an immediate presentation of the defense is the failure of the prosecution to have present the documents and war diaries which have heretofore occupied the attention of this Tribunal. The uncertainty of the time of their production, if they are to be produced at all, does appear to be an uncertainty which troubles the Tribunal as well as the defense. On the other hand, these defendants have a general knowledge of the contents of these documents. Defendants either prepared them, were responsible for their preparation or had notice of their contents, otherwise they have no probative value. Anything contained in these documents and diaries, if favorable to the defendants, can only be corroborative of the knowledge that the defendants already have. Under such a situation, it is not essential that these documents and diaries be in the court room at the commencement of the defense. If the defendants know that these diaries and documents contained evidence in support of their defense, they should, of course, have made application for their production long ago. Their

production under the rule announced by the Tribunal is for the purpose of determining the meaning of the portions offered is in no way changed when the document or diary is considered as a whole.

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It's purpose is more in the nature of impeachment and an attack on the credibility of the prosecution's evidence than defensive in the strict sense.

The prosecution is obligated to comply with the order to produce the documents and diaries in accordance with the previous ruling of this court at as early a date as possible in order to escape the alternative therein stated. We do not hereby intend to recede from the effect of that order.

We do feel, however, that the defense should be prepared to present its opening statements on September 12, 1947 at 9:30 a.m. and with the presentation of evidence of September 15, 1947 at 9:30 a.m. This order is subject to the consideration of any changed conditions which may arise subsequent to this date.

You may proceed.

MR. DENNEY: May it please your Honors, with reference to Exhibit 525, which was the certificate of General Taylor dated 22 August with the attachments, which is the last document in Book XXIII, if that could be paginated from 90 to 97 inclusive -- that's exhibit 525, Book XXIII pages 90 to 97 inclusive --- and then 525 which is the insert which was given to the Court this morning -- then we get on to pages 98 and 99. That disposes of it with reference to the Greek report, your Honors. I find that we have already inserted at the close of Document Book XXI Exhibit 493 which is the usual insertion for identification at the close of the document books and, in view of the thickness of the Greek report, I was wondering if the Tribunal would find it convenient to just put it in an envelope which we will be glad to furnish if the Tribunal doesn't have them.

PRESIDING JUDGE BURKE: The Tribunal sees no objection to that procedure.

MR. DENNEY: That will be fine, your Honor, and then if we just label it, "The Greek Documents" and carry it along with Book XXI -- and in that list of Greek documents will be Exhibit 4991 which is the letter with reference to the concentration camp Chaidari, Exhibit 4992 which is an affidavit of 5 May 1945, Exhibit 4993 which is the report of the findings of a Greek Tribunal of 3 December 1946, Exhibit 4994 which is the sound -- that is withdrawn -- which is the list of subtitles of the Greek film, 4995 which is the certificate of Dimitrios Kosapoulas, and 4996 which is an affidavit; and then we won't have to bother to paginate those.

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MR. DENNEY: In connection with the statement made by Dr. Fritsch, counsel for defendant Rendulic, this morning concerning the 1942 publication, "Directions for Combating Bands in the East," I have here a photostatic copy of it I now hand to the associate counsel for defendant Rendulic.

If Your Honors, please, that I believe takes care of the outstanding questions with reference to the document, except for Mr. Fenstermacher's conclusion of this book.

JUDGE BURKE: You may proceed, Mr. Fenstermacher.

MR. FENSTERMACHER: Prior to the luncheon recess, we had concluded NOKW-1752, which was admitted in evidence as Exhibit 564, and we turn now to page 31 of the English and page 25 of the German, [NOKW-1753](#), which is offered as Prosecution Exhibit 565. This is a report from the Military Commander Southeast, dated 1 December 1943. Your Honor will recall at that time General Felber was Military Commander Southeast, and the defendant Geitner his Chief of Staff. The report is a Daily Report for 1 December 1943, and is sent to Army Group F, commanded at that time by the defendant Weichs, Chief of Staff of the Defendant Foertsch.

In the section of the report dealing with defense in Serbia, I call your Honors' attention only to the last paragraph of the report:

"In retaliation for an attack on the train Negotin-Nisch (See Daily Report for 27th October) 27 Communists reprisal prisoners were shot."

This report is signed "Military Commander Southeast.

Page 33 of the English, page 26 of the German, [NOKW-1766](#), is offered as Prosecution Exhibit 566. These are reports from the Plenipotentiary of the Reichsfuehrer SS for Croatia. First is a Situation Report for the month of December 1943, which is dated "Local Headquarters 4 January 1944", Your Honors will recall the commander of the German troops in Croatia at this time was the defendant Rendulic.

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..... Situation Report for the month-December 1943 An over-all view of the band situation in the Command area especially stressing the existing centers of bands.

.....

The morale among the individual groups of bands differs. In areas which they have conquered and which they have been able to maintain, the positive morale has been essentially preserved. In these areas too propaganda activity (meetings, leaflets) has developed in a lively way. A propaganda directed against the new orientation of the Draza Minajlovic movement (compare Enclosure 3) has come to the fore. Organization, as far as the administration of the so-called liberated area is concerned, has made further progress by the establishing of Gendarmerie posts, law courts, post offices and railway service. It appears important to the bands to establish a well functioning communications and postal traffic (compare Enclosure "). In areas where attacks by bands on towns and villages have miscarried, (Virovitica, Djahovo, Slatina and Gorjani) the bandits are in a comparatively depressed mood.

An intensification of the Communist propaganda is especially conspicuous since the establishing of the Provisional Government of Tito - headquarters in Srijem 30 kilometers northeast of Jajce - became

known. The efforts of the bandits to give to their combattants practical instructions for the conducting of the fight of liberation of the people has become especially apparent.

.....

I think we may skip the last portion of this document, and pick up on page 34 of the English and page 27 of the German at the bottom "Total Losses for the last month": Your Honors will notice the totals under "Own Losses", - 451 Fallen in Combat; 548 Wounded; 619 Missing, 14 prisoners.

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.....Enemy Losses:

The enemy losses for the period covered by the communique were reported as 696 counted dead and 1423 estimated dead, 147 prisoners were brought in and 2 hostages executed.

.....

Police Area V (Zagreb) On 28 November 43 the Gendarmerie, District Cazna A 808 was attacked by strong forces of bandits.

During the relief attempt made by the 3./P.G.V. it was obvious that the bandits no longer content themselves with small local actions but that they want to achieve great successes for the prestige which these would yield. The bandits appear with strong forces (8000 to 10000 men) they are well equipped and have ammunition in abundance. In view of this situation one can no longer speak of a war of Partisans in the ordinary sense. The combats fought here are combats against a regular enemy militia which is uniformed and has good arms at its disposal. The leadership too is in the hands of military experts. During these combats it can also be seen that the forces of the country participate with interest and enthusiasm, but that the majority of the Croatian Wehrmacht however is unreliable.

.....

In the month of December the village Lug A 519 was attacked and fired upon several times by strong forces of bandits, aided in part by tanks and artillery. On the 20 December there was also an attack on the Gendarmerie district Samober A 519.

From the attacks on both villages mentioned above the intention of the bandits of cutting off Zagreb according to plan, from the frontier of the Reich, in order to cut its supplies can be recognized.

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There is no doubt that all those operations of bandits are directed from a central office.

4.) Special experiences or information on the subject of banditry.

We refer to the general part of the report. In the course of our own operations it was found that all essential operations of the bandits were synchronized and directed from a central office. As in the previous month they preferred attacks on larger towns and carters of economy which were carried out with considerable forces, as a rule with 3 to 5 Brigades of bands, that is, with 2 to 6000 bandits. Hereby

it was found that the most powerful units of bands were used tactically in a very clever fashion to ward off relief troops.

In addition to the usual road blockades, barricades and fortified field positions the bandits have recently also laid mine blockades mainly with the purpose of preventing the use of patrol cars and tanks.

.....

Then the report is signed "Kammerhofer" Gruppen and Major General at the Police. He was plenipotentiary of the Reichsfuehrer SS for Croatia.

At the bottom of page 37 of the English and page 29 of the German is another Situation Report from the same man, Kammerhofer, Plenipotentiary of the Reichsfuehrer SS for Croatia, Situation Report for the month of January 1944.

..... Among the bands a certain combat weariness seems to be visible less on account of the influence of the weather but more on account of the lack of success which the bands themselves expected. The reconstruction in administrative and economic affairs planned together with the reconstruction of the Communist party and an enlarging of general propaganda in the band area has made certain progress, however, the reconstruction is evidently too much in its infancy to determine already especially favorable effects for the bands.

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The terrorizing of the population continues. A strongly intimidating effect emanates from the intelligence service of the bandits which serves the special purpose of reaching all adversaries of the bands in order to deliver them to the bandit courts when the band units arrive. It is remarkable that with the existence of such commissions for the liberation of the people, such courts are organized the activities and competency of which are codified in a species of judicial organization.

.....

I think we need not read the remainder of this report at this time, Your Honor, except for pointing out on Page 40 of the English, page 30 of the German, under "Total Losses of the Last Month", under "Own Losses", -- this is on page 40, -- 517 fallen in combat; 626 Wounded; 647 Missing; 17 Prisoners.

Under "Enemy Losses":

"The enemy losses during the period covered by the communique were reported as 946 counted and 140 estimated dead, 400 prisoners were captured and 4 hostages executed."

Then page 42 of the English and page 31 of the German, the last paragraph of the report, Paragraph 5, Sub-paragraph b), "Persons transferred for work separated according to sex:

The following were transferred to the offices of the German Plenipotentiary for the utilization of labor:

Men: 47 Women:

20 In All:

67."

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This report is also signed "Kammerhofer, SS-Gruppenfuehrer and Major General of the Police."

On page 43 of the English, page 33 of the German, is another Situation Report of the plenipotentiary Reichsfuehrer SS for Croatia for the month of April 1944.

Under Total Losses of the last month, "Own losses," 710 fallen in combat; 855 wounded; 678 missing, 22 prisoners.

"Enemy losses:

The enemy losses for the period covered the communique are reported as being 619 counted and 450 estimated dead, 270 prisoners were captured, 69 hostages were executed," On the last page under "Police Area V (Zagreb)", Sub-Paragraph B)Police Area V _(Zaggreb)

b) Persons delivered for work separated according to sex:

The following persons were transferred to tire offices of the German Plenipotentiary for the employment of labor:

Men: 39 Women:

4 Together:

43 The report is again signed "Kammerhofer". Turning next to page 45 of the English, page 35 of the German, Document [NOKW-1769](#), which is offered as Prosecution Exhibit 567.

These are several Daily Reports from the 15th Mountain Corps to the 2nd Panzer Army.

The 15th Mountain Corps was commanded by the defendant Leyser, and the 2nd Panzer Army by the defendant Rendulic.

On the bottom of page 45 of the English, page 35 of the German, is a Daily Report 15th Mountain Corps to the 2nd Panzer Army, dated January 27, 1944.

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"Because of blasting on the road northwest of Sisak (25 January) 22 hostages were hanged on the site of the blasting."

The report is signed "15th Mountain Corps."

Next on page 47 of the English, page 37 of the German, [NOKW-1770](#), which is offered as Prosecution Exhibit 568. This is a report of the Corps Headquarters, 15th Mountain Corps and Enclosure to War Diary. Released to "Niberlungenfahrt" 114th Infantry Division, 13 January to 30 January 1944. Also "Dreznica", 23 January to 29 January 1944.

I call your Honors attention only to the portion of the report which deals with the activities of the 114th Infantry Division, on page 48 of the English and page 37 of the German.

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The following was destroyed in Dreszuica: 20 bandit quarters 1 complete printing outfit and an armory. In Mosune: A hospital with 50 beds, a sawmill including the machines 4 barracks consisting of billets and workshop, ammunition and food depot. Own losses: 3 dead 10 wounded.

And next on page 49 of the English, page 38 of the German, NOKW 1768, which is offered as Prosecution Exhibit 569. This is a report from the Quartermaster of the 15th Infantry Corps to the Quartermaster 2nd Panzer Army.

"Total of Prisoners of war on 1 Jan 1944 1. Prisoners of war Total 1418, of these Italians:

2. Officers, 1 physician, 1296 men."

Under Paragraph 3, 3 Hostages:

Total 27, of those Serbs: 11 men Croats:

13 men and 3 women.

The report is signed "XV Infantry Corps, Qu 130/44 of 20 January." The 15th Infantry Corps was commanded at this time by the defendant Leyser, and the 2nd Panzer Army by the defendant Rendulic.

On page 50 of the English, page 39 of the German, [NOKW 1772](#), which is offered as Prosecution Exhibit 570. These are a series of orders and reports from and to the 2nd Panzer Army and the 15th Mountain Corps.

The first report is from the 15th Mountain Corps, dated 4 February 1944, sent to Headquarters 2nd Panzer Army, and to various other units with which we are not particularly concerned.

This is the 2nd Supplement to the Daily report for 4 February 1944. I call Your Honors attention to the first line under the Supplementary Report, 1st Mountain Division:

"During the reported fighting on 2 February 74 enemy dead in British uniforms."

Then dropping down to the "Concluding report on Operations at Dreznica."

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"156 enemy dead, 16 prisoners, 25 horses dead; 11 machine guns, one light mortar, 1 truck, 1 motorcycle, 1 car, food and fodder captured.

"The following was destroyed: 20 band billets, 1 complete printing shop, 1 armory, 1 hospital with 50 beds."

I think we need not concern ourselves with the remainder of the report, and will turn next to page 5 of the English and page 40 of the German, Daily Report from the 15th Mountain Corps 8 February 1944.

"392nd Division:

Mission; Attack with one battalion each on village 10 km. North and 8 km. Northeast of SENJ and on the area northwest of RINKE with rather weak forces. Advance on NOVI and East of BRINJE. Occupation of SV. JURAJ (km South of SENJ). Retaliation measures in return for attack on Battery Commander Northeast of OTOCA."

The report is signed 15th Mountain Corps.

At the bottom of page 52 of the English and page 41 of the German, is the 15th Mountain Corps Daily Report of the 2nd Panzer army 9 February 1944.

"Cetnik reconnaissance detachment on 7 February met small band North of Skradin, 15 prisoners, of these 12 were shot 3 released."

I call your Honors attention to the date this appears, 9 February 1944.

And out of the same report on the next page, under "Activities of the 392 Division."

"In retaliation for the stabbing of an officer the Western sector of PODUM 3.5 km. Northeast of OTOCAC) was taken in spite of resistance and burned down."

The report is signed "15th Mountain Corps."

Page 53 of the English, page 42 of the German, is message from the Commander in Chief of the 2nd Panzer Army to the Commanding General 15th Mountain Corps.

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The 2nd Panzer Army at this time, 28 December 1943, was commanded by the defendant Rendulic and the 15th Mountain Corps by the defendant Leyser.

"I hold the following view in regard to the train of thought contained in above mentioned reference. I request that my remarks be made the unequivocal basis for the future conduct of the war by Corps Headquarters."

On the basis of orders issued it has always been obvious that the coast is the main line of resistance, hence the "main front", and that furthermore not the protection of supply lines and combating of bands in the Interior is of primary importance, but always the fortification and defense of the coast. If troops within the Corps area had another assignment and this resulted also, with regard to construction of positions along the coast, that the fortifications face the rear, the Corps itself should already have made the necessary corrections on its own a long time ago. And I expect, that this will be done in the future with all energy.

Likewise the attitude of all headquarters towards Balkan politics is finally to be oriented in the sense of the orders issued. If necessary, I expect that an example will be made in order to demonstrate most effectively to all headquarters the necessity to comply with orders issued also in this sphere.

The present conduct of the war to eliminate the threat of bands is primarily dependent on the strength of available forces. The main target of the fighting must be the armed forces of the enemy. Accordingly, operations must be conducted in such a manner that the armed forces of the enemy are caught, destroyed, or at least seriously damaged. Furthermore, in addition to weakening the enemy by means of operations, disturbance of peaceful organizing activities, destruction of supply installations, such as hospitals, ammunition depots, etc. must be effected.

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Hence under present conditions the fight is not to be conducted to seize terrain but with the aim of damaging the strength of the enemy." I think we need no read much more of this report, Your Honor but turn to page 56 of the English and page 44 of the German, in the middle of the page, to paragraph "To VII."

To VII:

If it is stated that the aim of the operations had not been accomplished, then this is incorrect, as soon as it is established what was intended with these operations. The purpose of the operations so far (weakening the fighting strength of the enemy, interference with its organizing activity) had not only been fully accomplished but showed unexpected large results. Between 1 September and 31 December 1943 the enemy lost 30,000 counted dead and 12,000 prisoners.

If for every dead one counts one wounded, not convalescing within reasonable time considering conditions among the bands, and considerable time considering that in many cases numerous dead were excluded from our own count, enemy losses of 80,000 men must be assumed. In addition numerous hospitals, field bakeries, and enemy supply bases were destroyed.

And the message is signed, page 57 of the English, page 44 of the German, by Rendulic.

I think we may skip the intervening pages, and turn next to page 59 of the English, page 46 of the German, Daily Report on the 15th Mountain Corps for 29 January 1944.

"373rd Division:

Band movements in the area PRIJEDOR. Railway Line PRIJEDOR -NOVI again blown up, work interrupted by employment of mortars. Area RUDICEOTO 29 hostages taken on both side of the railroad."

I think, if Your Honors, please, at this time might omit reading into the record the intervening pages and turn instead to a new document, which is on page 65 of the English, page 49 of the German. This is document [NOKW 1667](#), which is offered as Prosecution Exhibit 571.

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These are a series of reports from the 68th Corps to the Army Corps R, covering the period February to May 1944. During all this period the defendant Felmy was in command of the 68th Corps.

Page 65 of the English, page 49 of the German, Daily Report 68th Corps, submitted on the 18 January 1944.

Peloponnesus:

"In reprisal for an attack on 1 Officer (11nd Battalion 670th artillery Regiment) 20 Communist were executed in the area of Rhizaes (12 km Southeast Rropolis)."

The report is signed 68th Mountain Corps.

On page 66 of the English, page 50 of the German, Daily Report of 68th Corps, submitted on 8 February 1944:

"Peloponnesus:

Attack on Navy Truck Column rear Skala. Reprisal measures: carried out by 1st Company 111rd Battalion of the 999th 1 Platoon of Operational Staff Heinrich, Headquarters Company of Operations Reserve and 2 Platoon from 609 Naval artillery Battalion. The village Skala, Christofileika, and Tsukaleika, were destroyed. 100 Communists shot."

Turning next to page 68 of the English, page 52 of the German, Daily Report of 68th Corps, submitted 25 February 1944 to High Command Army Group E, Peloponnesus: (117th light Division:

2. In return for and attack (see paragraph 2 of the daily Report for 24 February): the following reprisal Measure;

- a.) Shotting of 200 hostages from hostage camp Tripolis at the scene of the allack.
- b.) Martial Law in Tripolis and Megalopolis during day and night till 7 March inclusive. No civilian allowed on the street ruthless use of arms.

The report is signed "68th Corps,"

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MR. FENSTERMACHER: Turning next to Page 70 of the English, Page 54 of the German, is the Supplementary Report from the 68th Corps, transmitted to Army Group E on the 12th of March 1944, Subject: Supplement to Daily Report for 12 March 1944: "In return for the band attack on the convoy of the 1st Battalion 737th Light Infantry Regiment the following reprisal measures are ordered." I direct Your Honors' attention to Paragraphs 3 and 4 of the report: "Everybody found in the terrain South of the line indicated in Paragraph 1 up to a distance of 2 km off the remaining roads will be shot. Duration: 8 days , upon preliminary announcement. Shooting of 200 hostages (Communists) from all hostage camps. Execution by members of the Greek volunteer formations with German supervision." Next on Page 71 of the English, Page 54 of the German, Daily Report of the 68th Corps:

"Pelopponesus: (117th Jaeger Division) 2. As reprisal measure for the band attack on 12 March 1944 the following villages, confirmed to be nests of the band, were released to the 117th Jaeger Division for destruction:

Karie, Wresthena, Kato – and Ano-Kolline, Skortsinon , Kaltese, Mavrojianni, Vlachokerassia, Arwanitokerassia, Manari."

I think the next several reports are of a similar nature and need not be read at this time. If Your Honors will please turn to Page 78 of the English, Page 61 of the German, another Daily Report from the 68th Corps transmitted on the 26th of April 1944, to High Command of Army Group E:

"Dairy report Boeotia:

1.) Bandit raid on motor vehicle column (2 armoured cars and 2 motor bikes) of the 18 the SS Police near Keresi (15 kilometers west of Lewadia). Own Losses: 2 Officers dead, 1 Officer 4 enlisted men missing, According to the statements of three arrested persons the bandits, in a strength of from 50 to 70 men equipped with 5 machine guns, machine pistols and rifles, withdrew in direction of Kiriak.

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Reprisal measures: At the place where the raid occurred 50 Communists were immediately shot. Reconnaissance of a reinforced company up until now without results."

The report is signed "LXVIII Infantry Corps." Next on Page 79 of the English, Page 62 of the German, Daily Report of the 68th Infantry Corps, transmitted on the 29th of April 1944 to its higher headquarters. Under Boeotia:

"In reprisal for the raid on the motor vehicle convoy of the 18 SS Police Regiment 60 more communists were shot to death at the place where the raid took place."

Next on Page 80 of the English, Page 62 of the German, Daily Report of the 68th Corps, transmitted on the 11th of May 1944:

"Boeotia: In reprisal for raid on motor vehicle convoy (see Daily Report of 26 April Boeotia 1.) 100 hostages shot to death in Athens."

Next on Page 82 of the English, Page 64 f the German, Daily Report from the 68th Corps, transmitted on the 2nd of May 1944:

"In reprisal for the raid on the motor vehicle of the staff of the 41. Fortress Division (compare Daily Report of 28 April) on the 27 April 1944, 300," and that figure , if Your Honors please, is corrected in pencil to read 325, " communists and band suspects (of these 200 in Athens and 100," if Your Honors please the 100 figure is corrected in pencil to 125 in the original document," On the Peloponesus) were shot to death." Signed "LXVIII Infantry Corps," and the Corps at this time was commanded by the Defendant Felmy. Page 84 of the English, Page 66 cf the German, is the last report in this series from the 68th Infantry Corps, transmitted on the 18th of May 1944:

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"Peloponnesus: (117. Jaeger Division) In reprisal for repeated acts of sabotage on telephone lines 17 well known communists were hanged on telephone poles along the road Kamari-Deweni (northwest of

Xylokastron)." Turning next to Page 86 in the English, Page 67 in the German, Document [NOKW-1771](#) , which is offered as Prosecution's Exhibit No. 572.

This is a report of the 373rd Division to the 2nd Panzer Army and relates to Operation "Morgenstern." I think we need not spend much time on it at this time. Your Honors will note on Page 88 of the English, Page 68 of the German: "In Seganovac a hospital was destroyed."

Continuing now on Page 89 of the English, Page 69 of the German, Document [NOKW-1640](#), which is offered as Prosecution's Exhibit No. 573. These are a series of reports from the Commander in Chief Southeast to OKH in Berlin, covering a certain period in May, 1944. During that time the Commander in Chief Southeast was the Defendant Weichs. We Call Your Honors' attention to just one or two of these particular Daily Reports -- one on Page 94 of the English, Page 74 of the German, Daily Report from the Commander in Chief Southeast to OKH Army General Staff Operations Section for the 14th of May 1944: "Group Siegfried: Easing of the "tension in the area Prijepolje-Plevlja 12 May , 25 hostages shot as reprisal measures for German soldiers not released by the bands.

Enemy losses: 10 counted dead."

Next on Page 93 of the English, Page 75 of the German, the Daily Report from the Commander in Chief Southeast for the 13th of May 1944, under 369th Division. If Your Honors please, that Division was subordinate to the 2nd Panzer at that time, which was commanded by the Defendant Rendulic. "369th Division" -- and then certain portions are crossed out -- "In the area Konjic-Gacko local clashes mopping -up "operations in the Dabarsko Polje area have started.

As reprisal measure for an attack on the railway near Zeplanik (see daily "Report for 11 May) 6 hostages were hanged."

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Turning next to Page 97 of the English, Page 77 of the German

DR. GROSS: Dr. Gross deputizing for Dr. Tipp, for the Defendant Leyser. Your Honor, I must object against the remarks of the Prosecutor regarding Document [NOKW-1640](#), Exhibit No. 572. The Prosecutor has said that this exhibit is a document of the 2nd Panzer Army. This cannot be seen from the document itself. It is also incorrect, as can be seen from the contents of the document. In the list attached to the document the place of Sarajevo is mentioned. Sarajevo never belonged to the Command of the 373rd Division not to the 15th A.K. either. At least, it did not belong at that time. I ask that this remark be stricken from the record.

MR. FENSTERMACHER: If Your Honors please, the first page of the document indicates that it is art enclosure to the War Diary, Operation Morgenstern, 10 May to 19 May 1944, teletype to 2nd panzer Army.

PRESIDING JUDGE BURKE: Is there anything further to be said?

MR. FENSTERMACHER: I have nothing more, Your Honor.

PRESIDING JUDGE BURKE: Objection is over-ruled.

MR. FENSTERMACHER: If Your Honor will turn next to Page 97 of the English, Page 77 of the German, continuing with the Daily Reports from the Commander in Chief Southeast to OKH Headquarters in Berlin, this is the Daily Report from the Commander in Chief Southeast for the 10th of May 1944. Under the section of the report dealing with activities in the area of the 68th Corps -- and that corps was, at that time, commanded by the defendant Felmy: "Because of Communists activities at Patras 10 hostages were hanged. Limitations have been imposed upon the population." The report is, as were all others, signed "Commander in Chief Southeast." We pass the next document, [NOKW-1670](#), and turn next to Page 101 in the English, Page 79 in the German, Document NOKW 1773) which is offered as Prosecution's Exhibit No. 574.

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This is an order of the 264th Infantry Division, dated Divisional Battle Headquarters, 21 May 1944:

"Orders of the Division to mop up the islands of Dugi Otok and Kornat

2.) 891st Grenadier Regiment is to mop up these islands. Thereby all provisions and installations of all kinds serving the enemy are either to be secured or destroyed, enemy tonnage is to be brought in and as far as possible the islands must be evacuated of the male civilian population capable of bearing arms at least all suspicious persons must be arrested. " I think we need not bother with the distribution list which appears on the next page.

But on Page 102 of the English and page 79 of the German begins a report from the 15th Mountain Corps to the 2nd Panzer Army Ia and Ic. On Page 103 of the English , Page 80 of the German, is the "Final report of 'Morgenstern.'" We call Your Honors' attention only to the second portion of the final report of "Morgenstern": "In addition the following was destroyed: 2 hospitals...." And that report is signed "XV Mountain Corps," and that Corps, at this time, was commanded by the Defendant Leyser.

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MR. FENSTERMACHER: Next, on Page 104 of the English, Page 81 of the German, Document [NOKW-1767](#), which is offered as prosecution's Exhibit No. 575. This is, again, various reports from the 15th Mountain Corps to Headquarters of the 2nd Panzer Army. The first is the Daily Report of the Corps for the 12th of June 1944. Under 373rd Division there is a notation that this is crossed out in the original document: "At the band hospital discovered on 10 June by Southern Group 'Utwald' 4 rifles and medical dressing materials were seized. 170,000 rounds infantry ammunition, 300 mortar shells, 9 hospital barracks with 500 beds and various" -- it's on page 104 of the English, page 81 of the German--"9 hospital barracks with 500 beds and various medical equipment were destroyed." The report is signed 15th Mountain Corps. I think we need not spend any particular time with the next several pages of the reports from the 15th Mountain Corps. If Your Honors will observe on page 105 of the English, page 81 of the German under "The following was destroyed" -- "1 hospital." And on page 107 of the English, page 82 of the German, the report of the 15th Mountain Corps to the 2nd Panzer Army for the 3rd of June 1944: "1 hospital destroyed." We will turn next to page 108 of the English,

page 83 of the German, Document NOKW1777, which is offered as Prosecution's Exhibit No. 576. These, again, are reports from the Commander in Chief Southeast to OKH in Berlin. On Page 109 of the English, Page 83 of the German, the portion of the report for the 5th of June 1944 which deals with activities in the area of the 373rd Division: "Croatian Combat Team destroyed band hospital Southeast of Udbina. Supposedly 115 enemy dead." Next on Page 110 of the English, Page 84 of the German, the Daily Report from the Commander in Chief Southeast to OKH for the 6th of June 1944 under Serbia: "Enemy losses during the past week: Cetniks: 1 dead, 2 captured, Communists: 390 dead, 170 captured, 50 shot as reprisals." I call Your Honors' attention to the late date of this event--6 June 1944. The Commander in Chief Southeast at that time was the Defendant Weichs, and in Serbia Felber was Military Commander, and his Chief of Staff was the Defendant Geitner.

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I think we need not read the remainder of the exhibit at this time, but instead turn to Page 113 of the English, Page 86 of the German, Document [NOKW-1775](#), which is offered as Prosecution's Exhibit No. 577. This is a Daily Report from the Commander in Chief Southeast to OKH for the 11th of July 1944. Under Serbia: "Local band activity. In the Banat 40 Communists were shot as reprisal for an attack on a resettlement train," The report is signed "Commander in Chief Southeast." Again I direct Your Honors' attention to the late date of this report--11th July 1944. Turning next to Page 115 of the English, Page 87 of the German, Document [NOKW-1803](#), which is offered as Prosecution's Exhibit No. 578, This is a report from the Commandant of the Sea Defense of Attica to the 11th Luftwaffe Field Division. Your Honors' will note the receipt stamp of the Corps Headquarters, 68th Army Corps. The report is dated Headquarters, 31st May 1944, subject: "Band situation in the area of Marathon." I call Your Honors' attention to Paragraph 2 of the report: "Shooting to death of 50 Communists from Marathon and employment for compulsory labor of all other men fit for work. Examination and information concerning intention is requested," signed "Hans Hartmann." On the next page -- Page 116 of the English, Page 87 of the German: "Reprisal measures: Burned down houses K:14, Burned down villages: 1 (Koliaki), Hostages: 107." Next a report from the 11th Luftwaffe Field Division to Corps Headquarters 68th Infantry Corps, subject: "Operation 'Falke'", at the bottom of Page 116 of the English, Page 88 of the German. Your Honors will note the receipt stamp of the 68th Corps for the 26th of June 1944. On Page 117 of the English, Page 88 of the German, the report continues:

"The prisoners and arrestees consist mostly of pronounced criminal types for whom treatment as prisoners of war is much too mild. It is not practical to employ them for work in Germany because they will certainly try to propagate their communist tendencies there.

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"It is not permissible under any circumstances to transfer the prisoners to Creek prison camps because they would find their way to freedom either by bribery or by other means. It is suggested to use by the prisoners and arrestees in the area here as hostages."

And then it is written in hand, an initial "K", and the word, "Yes," and the report is signed "Kohler." I think we need not spend any time on the remainder of the document at this time. We will turn to Page

119 of the English, Page 90 of the German, Document [NOKW-1804](#), which is offered as Prosecutions Exhibit No. 579. Those, again, are Daily Reports of the 68th Corps for the months of January, February, and March, 1944; during the time the Defendant Felmy was Commander of the 68th Corps. The first is Daily Report of the 15th of January 1944: "In Tripolis on 13 January a sergeant of the Secret Field Police was shot to death in the open street, 1 Greek policeman and 1 Greek interpreter were wounded. In reprisal 15 January execution of 10 Communists at the place of the surprise attack." Next the Ic Daily Report of 18 January 1944: "Band surprise attack on German officer in Psili-Wrisi (12 Southeast Tripolis). In reprisal 20 communists executed." Continuing the Daily Report for the 8th of January 1944: "As a reprisal measure for the surprise attack near Skala 3 villages destroyed, the shooting to death of 100 hostages intended. In Petras band leader (Italian Lt. Commander) arrested." Most of these reports pertain to material of a similar nature. I think we need not spend any particular amount of time on them at this point. Do call Your Honors' attention to the Daily reports of the Corps, which appear on Page 122 of the English, Page 92 of the German, Daily Report of the 20th of April 1944:

"Intended as reprisal measure for surprise attack Molai:

"1) Shooting to death of about 200 communists in Athens.

"2) Shooting to death of all men encountered outside of the villages in the area of Molai - Sparta by the unit returning to Sparta.

"3) Shooting to death of about 100 band suspects who will be selected by the Greek volunteer Detachments."

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On the same page--Page 122 of the English, but 93 of the German, the Daily Report for the 2nd of May 1944: "As reprisal measure for the surprise attack near Molai (Ic Daily Report of 28 April) 200 communists in Athens and 100 EAM members and band suspects on the Peloponnese shot to death by Greek Volunteers." On Page 125 of the English, Page 95 of the German, are two reports to which I call Your Honors' attention. First the Daily Report for the 17th of June 1944: "As reprisal measure for surprise attack on Major in Kalamata (Ic-Daily Report 10 June) 27 communists shot to death at the locality of the incident. For attack on Waltetsi shooting to death of 10 communists." And then the final report in the series, the Daily Report for the 30th of June 1944: "Enemy losses June: 791 dead, 135 wounded (in addition 150 estimated), 218 prisoners (some shot to death in the course of reprisal measures or later combat actions." I will call Your Honors' attention again to the late date of this incident--30th June 1944. This report, as were all others, is signed "LXVIII Infantry Corps."

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(Mr. Fenstermacher) Next on page 126 of the English, and 96 of the German, Document [NOKW 1795](#), which is offered as Prosecution Exhibit 580, this is a report, - an Activity Report, for the month of August, 1944, sent to the Assault Division Rhodes, Section Ic. It concerns actions against the Jews on the Island of Rhodes. I think we need not read all of it into the record, but I ask your Honors to turn, please, to page 129 of the English, page 98 of the German:

Furnishing of Quarters and the Italian Government.

With regard to this I repeat the text of the report of the Quarteers Official (Quartieramtsleiter), Sergeant and Interpreter Dr. Thutewehl:

In spite of the great expectations held about the Jewish action, the procurement of furniture encounters greatest difficulties. During the month of August only the Air Force Signal Company, for special-duty, Dodekanes, Assault Division Rhodes IVd, Fusilier Battalion Rhodes, and the crew of the boat M.S. Iro could be furnished individual pieces which, however did not originate from the Jewish Action. From the Jewish Action so far only Assault Division Rhoes, Ia/N, Sea Transportation Branch, Flotilla Command, and Submarine Chasers, received something; to be sure of these the last three only by the fact that houses were made available as billets.

The procurement of furniture from the stocks of deported Jews is evidently sabotaged by the Government. The prescribed procedure for the District Headquarters is to request furniture from the Town Mayor, who, if he cannot supply it, forwards the requests to the Italian Government, which procedure has been followed for months already. The Italian Government has received the requests of the District Headquarters for furniture already more than a month ago, but has not done anything so far.

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The Government is not even in the position to state at all what the Jews have left behind. Lately the Government insists that according to an agreement between the Vice Governor and the Chief of the German Military Administration the supplying of the District Headquarters with furniture can only be considered if the Military Administration adds a stamp of approval. The Military Administration, on the other hand, stated that it had nothing to do with this, and is not inclined to affix this stamp to the requests. The Government, with whom the District Headquarters cannot negotiate, because this is entirely a task of the Military Administration, stubbornly answers all inquiries from the Town Mayor's Office, which supports the District Headquarters in every respect, with the assertion that a stamp of approval is necessary. The Chief of the German Military Administration whom I questioned again yesterday about this, held out prospects that he would discuss this matter again with the Government. Up until now we could only obtain furniture if an entire Jewish house was requested by the District Headquarters. As is known, no objection is possible against vacating houses; I myself was witness when a house was transferred by a Government representative to Inspector Sommer from the Sea Transportation Branch. The official who appeared as the representative of the Italian Government disgraced himself to the extent of begging (in the truest sense of the word) to German Official to give him a small table and a curtain because these were still needed in his quarters.

This state of mind is by no means a singular occurrence, and the civilian population is very discontented with the functioning of the Government and of the Commissions for Jews. It has gone so far that the civilian population considers it a mistake that the Jewish property was transferred at all to the Italian Government. To a large extent the Government did not turn the houses over to families which had suffered from air raids but to its friends.

In this respect Minister Toni who gave away several houses is especially mentioned. If people then came who really needed houses they received the answer that they had all be distributed already. Houses were said still to be available in the Turkish section. Repeatedly the applicants received the answer that the houses had all been confiscated by the Germans, although the Wehrmacht is using only 4 Jewish houses. The unfairness of the Italian authorities and of the Commissions is known throughout the town, so that the matter has become a common joke and the Commissions for Jews are called "Shipboarding Parties". Public opinion fore goes mentioning names in connection with the irregularities of unimportant officials. However , the rumor persists that Vice-Governor Faralli is said to show special interest for soap, perfume, and clothing left by the Jews and that Minister Toni is looking for more carpets. Today the opinion is widely spread that one should have turned over the belongings to the Germans and not to the Italian Government.

Your Honors will recall in connection with Jewish deportation from the Island of Rhodes, the affidavit which the prosecution introduced of a man named Lenz.

Turning now to page 133 of the English, and page 100 of the German, Document [NOKW 1809](#) which is offered as Prosecution 581, this is an Activity Report for the month of August 1944 from Group Secret Field Police 611, dated Command Post 27 August 1944. Your Honors will note the receipt stamp of the Commandant of the Fortress Crete, dated 31 August 1944.

The Commandant of Fortress Crete was at this time subordinate to the Commander-in--Chief Southeast, at that time the defendant Weichs:

"I, General review of the Activity of the Group District of Lassith On 17 August 15 bandits armed with Italian carbines and wearing Italian field caps with the writning ELAS appeared 20 kilometers southwest of Ag. Nikoloas" Then on the next page, 134 of the English, page 101 of the German, under section report dealing with the District of Iraklion:

"Two separate operations were carried out against the band group of Petrako Georgios in Conjunction with the unit on 13 - 14 August. The resistance by the bands was so strong that artillery had to be employed. A total of 56 band suspect persons was arrested and given over to the unit for execution.

Resistance movement EANIn the Messara Plain the headquarters of this district was established in the village of Sokara (31 kilometers south Iraklion). On 16 - 17 August during an operation in conjunction with the unit the village was surrounded and 29 communists were arrested.

As reprisal for surprise attacks on members of the unit employed 27 men were shot to death. The instigators will like wise be transferred to the unit for execution as reprisal after interrogation is concluded."

Your Honors will note the distribution:

"Wehrmacht Field Police via Chief Field police Officer with High Command Army Group F.?

Next, on page 135 of the English, page 102 of the German, the report from the 382nd Front Reconnaissance Troop, dated Command Post, 26 August 1944 -

DR. LATERNSEER: Your Honor, I just understood the last remark as if the Prosecutor had.

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asserted that this Group of the Secret Field Police had been the field police of Army Group F. I don't know if I have misunderstood him.

MR. FENSTERMACHER: I said the Distribution list, the report is to the effect that it went to Wehrmacht Field Police via Chief Field Police Officer with High Command Army Group F. But the main importance of the document, from the Prosecution's standpoint, is the receipt stamp of the report. On the report of the Commandant of Fortress Crete, which the prosecution submits was subordinate to Commander-in-Chief Southeast at this time.

DR. LATERNSEER: The last I do not know, and that would have to be proved.

PRESIDING JUSTICE BURKE: Very well, you may proceed.

DR. FENSTERMACHER: Page 135 of the English, 103 of the German, the report from the 382nd Front Reconnaissance Troop, again Your Honors will note the receipt stamp of the Commandant of Fortress Crete and the date 29 August 1944. The subject of the report is, "Activity and situation report for the month of August. I call Your Honors attention only to paragraph 3:

"III. General SituationThereupon on 12 August the commander ordered that the communist-English bandit terror be broken by reprisal measures.

Then the troops started to act. The numerous operations and reprisal measures which had been carried out more strongly since then have effected speedy improvement of the situation."

The next is on page 137 of the English, 104 of the German, the activity report from the 382nd Front Reconnaissance Troop to Leader of 390th Front Reconnaissance Troop Saloniki for the information of the Commandant of Fortress Crete.

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Again Your Honors will note the stamp of the Commandant of Fortress Crete, 7 September 1944. Under the section of the report dealing with, General Situation, Political Observations:

"General situation (Political) observations)

2) By energetic German counter-measures in the second part of the month which up until 9 September lead to the destruction of 13 villages, the shooting to death of approximately 500 bandits and persons adding and abetting bandits and the arrest of about a thousand persons.

For the actions of the unit extensive material was made available concerning band members and their families, persons supplying the bands and for the protection the pro-German population also lists of persons friendly to the Germans. In many cases reprisal measures were carried out on the basis of this

material. Unfortunately notwithstanding these precautions 15 Greeks from Sarchos pro-German beyond a doubt who had surrendered to the unit were shot to death by the 6/65 for reasons not as yet clarified."

On page 139 of the English, and 105 of the German, document dated Headquarters 12 September 1944, Subject, Supplement to War Diary from the period from 13 August to 10 September 1944, I call Your Honor's attention to the last paragraph:

"The following thirteen villages were destroyed: Kuneni, Limni, Floria, Anojia, Sokara, Wrysses, Kriaa-Wrissi, Gurgudi, Jerakari, Ano Meros, Siridari, Faleriana and Koxare."

We turn next to page 140 of the English, and page 106 of the German Document, [NOKW 051](#), which is offered as Prosecution's Exhibit 582. This is a directive of the 2nd Panzer Army to the Commander-in-Chief Southeast, High Command Army Group F, and Your Honors will note the receipt stamp of the letter unit dated 20 September, 2205 hours.

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"REFERENCE: Bridge Guard "Gipsy Baron" The Panzer Army intends to issue the following order:

Preparations are to be made in such a manner that the Hungarians will not become suspicious in any way and thereby the situation may possibly deteriorate. All possibilities of surprise, for instance employment camouflaged in civilian clothing or Hungarian uniforms, having means available for crossing over, are to be considered in the preparation."

The message is signed, "Chief of Staff, 2nd panzer Army."

Finally on page 142 of the English, page 107 of the German, Document NOKW 1774, which is offered as Prosecution's Exhibit 583, this is a report from Army Unit Serbia, dated Headquarters 4 November 1944, and its title is:

"The battles of Army unit Serbia (Military Commander Southeast) From August, 1944" On page 143 of the English, and 108 of the German is a covering letter, dated Berlin 27 November 1944:

"Dear General:

Pursuant to the request of General Felber, I am submitting to you a short excerpt from the War Diary of the Army Unit Serbia. I had to produce this brief summary after the dissolution of our staff under great pressure of time. I apologize if the style is not beyond reproach but I hope at least that it does not contain errors."

I think we need not read the second paragraph. The letter is signed, "V. Zawaezky, Lt. Colonel GSC".

The report itself begins on page 144 of the English, and 109 of the German, after the creation of the position i August 1943, Military Commander Southeast had a two-fold task:

"On one hand, he was the territorial Commander-in-Chief of Commanders employed in the Southeast (Commander Greece, German General- Plenipotentiary in Albania, Independent Sub-Area Administrative Headquarters Montenegro, German-General-Plenipotentiary in Croatia) and as such was subordinated directly to the OKW.

On the other hand he was subordinated to the Command Staff in Serbia and received his directives concerning problems of the security of the country from the Commander in Chief Southeast (High Command Army Group F).....

A basic change, politically and militarily, was caused by the surrender of Rumania on 23 August.

.....

The Senior SS and Police Leader Serbia was charged with the security of the Banat. For this purpose, he had only two German Police Battalions available besides the Emergency Units of the Luftwaffe and Waffen SS. He fulfilled this task without enemy pressure until the 4th SS Panzer Grenadier Division - brought up Greece and subordinated immediately to Army Group F - was committed from the Northern Banat for an attack on Temeschburg."

I think we may skip from there, Your Honor, to page 145 of the English, 110 of the German, the middle of the page:

"The evacuation of 20,000 foreign workers, 12000 wounded and several hundred Reich German Specialists was made possible by the liberation in battle of Zajecar and the road to Bor. Since no more transport possibilities existed, the plant stopped production.

"The development of the situation caused the administrative tasks of the Military Commander Southeast to recede into the background. Even the transfer of the "executive power" after the "Nedic" Government had left for Germany, had no practical significance. However tactical tasks came completely to the fore. Consequently, the order of Commander in Chief Southeast of 6 Oct. with simultaneous change of Chief of Staff eased the burden on the Operation Staff.

The Operation Staff was renamed "Army Unit Serbia (Military Commander Southeast". Corps Headquarters F.W. Muller, Commanding South of the Danube and Corps Headquarters Schneckenburger, Commanding North of the Danube were subordinated to it at that time on the East Front."

There are two signatures on the document, "Freiherr v. Weichs, Field Marshal, and Felber, Lt. General of Infantry."

DR. LATERNER: Your Honor, may I ask how on page 109 of the German document book, and on page 144 of the English Document book, the words: "in Frangen der Sicherung des Landes" are translated?

May I request that this sentence be submitted to the interpreters for checking the translation?

The sentence in question is on page 144 of the English document book.

PRESIDING JUSTICE BURKE: At this time the Tribunal will stand in recess for 15 minutes.

(In recess until three twenty)

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THE MARSHAL: The persons in the Courtroom will be seated.

The Tribunal is again in session.

DR. LATERNSEER: Your Honor, just before the recess, I asked that the expression contained on page 144 in the English Document Book in the second paragraph, the last sentence there, should be retranslated.

PRESIDING JUDGE BURKE: That may be done.

THE INTERPRETER: Page 144 of the English Document Book, the sentence reads: "On the other hand, he was subordinated to the Command Staff in Serbia and received his directives concerning problems of the securing of the country from the Commander in Chief Southeast, High Command Army Group F." That is the end of the sentence.

DR. LATERNSEER: If I understood correctly, the English text now has been changed, the word "security" has been changed to "securing". Is that correct?

THE INTERPRETER: That is correct.

DR. LATERNSEER: In this connection, may I point out that a short time ago, I had moved that the words "Sicherheit" and "Sicherung" should be translated by the Chief of the Translation Branch. The answer has so far not been received.

PRESIDING JUDGE BURKE: Has the prosecution any explanation for the delay?

MR. FENSTERMACHER: I don't think the prosecution understood that it was its duty to forward Dr. Laternseer's application, your Honor.

PRESIDING JUDGE BURKE: Has the application been forwarded?

MR. FENSTERMACHER: We have had no notice of any written application to that effect.

DR. LATERNSEER: Your Honor, I am now being advised that this motion has to be put in writing. I shall do that. Up to now, I had assumed that motions made during the proceedings would be transmitted by the General Secretary to the competent authority.

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However, now I shall put this motion in writing.

PRESIDING JUDGE BURKE: I should think it would be to the interest of all concerned that a simple matter of an honest translation for the Tribunal could be procured by the cooperation of all parties interested in this: counsel for defense, counsel for prosecution, and the interpreter. I should suggest that it be done without further formality and without further delay.

The Tribunal desires to offer the following suggestion for the record with respect to the application made on behalf of the defendant Felmy with the request that certain interrogatories be sent to Bishop Spiridinos in Greece.

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The ruling previously made by the Tribunal in respect to a similar application on the part of other defendants and after considering the objections made on behalf of the prosecution, the same ruling will be made for the same reasons and the interrogatories may be forwarded for answer. A formal order by the Tribunal will be written and filed with the Secretary General.

You may proceed.

MR. FENSTERMACHER: Your Honor, the lists which go at the end of Document Book 24 being a list of the documents, the exhibits and the counts of the indictment with which they are offered, and the defendant in connection with which they are offered are now ready for distribution. Three copies to your Honors.

PRESIDING JUDGE BURKE: They will be marked for identification by what number, Hr. Fenstermacher?

MR. FENSTERMACHER: Since the last document in Document Book 24 was Exhibit 555, your Honor, this should be marked Exhibit 555-A for identification. The page numbers in the English Document Book will be page 255 and 256, and in the German Document Book page 187 and 188. There is also an addendum to Document Book 24 which will take care of those documents which were submitted at the end of that book, and I now pass a similar list to your Honors containing the material and table on that list. I will pass 24 copies to defense counsel and copies to the Secretary General, court interpreters and court stenographers. This addendum, if your Honors please, should be marked 555-A/1 and is page 257 in the English and page 189 in the German.

There is just one further document which prosecution would like to submit at this time.

DR. LATERNSEER: Your Honor, since the prosecution has finished Document Book 25, I ask to be allowed to put a question which has been touched already at an earlier time. I would like to ask what now has become subject of the proceedings with respect to Document Book 25 and even generally speaking.

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The parts that have been read -- have only those parts become subject of the proceedings or the whole document book? The answer to this question is very important for the preparation of our defense.

PRESIDING JUDGE BURKE: It is the opinion of the Tribunal that the entire document whether translated or not is submitted for the consideration of the Tribunal and for the defense counsel.

DR. LATERNSE: Your Honor, not only then the total contents of a document book but beyond that the Exhibit becomes subject of the proceedings -- that is, the exhibit that the prosecution has submitted, even if it hasn't been completely translated.

PRESIDING JUDGE BURKE: That is correct.

DR. LATERNERS: Thank you very much.

DR. FRITSCH: Your Honor, in this connection, may I ask a favor? Unfortunately, in recent days -- maybe that is because of a technical disturbance. We do not receive photostats of the documents. According to what Dr. Laternser has just mentioned, the following would result. Those documents are submitted to the General Secretary are not in verbal agreement with what is contained in the German or English Document Book. Therefore, at least we should be in a position to have the text just as it is submitted to the General Secretary, but I believe it will not be technically possible, your Honor, that we ask the General Secretary to put at our disposal exhibits which have been given to him; and therefore I would like to ask the prosecution to let us have at our request photostats of those exhibits which they have submitted.

MR. FENSTERMACHER: If your Honors please, it has always been my understanding that there is a copy of each document which is put into evidence by the prosecution always available at the defense information center. Now if that procedure has not been honored, prosecution will certainly investigate it but I know that just two or three weeks prior to the indictment, practically all of the documents which the prosecution intended to submit in its direct case were given to the defense information center.

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PRESIDING JUDGE BURKE: I think that is the information that has been conveyed to the Tribunal from time to time. At least, that is the impression that I have had of it.

DR. FRITSCH: Your Honor, that is how it used to be earlier on, but I just permitted myself to point out that there have been difficulties in this respect, and therefore since we have only now a comparatively short period at our disposal -

PRESIDING JUDGE BURKE: I am waiting for the interpretation for the last minute or so.

DR. FRITSCH: Your Honor, that has been so up till now but, recently there have apparently been technical difficulties. Therefore, I put this request, that the prosecution should try to help us and overcome and solve these technical difficulties. At the present time, I do not receive any photostats.

MR. FENSTERMACHER: If your Honors please, prosecution will be very glad to investigate and see that a copy, a photostatic copy of every document which the prosecution has introduced as part of the direct case is placed in the defense information center for the use of defense counsel.

PRESIDING JUDGE BURKE: It was the information of the Tribunal that such a course had been followed and it must be followed if it has not.

DR. SAUTER: Your Honor, maybe I can explain this difficulty. Generally, it is handled the way the prosecutor explained it. That is, one photostat comes to the defense information center and is then at the disposal of the defense. Now, about ten days ago, there were difficulties. I couldn't ascertain why, but all of a sudden we were told that these photostats could only be looked at at the office of the defense administrator and I protested against this and I demanded that we should be allowed to take the photostats with us because quite often we had to show them to the defendants so that their signatures or other people's signatures could be glanced at and identified.

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In answer to my request, this has been rectified and now we receive these documents.

If my colleague shakes his head, that is to be explained by the fact that always only one photostat is at our disposal but the majority of the defense counsel has an interest to look at this one photostat or show it to their clients. Now if, for instance, I have this photostat and another one of my colleagues gets it afterwards, then the fifth or sixth or seventh colleague gets into the awkward situation at a time when he requests the document it is not available.

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That follows from the fact, of course, that there are about ten defense counsel and only one photostat. That is what I wanted to say in order to inform the Tribunal about the actual facts.

PRESIDING JUDGE BURKE: If it is a matter of cooperation which will result in the fair distribution in the use of the photostat, I should think it might easily be arrived at; if it is a matter of cooperation on the part of the Prosecution. I'm sure there should be no hesitation in affording that cooperation because after all what the Tribunal is interested in ultimately is the determination of the facts on the basis of evidence fairly and justly presented. You may proceed.

MR. FENSTERMACHER: As the final document which the Prosecution offers, we offer Document [NOKW 1898](#) as Prosecution Exhibit 584. This is a very voluminous document but I believe highly readable and very valuable and most interesting report, written by the Chief Counsel of Army Archives, Ernst Wisshaupt, by order of the Chief of the General Staff. The title is "The Combatting of the Insurgent Movement in the Southeast Area," and the document which we have, the only document which we could find in regard to this, is part 1, June 1941 to August 1942. We do not know whether there was a second part. If so we have been unable to find such a succeeding part. The first part of the work comprises pages 1 to 247, 1 outline map, and sketches. The work is to serve as a basis for a future historical documentation. It is secret material, only to be used in line of duty and is subject to the orders regarding security."

Your Honors will note the stamp of the Commander in Chief Southeast, High Command Army Group F, 1 February 1944 on the first page of the document.

PRESIDING JUDGE BURKE: Do you wish to designate it as a new document number or new book number?

MR. FENSTERMACHER: I should suggest giving it a new document number which would be 584 and it comes at the end of course of Document Book XXV.

PRESIDING JUDGE BURKE: Is it a part of Document Book XXV in that respect?

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MR. FENSTERMACHER: Yes, it could be considered an addendum to Document Book XXV. The first 75 pages of the report are of the most importance from the Prosecution's standpoint but the whole document gives a very revealing picture of political and military events in the Southeast area from the period which the report covers that is June 1941 to August 1942.

PRESIDING JUDGE BURKE: Mr. Fenstermacher, has the photostat of the original been made available to defense counsel?

MR. FENSTERMACHER: I am not sure about that your Honor. It is a terribly voluminous job to photostat this long report and I am told in the last week or two there has been quite a shortage of photostat paper in the photostat room but there is a standing order that all documents which we would

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PRESIDING JUDGE BURKE: Noise, hammering outdoors. The competition is rather keen Mr. Fenstermacher.

MR. FENSTERMACHER: The Prosecution has a standing order with the document room that any document which it sends up to it for a document number should be photostated immediately. I am not sure precisely whether this was done in this particular case. If it was not it was probably because of this shortage of photostat paper but I shall check on it and see that it is furnished the defense as soon as possible.

PRESIDING JUDGE BURKE: Will that arrangement be satisfactory to you, Dr. Laternser? Dr. Laternser has indicated that that will be satisfactory to him. You may proceed.

MR. FENSTERMACHER: With your Honors permission I should begin to read the first few pages of this document. I don't know how far I will be able to get but I think it is all highly readable and most interesting and most relevant.

PRESIDING JUDGE BURKE: Were you anticipating the privilege of reading the entire document?

MR. FENSTERMACHER: No, I was asking simply if I might read the first 20 or 25 pages which I believe I can finish before 4:30.

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PRESIDING JUDGE BURKE: Very well. Will we complete the assignment today?

MR. FENSTERMACHER: Yes, your Honor, that will complete the Prosecution's direct case, your Honor.

PRESIDING JUDGE BURKE: Very well, you may proceed. It has been intimated to me by my distinguished colleague that ultimately we will read it ourselves; we might save you the time and save ourselves the necessity of listening to repetition on it.

MR. FENSTERMACHER: Very well, your Honor.

JUDGE CARTER: Unless it is your thought that what you are planning to read is all we should look for in the case.

MR. FENSTERMACHER: I'm afraid not; I am afraid I will have to ask your Honors to read all of it. I simply wanted to read the introduction to give you the framework, and if there are any questions that you had they could be answered at this time but I am perfectly willing to let it go by the board.

PRESIDING JUDGE BURKE: I think we will concur in your request to consider that we will read it ourselves.

MR. FENSTERMACHER: Very well, your Honors. I think then your Honor that completes the Prosecution's direct case. We intend to present during the next succeeding days, as soon as they are typed and mimeographed, a list with the counts, with the document numbers and exhibit numbers, counts of indictment and defense against whom the documents are offered, for Document Book XXV, and we are also preparing individual lists for each of the individual defendants, giving a list of the documents which were offered against each defendant, their exhibit number and the counts of the indictment with respect to which they were offered. They will be ready I think in two or three days and we can either distribute them to the defense counsel and your Honors at that time or hold off offering them until we reconvene.

PRESIDING JUDGE BURKE: It is the opinion of the Tribunal that they should be given to the defense counsel as soon as they may be properly prepared.

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MR. FENSTERMACHER: Very well, we will do that your Honor.

PRESIDING JUDGE BURKE: We assume you are referring to the additional pages usually included at the end of the each of document books.

MR. FENSTERMACHER: That is correct, your Honor, for Document Book XXV and we are making individual lists, dividing the documents and the exhibit numbers for each individual defendant.

PRESIDING JUDGE BURKE: And they will be furnished to the counsel for the defendants?

MR. FENSTERMACHER: Yes.

PRESIDING JUDGE BURKE: Very well.

MR. FENSTERMACHER: Your Honors, the Prosecution Rests.

PRESIDING JUDGE BURKE: The record may show that the Prosecution has rested.

(PROSECUTION RESTS)

DR. LATERNSEER: Your Honor, the Tribunal will surely understand that the defense has the wish to clarify one particular point. I am asking to have the Prosecution explain when or if at all the two delegates of the defense will be allowed to make their trip or whether the Prosecution intends to carry out point 2 of the ruling and get the material required here to Nurnberg. The defense wishes to have this particular point clarified so that it knows where they stand.

JUDGE WENNERSTRUM: Mr. Fenstermacher, does the Prosecution have any comment on that?

MR. FENSTERMACHER: If your Honors please, I know that a copy of all the incomplete documents which the Prosecution offered as a part of the direct case was sent to the proper authorities in the War Department in Washington, D.C. We have not yet heard from them. We do not know whether they have begun the task of photostating this material or not but in that regard we have done everything that is possible from the Prosecution's standpoint at this end. With respect to the trip of the defense representatives to Washington: I know the matter has been taken up with Military Government authorities in Berlin and we are awaiting their opinion in that respect but again the Prosecution has taken all the procedural steps from this end which it has been possible to do so up to this time.

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JUDGE WENNERSTRUM: I might state that I was advised during the recess by Mr. Denney that he had written two or three letters within the last three or four days to the War Department, that there has been also several cablegrams sent to the War Department by the office of the Chief of Counsel for War Crimes here in Nurnberg, particularly by Mr. Denney, that also there has been cablegrams sent by the Legal Department at Berlin and as yet there has been no definite reply from Washington. The matter is apparently receiving attention. Now as to what course will be followed Mr. Denney does not know. It is quite possible that they may bring the documents over here to Nurnberg by special courier and if that course is followed then that will meet the requirements of the ruling heretofore made. If that isn't followed then we can either send one or two representatives of the defense there or take the effect of the third alternative of the ruling. But, there has been very several letters and a number of cablegrams sent within the last three or four days.

DR. LATERNSEER: Your Honor, I would like you to ask the Prosecution approximately when we can count on the arrival of the material which they have requested.

JUDGE WENNERSTRUM: I think it will be almost impossible to answer that question, Dr. Laternser. From personal experiences with the War Department I would say that it would not be too prompt.

JUDGE CARTER: I do think, Mr. Fenstermacher, at your very earliest convenience you ought to tell them which method is to be pursued even though you can't give them the detail.

MR. FENSTERMACHER: We will certainly be able to do that.

JUDGE CARTER: The War Department ought to be able to make that decision without too much trouble and really it should have been done by now.

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MR. FENSTERMACHER: We will certainly be glad to inform the defense as soon as we hear.

DR. LATERNSEER: Thank you, your Honor.

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PRESIDING JUDGE BURKE: Are there any further matters on behalf of the Prosecution?

MR. FENSTERMACHER: No further matters at this time.

PRESIDING JUDGE BURKE: The Tribunal will stand adjourned----

JUDGE WENNERSTRUM: Pardon me, Judge Burke, may I inquire as to whether or not there are any undisposed of applications or matters which have not received the attention of the Tribunal? I am asking this because we are adjourning for several days and I want to see that everything is taken care of before we leave.

MR. FENSTERMACHER: The Prosecution knows of no such matters, your Honor.

JUDGE WENNERSTRUM: Are there any applications on behalf of the defense that have not received attention. I might say as far as everything coming to my desk is concerned, everything has been disposed of. There may be other matters not gone through the channels and received the attention of other departments but everything up to date that has been received by the Tribunal has been disposed of. Now if there is anything else we would like to know it.

DR. GAWLIK (Attorney for the defendant Dehner): Your Honor, I have requested a number of witnesses, and also made application for documents. I have received no decision in answer to this application. I don't know whether these applications are still pending, or whether a decision has already been made. I have only been in a position to make the application a few days ago because I have only recently taken over the case of the defendant Dehner.

JUDGE WENNERSTRUM: Mr. Denney was in my office during the recess and had several of the applications in his hand, and apparently there will be no objections on the part of the Prosecution and we shall endeavor to take care of those before we leave. Now, I might ask Dr. Gawlik whether or not these witnesses will all testify to the same matter or will they testify to different matters?

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We do not want to bring a lot of witnesses on matters that will be purely accumulative.

DR. GAWLIK: Your Honor, they are going to testify to various matters, to various points of the indictment. I have endeavored never to call two witnesses to testify on the same point.

JUDGE WENNERSTRUM: Very well.

DR. SAUTER (Attorney for the defendants Lanz and von Geitner): About eight or ten days ago I sent in three questionnaires for three witnesses in Greece on behalf of the defendant von Geitner. I have not requested the witnesses to come here because the distance is too great but I send in questionnaires in the

same manner as it was done during the first trial. These questionnaires of the three witnesses were properly sent by me to the General Secretary. Whether this application has now been sent to the Tribunal by the General Secretary I do not know.

PRESIDING JUDGE BURKE: Dr. Sauter, I think I can save you some time and perhaps some time for the Tribunal. The request was forwarded to the Tribunal; the Tribunal has considered it; the Tribunal has acted favorably on it and the report of the Tribunal to the Secretary-General has been typed and it is in his possession, the same as that procedure followed in the case of the defendant Felmy, as announced in today's session. The objections of the Prosecution were overruled and your interrogatories should promptly be on their way.

DR. GAWLIK: Thank you, your Honor.

PRESIDING JUDGE BURKE: If there is nothing else, the Tribunal will stand adjourned until 12 September 1947, at 9:30 o'clock A.M.

(The Tribunal will recess until 0930 o'clock, 12 Sept 47)

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List, et al., defendants sitting at Nurnberg, Germany, on 15 September 1947, Judge Wennerstrum presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain if all the defendants are present in the Courtroom?

THE MARSHAL: May it please your Honors, all the defendants are present in the Courtroom.

THE PRESIDENT: The Tribunal is advised that three of the eleven opening statements -- three or four of the eleven opening statements have been prepared and have been submitted to the Translation Department and are ready for delivery to this Tribunal. This Tribunal adjourned and was to convene on September the 13th. This is now September the 15th. The Tribunal finds no excuse for counsel not having their opening statements ready, prepared, submitted to the Translation Department and ready for delivery to this Tribunal.

We shall hear the three or four opening statements which have been prepared and are ready for delivery in their English translation and shall proceed then with the evidence as to those cases or defendants whose translations are completed.

I again wish to repeat that the Tribunal does not look with favor at this inconvenience on the part of defense counsel not to have their translations ready and submitted to this Tribunal at this time. We shall now proceed to the opening statements on behalf of the defense and for such defendants as there are translations completed and ready.

Mr. Denney, did you have some matter?

MR. DENNEY: If your Honors please, there is just one matter for the record with reference to the Geneva Convention of 1929 governing the treatment of prisoners-of-war and the Hague regulations with amendments, parts of which ---that is, the Hague regulations with amendments, parts of these have been read into the record.

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I wonder if at this time it would be convenient for the Tribunal to indicate whether or not they desire that copies of these Hague and Geneva regulations be physically offered or whether the Court will judicially notice them and consider that as sufficient.

I believe all defense counsel are familiar with the regulations in question.

THE PRESIDENT: These matters to which you refer, Mr. Denney, are merely authorities for such guidance or interpretation as the Court may wish to make use of them in its final decision, and the Tribunal will take judicial notice of them and accept them as authorities and consider them in our final determination of the case.

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Court No. V, Case No. VII.

MR. DENNEY: And it will not be necessary then to physically submit them?

THE PRESIDENT: It will not.

MR. DENNEY: Thank you, your Honor.

And Mr. Fenstermacher has several matters with reference to inquiries which the Court have made. I believe one with reference to a statement by an affiant which was offered as part of Exhibit 100-B in evidence, which he would like to clear up at this time.

THE PRESIDENT: Very well.

MR. FENSTERMACHER: If the Tribunal please, I have received this morning from the Yugoslav delegation a memorandum which I would like to read on the record, addressed to me from Lt. Col. Svonimir Ostric, Chief of the Yugoslav delegation attached to the Office of Chief of Counsel for War Crimes, dated Nurnberg, 13 September 1947.

"In connection with your inquiry, this delegation is informed by the Yugoslav War Crimes Commission in Belgrade, Yugoslavia, as follows:

"Kiesel, Dr. Georg, a high war adviser in Turner's staff in Belgrade, Yugoslavia, was by the Yugoslav Military Tribunal on 10 March 1946 in Belgrade, Yugoslavia sentenced to death. The death sentence has been carried out."

Signed, Chief of Yugoslav Delegation, Lt. Col. Svonimir Ostric.

I should like to hand Dr. Laternser a copy of this memorandum at this time. Your Honors will recall that an affidavit of Kiesel was introduced into evidence as part of Exhibit 100-B and that defense counsel then applied to have Kiesel brought here for cross-examination purposes.

During the period during which the Tribunal was in recess, the prosecution prepared and distributed to your Honors and to all of defense counsel lists of exhibits which were offered against each of the individual defendants and the counts of the indictment to which the exhibits and the documents pertained.

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We also prepared and distributed to your Honors and to defense counsel a table of all of the exhibit numbers both in chronological order and in the order of the document number so that at any time if any of the interested parties know only the document number, they will be able to turn quickly to the precise exhibit number and vice versa.

THE PRESIDENT: Are defense counsel ready to present their opening statements?

DR. LATERNSE: Your Honor, I have been asked by my colleagues to ascertain which ones of the translations of the opening statements are available and ready and which ones are not. Is the General Secretary informed of this?

THE PRESIDENT: Can you give us any information as to that, Mr. Deputy Secretary General?

DEPUTY SECRETARY GENERAL: Last Friday we were informed that there was just one prepared from the defense center. That was Dr. Laternser's pertaining to defendant List. I have received no further information, sir.

THE PRESIDENT: And the Tribunal was informed there were four that were now completed. I understand that Dr. Laternser's was one of them. As to which of the others are included in the three, I am not able to ascertain.

Mr. Marshal, will you find out which of the translations are completed and inform me and the respective counsel without interrupting Dr. Laternser in his opening statement. Perhaps there are some of them that were just delivered here now.

DEPUTY SECRETARY GENERAL: These are German copies.

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THE PRESIDENT: If you will ascertain from the Translation Department either by telephone or by going up there and then advise me and the respective counsel and get them down here so that we can

make use of them as soon as possible, it will be appreciated and which are completed in their translation are ready for delivery here.

The respective counsel will be advised as to whether or not their translations are ready for delivery. In the meantime, you may proceed with your opening statement, Dr. Laternser.

DR. LATERNSE: Defense Counsel for defendants List and Weichs.

"Your Honors:

In his essay in the British Yearbook for International law (1944, Pages 58-95), which has already been quoted by the prosecution in the opening statement professor LAUTERPACHT has made reference to a problem which is peculiar for the proceedings against alleged war criminals. It is the problem of the uncertainties of laws of war. These uncertainties of the laws of war make it imperative that the defense as well already at the present stage of the trial explain its conception regarding the problems of international law, which will be of importance for the judgments of the actions of the defendants especially since the prosecution has already presented its concept of the law to the court. For the law is the framework within which the prosecution and the defense present their evidence before the court and within which the court assembles the facts which are offered not at the time of the determining of the judgment but also during the course of the evidence proceedings.

"The problems on which the matter hinges have been mentioned in principal by the prosecutor in his opening "statement and I intend to treat them in the same sequence as has the prosecution.

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"To begin with I wish to emphasize that I purposely am quoting in the main sources from the anglo-american legal circles using such material as a guide in the interpretation of international law insofar as this is of importance in this trial for it cannot be denied that in the field of science and practice of international law the onus now lies upon these minds.

"The first problem which I wish to take up is that of acting upon orders. Logically enough, it is not the primary one, but by far the factual and psychological key for the conduct of the defendants which forms the subject of this trial. The prosecutor passed this point very quickly. I shall treat it more in detail not simply because, as I have already stated, it offers the explanation for many events which are being discussed here but because from the standpoint of international law it is much more complicated than one can infer from the opening statement of the prosecution.

"The sole basis for the punishment of war crimes is international law, for war crimes are transgressions of international law, which is to be differentiated from the law of the states against which the war crimes have been committed. Prof. Lauterpacht particularly emphasized this point in his essay 'The Law of Nations and the Punishment of War Crimes' in the British Yearbook for International Law (1944, Page 59) which essay has already been quoted:

"I quote:

'For the cause of international law demands not only the punishment of persons guilty of war crimes. It requires that such punishment shall take place in accordance with international law.'

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"And further on he states again:

'That law is, and must be, primarily, the law of nations. For, it must be repeated, it is only to the extent that the acts of these offenders are prohibited by international law, that they can at all be considered as crimes according to the law of the individual states.'

"Prof. Kelsen, the founder of the so-called Vienna School for state and International Law, now Professor of International Law in the United States, expresses himself similarly in his book 'Peace Through Law' published in 1944, he writes:

'These acts, that is, war crimes are forbidden directly by international law. The military court, by punishing the acts, executes international Law even if it applies at the same time forms of its own military law.'

"In this sense must the sentence from the verdict of the International Military Tribunal also be interpreted since the London Statute is the expression of existing international law at the time of the creation of the statute.

"From this it follows:

"The prosecution and punishment of war crimes is an exercise of law only insofar as this takes place within the framework of international law. What transpires beyond that point is the utilization of power and not law. That is the reason why in the proceedings before the International Military Tribunal the British Chief Prosecutor examined as the fundamental problem of his statements how the statute was in accord with valid international law. For general international law cannot be altered through unilateral action of the victorious powers or through special agreements amongst one another even when these may appear in the form of statutes or laws.

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How is the plea of superior orders in the commission of war crimes to be evaluated according to international law?

Prof. OPPENHEIM, who was for many years senior consultant of the British Admiralty and who must be regarded in the field of international law as the criterion during the past decades, stated the following in this respect in his book "International Law" "Violations of rules regarding Warfare are War Crimes only when committed without an order of the belligerent Government concerned.

If members of the armed forces commit violations by order of their Government they are not war criminals and cannot be punished by the enemy; the latter can, however, resort to reprisals. In case members of forces commit violations ordered by their commanders, the members cannot be punished

for the commanders are alone responsible and the latter may, therefore, be punished as war criminals on their capture by the enemy."

Prof. OFPENHEIM maintained this opinion during his entire life, from the first to the fifth edition of his "International Law", which is a standard text in international law literature throughout the world. Like many authors he does not differentiate between the plea of an act of the state, as is being discussed and the plea of an order of an otherwise military superior.

George Manner, the American International Law expert, who treats the subject of plea of superior orders and act of state in the article "The Legal Nature and Punishment of Criminal Acts of Violence Contrary to the Laws of War". I quote as follows:

"The maxim that members of the armed services of a country are not personally responsible and liable to penal punishment for acts perpetrated by them in contravention of the rules of warfare under the orders or sanction of their governmental or military superiors does not form part of the codified law of war.

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Nevertheless, it appears to be a recognized principle of this law. Since 1914, at least the maxim has been incorporated in the war manuals of the Powers as a rule of the customary laws of war."

Also in further passages he again characterizes the above pleas of superior orders, and by act of state as a generally recognized maxims of positive law which limit the punishment of war crimes because they are components of the rules of warfare. I believe that the opinion expressed in the opening statement of the prosecution with reference to the plea of military orders that the recognition of this excuse is the result of a perverted view regarding military discipline does not get at the root of the problem.

The question of military discipline in actions that are committed under orders is of importance only in the national penal laws of different states. Here in this trial, however, the matter under debate is the norm of positive international law independent of its cause, that acting upon military orders excludes the prosecution of war crimes by courts of the enemy states against whoever acted upon orders. This extremely important difference can easily be overlooked.

Section 347 of the American Rules of Land-Warfare, which was edited under the direction of the Judge Advocate General and published by the War Department of the United States in 1940 and is still valid today, explains, following the enumeration of the possible war crimes, and I quote:

"Individuals of the armed forces will not be punished for these offenses in case they are committed under the orders or sanction of their government or commanders.

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The commanders ordering the commission of such acts, or under whose authority they are committed by their troops, may be Punished by the belligerent into whose hands they may fall."

There can be no doubt that the official interpretation of the War Department of the United States is represented by this decree with reference to the status of International Law in the question of actions under military orders in cases of war crimes.

The same point of view was held until 1944 by the competent British offices in the British Manual of Military Law, No. 443, of which, after enumerating the possible war crimes, continued: and I quote:

"It is important, however, to note that members of the armed forces who commit such violations of the recognized rules of warfare as are ordered by their Government, or by their commander, are not war criminals and cannot therefore be punished by the enemy. He may punish the officials or commanders responsible for such orders if they fall into his hands, but otherwise he may only resort to the other means of obtaining regress which are dealt with in this chapter."

In this respect Prof. LAUTERBACHT, writes in his essay in the English Yearbook of International Law 1944:

("Although Chapter XIV of the military Manual has not been given statutory force it is, in general an exposition of the conventional and customary rules of international law as understood by Great Britain.") It is my opinion that the plea of superior orders is a generally recognized maxim of international law demonstrated by excellent authors on the subject of International Law and by the military handbooks of the United States and Great Britain.

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This principle was already generally recognized 100 years ago, as is shown by the famous case of Mac Leod. During an insurrection against the British administration in Canada in 1837, members of the British Colonial forces attacked an American ship, the *Caroline*, which was moored on the American side of Niagara Falls, because they suspected the passengers were insurgents. They burned the ship and let it be carried over the falls. An American citizen lost his life in this incident. In 1840, Mac Leod, a British subject, was arrested by the New York officials for participation in the act against the "*Caroline*" and brought before the Court. The British Ambassador in Washington demanded the immediate release of Mac Leod on the basis that the destruction of the *Caroline* "was a public act by persons in the service of their majesty and who were obeying the orders of their superiors." The American Secretary of State Webster recognized the validity of the British argument and declared: "That an individual who is a member of a public armed force and who acts under powers invested in him by his government cannot be held responsible as a transgressor of the law, is a principle of public law which is sanctioned by the customs of all civilized nations and which the the government of the United States is not inclined to contest."

This was brought further into practice in the well-known case of the sinking of the British steamship *Lusitania* by a German submarine during the first World War. At that time the British Prime Asquith declared himself against a prosecution of the perpetrators since they had acted under orders. (This attitude of Prime Minister Asquith is quoted in De. Lapradelle-Larnaude, *Examen de la responsabilite* "Journal de Droit International," Attempts have been made to deviate from this maxim of International law.

In Section 228 of the Versailles Treaty the German Government recognized the right of the Allied and Associated powers "to bring those persons accused of having committed actions in violation of the laws and customs of war before before military courts."

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The American expert in International Law, Prof. FENWICK, in his book "International Law" characterizes as one of the reasons why this decree of the Versailles Treaty was not executed, ".....The obvious legal difficulty that many of the accused persons had acted in obedience to higher authority."

These legal difficulties could have only been eliminated by a conventional rule on the problem. Therefore, and I quote Prof. FENWICK again, efforts were made to create a new conventional rule with regard to this subject.

At the Washington Conference in 1922 the following provision was incorporated into the treaty in Section 3 regarding the use of submarines; that a violation of the treaty provisions regarding the attack, seizure or destruction of commercial ships should be punished as "piracy" regardless whether the perpetrator acted under orders of a superior. This treaty was never ratified.

This question was taken up again in 1930 at the London Naval Conference. In Part IV of the Naval Treaty of 22 April 1930 it was decreed that submarines had to observe the same rules of international law in their actions against commercial ships as were observed by surface craft. The clause that the perpetrator be held responsible for actions which have been committed under orders in violation of these rules is not to be found in the text of this treaty. From this one must conclude that the appendix contained in the Washington version is not in agreement with the opinion of the signatories of the London Submarine Protocol.

The Jurists Commission which was assigned to the task of revising the rules of warfare by the powers participant in the Washington Treaty expressly stated in their report in a provision that persons acting unders are free from any responsibility for those crimes against the rules of warfare contained in their report.

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The attempts to incorporate into international law in a manner effective under international law the principle of prosecution of war crimes committed under orders were thereby unsuccessful. It is of importance that in spite of the efforts to initiate amendments the American Rules of Land Warfare as well as the British Military Manual adhered to the earlier principle of non-punishment.

The provision of the American Rules of Land Warfare that individuals may not be prosecuted for war crimes committed under orders is still valid today. In contrast, 443 of the British Military Manual was re-edited in 1944 by which the interpretation of the problem according to the international law up to that time was supplanted by the maxims which were developed within national British law covering illegal actions committed under military orders.

If one examines the events to which this amendment can be traced, then one finds that the Moscow Declaration of October 1943 had set the precedent. In this the punishment of War Crimes without regard to the possible orders of military superiors was made certain. I do not believe it is necessary to make particular emphasis of the fact that this declaration was a political act and presented no effective source of new international law.

Officially the circumstances that in the posthumous edition of the textbook of Professor OPPENHEIM (6th edition, 1940) prepared during the war by Professor LAUTERPACHT, the attitude had shifted towards the question of prosecution of war crimes committed under orders, was stated as the reason for amending Article 443 of the British Military Manual.

Prof. LAUTERPACHT had further expressed an opinion against Article 443 of the Military Manual in his essay "International Law and the Punishment of War Crimes".

Prof. LAUTERPACHT certainly is a very modern scholar and his essay is excellent, but I believe it cannot remain unnoticed in a critical analysis that his reasons for the above-mentioned opinion from the point of view of international law are very weak.

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The view of Professor LAUTERPACHT, shared by a few others, is in any case also termed "more than questionable" by Professor Kelsen. Concerning the opinion set forth in the five previous editions of OPPENHEIM's textbook and of Article 443 of the British Military Manual, Professor LAUTERPACHT maintains that they represent no sound principle of military law, requiring for this reason a definite amendment of article 443: I quote:

"Unless the scope of persecutions for war crimes is to be drastically and unduly curtailed", but this reminds us, the defense counsels, of a certain phase of the legal development within the state, which has in the meantime become a thing of the past, and in which prevalence is given to the idea of the justifying end and the so-called sound popular feeling as against the norms of positive law.

And as regards the "sound legal principle" which is supposed to be provided by reason, the following view expressed by Professor OPPENHEIM about "reason" applies: I quote:

"I cannot agree reason being a source of law. Reason is a means of interpreting law, but it cannot call law into existence."

It is just as much out of the question that reason alone can modify existing international law.

The fact that the Supreme Court of the United States, as pointed out by Professor LAUTERPACHT in one case concerning espionage and sabotage maintained emphatically the direct criminal responsibility of individuals for violation of military laws, can by no means be taken as a precedent applying to the problem under discussion. For as soon as espionage and wartime treason are involved, the prosecution of offenders acting by order has always been recognized as lawful in international law contrary to the general law.

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THE PRESIDENT: You may proceed, Dr. Laternser.

DR. LATERNSEER: The Prosecution maintains that if the defendants would plead that their acts were committed by order of higher authority, they would find a stumbling block already in Article 47 of their own Military Penal Code. Here, however, they fail to consider that the plea of acting by order is judged in different ways in international law, which has to be applied when alleged war criminals are prosecuted by an enemy state, and in the national, law of the individual states. According to the principles of national law of civilized states the possibility of carrying through a criminal procedure will with certain differences in each district of jurisdiction -- be dependent upon whether and how far the offender perceived his actions to be unlawful, or whether and how far his guilt was neutralized or mitigated through duress. From the point of view of international law, on the other hand, one acting by order I adopt.

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the view of the American Rules of Land Warfare - is a fact excluding as a matter of principle the prosecution for war crimes by a foreign state. This basic difference is also stressed by Professor LAUTERPACHT in his essay "International Law and Punishment of War Crimes" being summarized in the following words:

"It is an interesting gloss on the complexity of the problem that in Great Britain and in the United States the plea of superior orders is, on the whole, without decisive effect in internal criminal or constitutional law, although it is apparently treated as a full justification in relation to war crimes."

For this reason it is impossible to adduce the verdict of the German Supreme Court in the case of Llandovery Castle pronounced in the time following the first world war, in justification of the re-drafting of Article 443, as it is done in Amendment 34 of the British Military Manual, in Footnote 4 to Article 443. In the examination of the question whether and how far the accused German U-boat officers could plead action by order of superiors the Supreme Court had to apply not international law, but only national German law.

Article 47 of the German Military Penal Code can moreover be used as foundation for the punishment of military subordinate only in case the order issued by the superior was in violation of German law. As orders issued by Hitler in Germany and for German authorities and law-courts were law, a soldier acting by force of an order from Hitler could not be punished not even in pursuance of Article 47 of the Military Penal Code, even when Hitler's order constituted violations of generally recognized ideas of law or of international law.

I conclude my statements concerning this problem with a reference to the words of Professor OPPENHEIM, the firm champion of the version to which I appeal, which are to be found in the foreword to the second volume of his work.

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"I have tried to write this volume in a truly international spirit, neither taking any one nation's part nor denouncing any other. It is to be deplored that many writers on the Law of war and neutrality should

take every opportunity of displaying their political sympathies and antipathies and should confuse their own ideas of justice, humanity, and morality with the universally recognized rules of warfare and neutrality."

I have shown that the plea of superior orders is a long recognized basic maxim of international law, which limits the punishing of war crimes. But Control Council Law No. 10, which decrees something different, is binding for the court, says the Public Prosecution. I believe that the court is only bound by international law. Control Council Law No. 10 is based upon the combined authority of four victor nations, and this authority goes no further than the powers with which the sovereignty of each individual state invests it in the community of international law. The general international law, which, as has been said, recognized the plea of superior orders was effective, may only be revised by general conventions or by an administration of law based upon general recognition, not, however, by unilateral acts of the victor nations which are directed against a conquered nation. To be sure, an occupying power has the power to issue laws for the occupied territory; but it is just as certain that these laws may not interfere in the sphere of international law. For who military occupation does not transfer the sovereignty of the conquered nation to the occupying power, by virtue of which a nation acts in the sphere of international law, but it bestows only that part of the governing power which is necessary to make it possible for the occupying force to have an effective control over the occupied territory during the length of the occupation.

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The rights of the occupying power are established and limited as binding in the Hague Convention, and we find a detailed definition of the powers of an occupying force in Chapter 10 of the American Rules of Land warfare. Not only is every authority lacking for empowering an occupying force to create, suspend or alter international law while acting for the conquered state. Rather, we establish the fact that it was never doubtful that an occupying force did not have this right and that this limitation of its powers proceeds quite clearly from the Hague Convention. Such powers of an occupying force could only arise through annexation, which, however, was expressly disapproved of in the London Declaration of 5 August 1945.

I believe that here there is a special reason for referring to the basic difference between the ideas of justice and humanity and the recognized terms of international law, because from the opening speech of the prosecution, the attempt to bring the charges against the defendants to a simplified common denominator, may be perceived thereby effacing this difference. In the opening speech of the prosecution, which we have heard here, it was said that those men are indicted because they have denied and undermined the fundamental basis of civilization, namely the principle that human life shall not be unnecessarily destroyed.

Regarding this principle, I am of the opinion that it is a noble principle and is not only a result of humanity's instinct for self-preservation. It is, however, only a principle of ethics and a demand of humanity. I can not agree with the concept that it is a recognized maxim of international law, now in

the age of the atom bomb and the mass air attacks upon the civilian population, the frightfulness of which we experienced only a short time ago.

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Air attacks, in which within a single city in 24 hours more than 200,000 people, mostly women and children, were killed, as in Dresden, AND THAT AT A TIME IN WHICH THE WAR WAS ALREADY CERTAINLY WON FOR THE OTHER SIDE. I do not mention this in order to raise counter reproaches, by which, as I know, the situation of the defendants can not be bettered. I only want to investigate the basis for the difference which the public opinion of the world and the jurist of international law make obvious in these questions. For it is necessary that in such important matters as are the accusations raised against the defendants, one sees quite clearly, if one wants to judge them correctly. Thus, for example, Prof. LAUTERPACHT writes in his essay in the English Yearbook for International Law 1944, already cited several times, it is difficult to answer the question of the legality of the air attacks by means of penal prosecution of individual persons, while, as we must establish these difficulties obviously do not exist, in the case of the charges which have been raised against the defendants. The difference certainly does not lie in the fact that in reprisal measures in the occupied territories, More people were killed than by air attacks upon the civilian population; or that men die MORE EASILY by serial bombs, serial mines and phosphorous bombs than did the executed hostages; and also not in the fact that the women and children who were buried under the wreckage of the houses or in the cellars, or burned to death on the streets as living torches, were MORE GUILTY than the partisans and insurgents shot in reprisal.

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The divers judgment and treatment is rather connected, as it seems to me, simply with the fact that it is a matter of executions in the case of the actions indicted here, that is, of killing men whom a belligerent had in his power. There is no point in pursuing further reasons upon which the divers judgment is possibly based. It is sufficient to establish the fact that this difference is present. I must therefore proceed from the facts as they are; that in contrast to all other procedures, by which in war people, even civilian persons, are killed in great numbers, executions establish prima facie the suspicion of war crimes, and that, as the practice of the war crimes trials shows, without consideration here of the number of the victims.

I believe that the principle maintained by the indictment, that people may not be killed unnecessarily, must be traced back to the extent which agrees with the current practice of international law. Later, when I come to speak of the actual situation in the Balkans, I will take up the further efforts of the prosecution to substitute the ordered investigation or which of the measures indicted here were necessary and which were not, by the general principle that all the measures of the German Commanders were arbitrary crimes, while on the other hand the actions of the partisans and insurgents were patriotic acts and justifiable self-defense.

First I return to the executions. I intentionally did not say more than that they usually establish the suspicion of war crimes prima facie. I do not say, of course, that this suspicion is in general justified. This

suspicion obviously is connected with the fact that the conviction that executions may only be undertaken on the basis of a judicial judgment is wide-spread in the ideas and concepts of man, while with regard to the exceptions to this principle, which come under the concept "retaliatory measures", obscurities and differences of opinion predominate even among the authors of international law.

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"A tribunal confronted with the plea of reprisals as a justification of the offense will be faced with a task of considerable difficulty. International law regulates, in a necessarily rough and indeterminate manner, the occasion for and the use of reprisals both in peace and in war," --.

says Prof. LAUTERPACHT in his essay in the British Yearbook for International Law 1944 (p.76), after he has established directly before:

"But, as a rule, an act committed in pursuance of reprisals, as limited by international law, can not properly be treated as a war crime."

The concept of reprisals is defined in Art. 358, par. a) of the American "Rules of Land Warfare" (US General Staff, Basic Field Manual, 1940) and in Art. 452 of the British "Manual of Military Law." I agree with the prosecution that reprisals are retaliatory measures which are committed by a nation or its agents in order to hinder the enemy in further violation of the rules of war. Reprisals are coercive measures. I cannot recognize that they may be applied only in the relationships between nations or between their opposing armed forces, as the prosecution argued. The action according to plan of inciting the civilian population to acts of sabotage and attacks upon members of the German occupation forces and the fight of the partisans in violation of international law in the occupied territories had the result that -during the second world war reprisals had to be resorted to above all against illegal actions of the civilian population, in order to force the latter to desist from its illegal conduct. It would be absurd to assume that the commanders of the armed forces of a belligerent party had to endure acts of an enemy civilian population in violation of international law, without being able to protect their troops, when necessary, by retaliatory measures.

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The admissibility of reprisals against illegal acts of enemy civilian population is therefore expressly recognized by the military Handbook of the United States and Great Britain. Art. 358c of the American "Rules of Land Warfare" answers the question:

"Who may commit acts justifying reprisals" as follows:

"Illegal acts of warfare justifying reprisals may be committed by a government, by its military commanders, or by a community or individuals thereof, whom it is impossible to apprehend, try, and punish."

Art. 358 d decrees:

"The offending Forces or populations generally may lawfully be subjected to appropriate reprisals. Hostages taken and held for the declared purpose of insuring against unlawful acts by the enemy forces or people may be punished or put to death if the unlawful acts are nevertheless committed."

The British Military Handbook contains the following decree concerning this:

Art. 386:

"If, contrary to the duty of the inhabitants to remain peaceful, hostile acts are committed by individual inhabitants, a belligerent is justified in requiring the aid of the population to prevent their recurrence, and, in serious and urgent cases, in resorting to reprisals."

Art. 453:

"The illegitimate acts may be committed by a government, by its military commanders, or by some person or persons whom it is obviously impossible to apprehend, try, and punish."

Art. 458:

"Although collective punishment of the population is forbidden for the acts of individuals for which it cannot be regarded as collectively responsible, it may be necessary to resort to reprisals against a locality or community, for some act committed by its inhabitants, or members, who can not be identified."

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These provisions of the American and British Military Handbooks are based, as it may well be assumed, just as much upon practical military experience as upon consideration of the laws and customs of war, just as these latter are conceived by the governments which published these handbooks. By these provisions, the claim is therefore refuted that such steps remain ineffective if they are directed against the inhabitants of an occupied territory and not against the enemy government or its armed forces. In the trial against Field Marshal KESSELRING before a British Military Court in Venice, the defense proved that the shooting of 335 Italians, which was undertaken on 24 March 1944 in Rome as a retaliatory measure for an attempted bombing of a German police company, prevented any further attempt against the German Wehrmacht for the period following, until the surrender of Rome at the beginning of June 1944, whereas before these reprisals, attempts of that sort had occurred to a constantly rising degree and at shorter and shorter intervals.

I believe that the prosecution also cannot appeal to Prof. LAUTERPACHT for its conception that reprisals against the civilian population are ineffective and for this reason, inadmissible. The passage cited by me from the essay of Prof. LAUTERPACHT refer in my opinion, does not refer the actual effects of retaliatory measures, but to the effect of the protest of the reprisals upon the juridical judgment of a case according to international law. The first sentence of the passage cited reads completely: I quote:

"On the other hand, as in the matter of the uncertainty of the law of warfare, the impact of the operation of reprisals is not as considerable as would appear at first sight."

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By referring to the preceding legal statements concerning the problem of the uncertainty of military law the meaning of the citation becomes clear. Deliberations which take into consideration the actual situation in the occupied territories and the military necessities resulting from it, and the concepts laid down in the American and British Military handbooks of the governments in question concerning the condition of martial law, show, therefore, that reprisals may also be applied against the civilian population, in order to force the latter to conduct commensurate with international law.

The main question then immediately follows, whether in the course of such reprisals people may also be killed, that is, also people who cannot be proved to have had any connection with the illegal acts for which the reprisals are a retribution. The English and American authors available to me are silent concerning this question. I disregard the citation of German authors, world-renowned scholars, who answer in the affirmative. But I cite again the British and American Military Handbooks. Art. 459 of the British Manual of Military Law provides:

"What kinds of acts should be resorted to as reprisals is a matter for the consideration of the injured party. Acts done by way of reprisals must not, however, be excessive, and must not exceed the degree of violation committed by the enemy."

Reprisals, are, as established, coercive measures, by which the opponent is to be brought to desist from conduct contrary to international law. But how can an enemy population in an occupied territory, which in opposition to its duty to maintain a peaceful attitude and in no way to take part in the hostilities, maliciously commits murder on members of the occupying military forces, be forced in any other way to conduct in accordance with international law, than by answering their acts with equally heavy measures, when, as almost always in such cases, the guilty parties can not be seized and punished? What can the commander of an occupation army do, when an enemy population systematically murders his soldiers and is prepared any moment for open insurrection?

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It is left to his deliberation which measures he wants to apply, says the British Military Handbook, and only adds that retaliatory measures may not be immoderate and may not overstep the degree of the violation committed by the opponent. That means that the party forced to take retaliatory measures may do everything but not more than the nature of the reprisals demand according to what they consider to be their duty. The British Military Handbook answers the question whether in such a case people may even be killed in reprisal indirectly by not forbidding such a killing, while it expressly excludes the killing of hostages in Art. 461 who serve to guarantee a treaty.

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I believe a British officer would be told he had violated his duty if, in a case where the security of his men demanded, he would not have understood the indirect instruction of his military manual in that way.

In this connection, I must again refer to the proceedings against Field Marshal KESSELRING. The Associate Judge Advocate General at the British Military Tribunal in summarizing expressed his opinion

on this question as follows: "It cannot be excluded entirely that innocent persons may be shot by way of reprisals; the international law is very flexible."

In addition, it is of SPECIAL importance that neither in the London Statutes nor in the control Council Law No. 10 is the killing of persons by way of reprisal designated as a war crime although this problem had no lesser practical importance during World War II than the problem of killing hostages.

In article 358 d of the American "Rules of Land Warfare" a quite clear answer is given to the question whether innocent persons may also be killed by way of reprisals. I have already quoted this rule:

"Hostages taken and held for the declared purpose of insuring against unlawful acts by the enemy forces or people may be punished or put to death if the unlawful acts are nevertheless committed."

I now add the American Rules of Land Warfare, according to the International Law expert Plueck--that is on Page 41--are legally valid. He expresses it in the following words, "Rules having the force of law."

This is the most important sentence that has ever been written in more recent times with regard to reprisals and hostages. It is not only the key to the entire problem of reprisals and hostages; it also denotes the point where these two institutions overlap.

The Prosecution has already pointed out the close connection existing between the problem of reprisals and the question of hostages and with regard to the modern practice connected with hostages I agree with the Prosecution in that respect that the purpose of taking hostages is to place oneself in the position of having the possibility of carrying out reprisals.

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Hostages have always been exchanged, given or taken for quite varying purposes. The two main objects were always the guarantying of treaties in war and peacetime and the protection against hostile acts by the population in an occupied territory. THE TWO FORMS HAVE DEVELOPED INDEPENDENTLY OF EACH OTHER AND ARE QUITE DIFFERENT IN THEIR CHARACTER.

The classical form for guarantying treaties which was the original one has been out of practice for a considerable time. It was abandoned after the opinion had been accepted in international law that such TREATY HOSTAGES must not be killed and, in addition, the importance, extent and complexity of the more modern international agreements necessitated other guarantees in the form of material and territorial securities. It is not my intention to make extensive investigation into the historical development of the hostages problem. However, I do think it necessary to make it clear that the sentence of Grotius:

"Hostages should not be killed if they have not themselves committed an injustice", quoted in the Opening Statement of the Prosecution ONLY refers to the classical form of hostageship viz.

to hostages serving for the guarantying of treaties. In addition, Grotius ONLY regarded it as a DEMAND which in his opinion followed from natural right; whereas, AS GROTIUS STATES

HIMSELF, the execution of treaty hostages was regarded as admissible according to the external or positive international law based on the accordance of will of the states which we call the practice of the states. The principle that treaty hostages must not be killed was not given universal formulation before DE VATTEL in the sentence:

"La Liberte seule des hotages est engagee".

From this time on we may regard the principle that hostages serving as a guaranty of a treaty must not be killed as a recognized standard of customary international law.

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As already mentioned, it referred, however, ONLY to treaties and in the beginning only to treaties concluded for the termination of a war or in peace-time. Hostages destined for guarantying war conventions were still subject to the more rigorous martial law. To begin with, the statement we find of VON MOSER applied to them:

"If the promise is not kept the hostages may, according to more rigid laws, be treated with such a severity as is appropriate in view of the circumstances of the case."

However, also in their case killing was later generally rejected. Insofar as hostages still should be designated at all for guarantying treaties, which is still conceivable only during the war, the statement contained in the British Military Manual in No. 461 therefore applies at present;

"...and if hostages nowadays are taken at all they have to suffer a captivity and not death in case the enemy violates the agreements in question."

This principle must surely also be applied to a form of taking hostages still exercised today for guarantying service claims based on international law which is closely related to the institution of treaty hostages viz. to hostages taken by an occupying power as security for requisitions and contributions. They do not serve as security for contractual services but for service claims based on a unilateral levy by an occupying force. Also in these cases nonperformance does NOT grant the right to put the hostages to death.

As regards the second main form of taking hostages we have the statement of the American "Rules of Land Warfare" of 1940 that hostages taken and held for the declared purpose of insuring against unlawful acts by the enemy civilian population MAY BE punished or PUT TO DEATH if the unlawful Acts are nevertheless committed.

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With this sentence the competent American Government authorities have summed up the development which we can follow since THIS form of taking hostages has developed into an important institution of martial law in the course of the last 150 years. The taking of hostages as a security for the troops in the occupied territory was already practised in former times. It could, however, only become a legal institution after martial law in its development had arrived at the point of protecting in principle the civilian population. Since only from that time on reprisals against the civilian population became a

problem of law. The above quoted sentence from the American "Rules of Land Warfare" is a clear acknowledgment of the facts which may confront an occupying force in modern Warfare with partisan activity and underground movements.

Only at first sight is the fact peculiar that the modern form of taking hostages for the purpose of reprisals developed into their full severity only at a time when the classic form of insuring treaties had been abandoned after its practice had become even milder. It is the necessary consequence of the fact that in the modern wars, as we could observe, the civilian population in the occupied territory in an ever increasing degree participates contrary to international law in the fight against the occupying power - of its own accord as well as due to systematic inciting by exile governments or other enemy powers.

It is a peculiarity of the hostage problem that the separate forms of this institution have developed separately and have separate contents so that they cannot be treated analogously to which LUTTEROTH already has referred in his treaties on hostages. It makes a great difference for the actual contemplation of things whether hostages are to be put to death because a levy was not paid at all or not paid in time or whether a commander in the occupied territory is faced by the fact that his soldiers are being murdered contrary to international law by a fanatical population in spite of its having been warned.

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The analysis of the problems of law show that a corresponding difference also exists from the viewpoint of law. It lies in the reason justifying the measures taken against the hostages. In the classical form of hostageship the right of punishing the hostage in case of contravention of the treaty or the duty to pay the levy originated from the ancient institution of the hostageship itself where the measures adopted against the hostage are a kind of punishment; with criminal punishment it has in common the purpose of general prevention less that of expiation. In the modern hostage form, however, the killing or other punishment of the hostages are at least preponderantly reprisals, that is, compulsory measures adopted against acts of the civilian population or the enemy forces committed contrary to international law in order to force them to abide by martial law. The Prosecutor already said in his opening statement that "the purpose of taking hostages is to place oneself into a position of being able to adopt retaliatory measures." The nature of reprisals of the modern hostage practice has been recognized especially clearly in composing the American "Rules of Land Warfare" as follows from the incorporation of # 358 d, which deals with hostages, into the rules on reprisals.

Together with this designation of the modern hostages of becoming possible subjects of reprisals the conception of a hostage has changed its meaning. In the classical sense of the word hostages were persons who were formally exchanged or taken as such which resulted in certain legal relations between the interested parties. Hostages in the sense of # 358 d of the "Rules of Land Warfare" are, however, all persons taken or held for the purpose of making them subjects of reprisals in case of necessity, whether they be formally recognized as hostages and actually be called hostages, or, as in several orders of the defendants are called "expiatory prisoners" or the like.

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THE PRESIDENT: May I interrupt, Doctor, please? We'll take our morning recess at this time.

(A recess was taken).

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THE MARSHALL: Tribunal V is again in session.

THE PRESIDENT: You may proceed, Dr. Laternser.

DR. LATERNSEER: Your Honor I have just talked about the explanation of paragraph 358 d, and I proceed:

"Hostages in the sense of the expression as used in No. 358 d of the "Rules of Land Warfare" are not only persons taken by a belligerent for the sole purpose of placing himself in a position to be able to carry out reprisals in the case of acts on the part of the enemy contrary to international law. Mostly several purposes are interwoven with one another: persons are being arrested because they are suspected of illegal activity or of connection with partisans or rebels or for other reasons seem dangerous to the occupying power. It is especially natural that they—from the moment of their arrest also serve the declared purpose of being subjects of reprisals in the future.

In the order to read here they were frequently called expiatory prisoners. Other persons were arrested because of the influence, which they possessed due to their profession or their economic or political position, and by their arrest alone the paralyzation of the population's activities was frequently achieved, which is still increased by the threat of being put to death. For these persons generally only the expression of hostage is customary; likewise for those who from the outset were taken solely for the declared purpose of serving as subjects for reprisals in the case of future violations of international law by the opposite side. All these various groups are covered by the stipulations of # 358 d of the American "Rules of Land Warfare", according to which they may be punished or put to death, if the unlawful acts are committed by the opposite side in spite of warnings.

The opinion has been expressed that in the American "Rules of Land Warfare" due to the placing of hostages on an equal level with prisoners of war and due to the stipulation that prisoners of war must not be put to death, and "unfortunate contradiction" exists with regard to the fact that the killing of hostages is expressly permitted in # 358 d; this was held by authors who stress that it is permissible to put hostages to death in case of necessity.

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The prosecution also hinted at that. I do not share the opinion that such a contradiction regulations of the American "Rules of Land Warfare" permit an absolutely clear solution of most aspects of the modern problem of hostages: as a consequence of their being accorded treatment equal to that of prisoners of war, persons who formally have been taken as hostages shall, for the duration of their arrest, be kept and treated as prisoners-of-war. Another consequence is that such persons may, in-as-far as they were not, as mentioned in par. 358, taken for the purpose of being the objects of reprisals, be submitted to reprisals only under the same conditions as prisoners of war, if for example, hostages taken by the

other side are killed in violation of international law. As for the rest, those hostages mentioned under par. 359 of the "Rule of Land Warfare" who were taken to insure a correct treatment of the wounded and sick and to protect the lives of prisoners of war who have fallen into the hands of irregular troops, are also to be counted among those hostages who in contrast to the prisoners of war, may generally be made objects of reprisals.

These hostages, too, were taken, as it says in Par. 358a. of the "Rules of Land Warfare", as a protection against unlawful acts of the enemy, and may, therefore, be punished or killed if those unlawful acts are nevertheless committed. I cannot see where, as HAMMAR & SALVIN and the prosecution claim, there exists an unsolved contradiction. All that is necessary is to observe the fundamental difference between hostages in the classical sense of the word and persons who are being taken or kept in order to become objects of reprisals if the enemy violates international law, and who often are also called hostages.

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I mentioned already that neither the London statute nor Control Council Law No. 10 considers the killing of people by way of reprisals as a war crime. They obviously refrain from doing so because reprisals might be a necessary means to force the opposing armed forces and the enemy population to observe the rules of warfare and to prevent them especially from crimes against members of the occupying power. Since the London Statute and Control Council Law No. 10 do not declare reprisals being forbidden, they do not apply to the killing of persons who were taken or kept for the purpose of becoming objects of reprisals, even if these persons are called hostages. This becomes evident through the fact that the army of occupation of the Soviet Union, that means, of one of the three principal powers who on 8 August 1945 signed the London Statute, shortly before that date decreed and publicly announced in Berlin the killing of hostages on a proportional basis of 1:50 as a reprisal for attacks against members of the army of occupation. This I shall prove.

IV It is obvious that the question of the status of the irregular combatants in Yugoslavia and Greece plays an important part in this trial.

First of all it is important in connection with Count 3 of the bill of indictment but it also touches the other points of the indictment as far as they deal with the problem of reprisals.

I agree with the prosecution that this is the question: Under which circumstances must combatants, if they are captured, be treated as prisoners of war, and under which circumstances can they be treated as armed bandits and be summarily executed?

The legal status of the resistance forces has also been discussed during the trial of Field Marshal KESSELRING before the British Military Tribunal in Venice. That trial dealt not only with resistance activities equal or similar to those, in Yugoslavia and Greece, but partly even with the same forces since, as is probably

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known to the court, TITO's units expanded, since 1944, their operations in Venezia Giulia and in the Eastern Alps far into Italian territory. In his opening statement the British prosecutor Colonel R.C. HALSE also dealt with them. Let me read what he said about them:

"There are some war crimes which are only war crimes in respect to one side. The partisans, for instance (and I say it quite openly), by attacking the German forces in the rear, were guilty of a crime against the German law: I say advisedly against the German law. So far as the Italian and Allied law was concerned they were heroes. They did commit a war crime and if they were captured by the Germans; the Germans were undoubtedly entitled to try them for committing a war crime, and if found guilty of committing that war crime, the Germans were entitled to sentence them to death." Record 2. day, page 6.

The records of the trial before the British Military Tribunal are, as far as I know, available here in Nuernberg, and can therefore be consulted. If not, I shall submit to the Court an extract of the trial transcript as an exhibit. Do we not find here a surprising difference of opinion between both prosecutors as far as the legality or illegality of the irregular combatants is concerned, if we remember what we heard in the prosecution's opening statement to this trial about the same problem and, as I said before, partly about the same resistance forces?

The problem of the status of the irregular combatants is very complex and needs a thorough analysis which must also examine if, and to which extent, the reasons for the legality of the resistance forces,

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which the prosecution submitted in their opening statement, hold true only for the evaluation of the latter from a patriotic and historical point of view, or whether they are also of consequence in connection with legal considerations.

The starting-point for legal considerations is provided by sections 1 and 2 of the appendix to the Hague Convention which contain the conditions, agreed to by treaty, for the recognition of irregular combatants as belligerents.

The prosecution has characterized the conditions stated in Section 1 as traditional and generally acceptable necessities, and has admitted that the Germans were justified in denying the status of belligerents to, and executing, captured partisans who had not observed these conditions. With this, such partisan activities as were not carried out in the form of larger military operations, have been taken out of the problem, because it is characteristic of all activities of the bands in Croatia, Serbia and Greece, as far as they were carried out in the form of guerilla warfare, that the requirements of Article 1 were not fulfilled. You will yet hear about origin, development, organization and way of fighting of the irregular troops in the Balcans. Here I want to state in advance in condensed form only a few important points.

Guerilla fighting developed some time after the cessation of hostilities in Yugoslavia and Greece and the occupation of these countries. In the course of time it constantly increased in intensity.

First it was waged against the army of occupation by nationalist groups, in Yugoslavia by the Chetniks under DRAHA. Mihailovitch and in Greece by the organizations of the Edes under ZERVAS. Soon there appeared Communist groups with the same aim: TITO in Yugoslavia, and the organizations of EAM and ELAS in Greece.

First all of them waged war against the army of occupation only in small irregular units and in the form of guerilla-fighting which consisted mainly of surprise attacks and sabotage. On account of growing numerical strength and thanks to the equipment he received from the Allies, TITO later on succeeded in organizing larger military units with which he tried to carry out regular military operations. At the same time, however, actual guerilla-fighting in the form of surprise attacks and sabotage in the rear of the front continued with undiminished ferocity. Even if part of the resistance movement organized themselves into military units, large parts of the movement in Yugoslavia and almost all parts in Greece continued to fight in a way which robbed the resistance forces of the protection of the Hague Convention and made them irregulars (Freischaerler).

It was characteristic that, regardless of whether they acted individually or in smaller or larger units, they did not carry their weapons openly, did not wear uniforms or insignia recognizable at a distance and did not observe, during their operations the laws and customs of war. During their actions they often wore German or Allied uniforms for the purpose of deception. After surprise attacks or acts of sabotage they assumed the appearance of peaceful peasants, their weapons were well hidden. All these groups of the resistance movement, those organized on a military basis as well as the irregulars, conducted the struggle in an unusually cruel way which contradicted all international law. Horrible murder and mutilation of German soldiers and torturing of prisoners were proved beyond doubt by affidavits and partly by photographs.

The general historical experience which the authors NURICK and BARRET formulated, with regard to the guerilla-bands which appeared during the Mexican War, in the article "Legality of Guerilla forces under the Laws of War" in the words quoted below, applies also to them:

"As has usually been the case in guerilla warfare, many bands of guerillas degenerated into little more than murderers and highway-robbers. They mutilated wounded American soldiers, divided among themselves the goods taken from the enemy, and carried on "war without pity in every manner imaginable."

What does it matter in view of this, in connection with the legal evaluation that these partisans in the Balkans were patriots as the prosecution claims? The guerillas to whom Section 82 of the American instructions of 1863 for the leading armies in the field referred, were patriots, too. And nevertheless they, too, at that time already lacked the status of lawful combatants and were, on the contrary, to be treated as highway-robbers or pirates, as ordered by the American regulation.

As soon as we deal with the resistance forces, organized on a military basis, which attempted to carry out regular military operations, we find that they, too, could not claim the status of lawful combatants because they did not conduct their operations in accordance with the laws and customs of war. I already pointed this out when I mentioned the cruel manner of fighting, which violated international law, which all parts of the resistance movement carried on in the Balkans. For the moment, however, I shall disregard this fact, that is subsection 4 of Section 1 of the Hague Convention. The problem of the status of the above-mentioned Military organizations and the question of the status of the remnants of regular troops after the capitulation of the government or, at least, the cessation of organized resistance, are very complicated if one presupposes, for the sake of the investigation, that they conformed to all four clauses of Section 1 of the Hague Convention on Land Warfare. In that case four facts are of importance in the evaluation of the legality of the resistance forces:

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1. That a war can be waged between states or governments only;
2. That an actual state of war is terminated by capitulation or by the cessation of organized resistance after the destruction of the main forces;
3. The actual occupation, and 4. The rights and duties of the population in the occupied territory.

An individual does not become a lawful belligerent by wearing a uniform, carrying weapons openly and being under the command of a person, responsible for his subordinates. On the contrary, before the members of a military force are entitled to be treated as lawful belligerents, it is also requisited that, in addition to the requirements set forth in the Hague Convention, they serve a political entity which is a state de jure or de facto or which at least exhibits certain evidence of such status. WESTLAKE makes absolutely clear that combatants can be treated as belligerents only if there is reason to identify them with their state or government. He says virtually:

"If they are treated as parties to a war, that can only be justly done when there is reason for their being identified with their state or government."

If these points of view are applied to the resistance groups in Yugoslavia and Greece, one finds that all of them lacked the status of lawful combatants, if for nothing else but the fact that after the capitulation of the Yugoslav government and the capitulation of the Greek armed forces a belligerent state and a belligerent government, the existence of which could have justified the claim of any person in those countries for the continuation of their being treated as lawful belligerents existed no longer. The fact that later on governments in exile for both countries were formed in London does not affect the status of the irregular forces. It affects the status of the main agent of the struggle against the German army of occupation, that is the TITO-units in Yugoslavia and the EAM and ELAS units in Greece, which were also Communist, the less as they obviously cannot be identified with the above-mentioned governments in exile.

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TITO did not serve this government in exile but tried to replace it by the Communist regime, an attempt in which he succeeded on 8 May 1945 with the overthrow of the Yugoslav king. He and, like him, the Greek Communist resistance movements, did not receive his orders from the existing government but from a third power. It is correct, that he also received material support from the Allies, but we can find nowhere that this can establish the status of a legal combatant. During a war all kinds of methods are employed to damage the enemy. Thus one has already often plotted popular uprisings in occupied territories and supported them materially. This, however, does not force the opponent to recognize the uprising supported this way, as an action of a belligerent power. While arguing about the problem of the status of unlawful resistance, we may incidentally not lose sight of one quite simple and clear fact, which is more important than all arguments; It is the FACT, that the YUGOSLAV GOVERNMENT unconditionally SURRENDERED on 15 April 1941. The capitulation was signed by the Yugoslav fighting forces and by the minister MARKOVIC as the representative of the Yugoslav government. THE ENTIRE ARMY SURRENDERED IN GREECE during the last weeks of April.

I believe that this important fact was not considered in several arguments of the Prosecution, when the opening statement of the Prosecution charges the Germans with fact, that after overrunning Yugoslavia they withdrew the main body of their troops and then declared that any future resistance would be regarded as a violation of the laws of warfare. The Germans did not assume this right, this right was granted them by the unconditional surrender of the Yugoslav government, independent of the effects which resulted from the condition of the occupation according to the Hague convention.

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When the former Prime Minister WINSTON CHURCHILL announced Germany's surrender on 8 May 1945, he declared:

"Hostilities will end officially at one minute after midnight tonight, Tuesday, the 8th May... The Germans are still in places resisting the Russian troops, but should they continue to do so after midnight they will of course deprive themselves of the protection of the laws of war and will be attacked from all quarters by the Allied troops."

This is a clear and justified conclusion drawn from a clear fact.

Generaloberst von WEICHS drew the same conclusion from the same fact in his order of 28 April 1941, when he declared:

"After the armistice, no Serbian soldier in the entire Serbian territory, has the right to carry arms. Whoever, in spite of this, is met in Serbian uniform with a weapon in hand, thus places himself outside of the law of warfare and is to be shot to death immediately."

The prosecution states, that the declaration made in this order of 28 April 1941, contains one of the two basic principles of German terrorism practiced in the Balkans, namely that not even the simple right to continued resistance was granted to the enemy, that his troops were no longer to be considered as combatants and thus should not enjoy the protection of the rules of warfare. When one hears this interpretation of the prosecution, I believe it is well, to remember simultaneously the statement made by

Prime Minister CHURCHILL on 8 May 1945. The contrast is proof of the relativity to which law is subject in practice; especially international law, when it is applied unilaterally after a war by the victorious countries against the vanquished.

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Both authors NURICK and BARRET have examined in the article which has already been quoted at various times, the status of unlawful combatants after the surrender of their government or after the complete defeat of the main fighting forces and the termination of organized resistance, on hand of a series of historical events of the last hundred years, in order to derive from these cases of precedent the norms of international law according to the law of custom, which exist with regard to the status of such unlawful forces. They declare, and I quote:

"If there is a formal surrender by the enemy government and capitulation of the main body of the armed forces there is noteworthy precedent, particularly in the position taken by General GRANT in the Civil War -- that is capitulation of the armies leeds and churnston's, for inst. in April 1945 -- regarding as unlawful combatants those who continue to resist, even though they may be substantial in number.....Although there is little authority the complete military defeat of the armed forces, the disintegration of the government and the occupation of its territory would seem to have the same consequence as upon the status of those who continue to resist as does a formal surrender."

OPPENHEIM also declares, that if the dispersed remains of the defeated army continue to fight with guerilla tactics after the defeat and capture of the main part of the enemy forces, after the occupation of the country and the disintegration of the enemy government, this guerilla war is not a real war in the strictest sense of the word. And he notes, that in strict law it is evident, that the opposing force no longer has to treat these guerilla bands as a combatant force and its members taken prisoner as soldiers.

SPAIGHT is of the same opinion.

Naturally it may be advisable for the opposing force, to recognize the unlawful combatants as legal combatants, if they are under the leadership of a responsible commander and follow the laws and customs of warfare, as OPPENHEIM states, and especially if the unlawful forces are a large number and have formed a de facto government, as NURICK and BARRET state. Regardless of this fact, however, according to strict law it remains up to the opposing force WHETHER and WHEN it wants to recognize the unlawful forces as legal combatants.

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The above mentioned laws applying to unlawful combatants are connected with the surrender of a government or the capitulation of the main fighting forces and the termination of organized resistance. They refer back to the traditional principle, that war is a fight between governments, which the fighting forces serve and with which they have to be identified, so that one can speak of war in the strictest sense of the word, and so that they can claim to be regarded as legal combatants. The legal conclusion, that war has stopped with the surrender of the government or of the main body of the fighting forces, agrees with the practical recognizance, that, above all, it is in the interest of the population of the defeated country, if any further resistance is terminated as soon as possible.

Quite apart from these points of view, International Law combines with other facts a similar effect, as is contained in the Hague convention and in other laws and customs of warfare; namely with the actual OCCUPATION of enemy territory. Armed resistance within an occupied territory is rebellion; it deprives the resistant forces of the protection of the laws of warfare and grants the occupying force the right to execute them. This applies to popular uprising in an occupied territory, even if the arms are carried openly and the laws and customs of warfare are being observed. Only the inhabitants of a territory not yet occupied have any claim according to Section 2 of the Hague provisions to be recognized as legal combatants if they take up arms at the time of the approach of the enemy; but they naturally only have that right, if they carry these arms openly and observe the laws and customs of war. The following statement by Professor OPPENHEIM applies to uprisings in a territory occupied by the enemy, and I quote:

"But this case (Article") is totally different from a levy en masse by the population of a territory occupied by the enemy for the purpose of freeing the country of the invader.

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The quoted stipulation of the Hague regulations does not cover this case, in which, therefore, the old customary rule of international law is valid, that those taking part in such a levy en masse, if captured, are liable to be shot."

We already find this rule of international law based on the law of custom in Section 85 of the American instructions on how to conduct armies in the field of 1863, which provides:

"War rebels are persons within an occupied territory who rise in arms against the occupying or conquering army or against the authorities established by the same. If captured, they may suffer death, whether they rise singly, in small or large bands, and whether called upon to do so by their own but expelled government or not."

We find this rule again in Paragraph 12 of the American "Rules of Land Warfare" of 1940:

"If the population of a country or a part of the same, which is already occupied by an enemy, rises up against the latter, it thereby violates the laws of warfare and has no claim to their protection."

It has always been difficult to determine, when an invasion ends and an occupation begins. Section 42 of the Hague convention is not very clear. We find a much more concrete and on the whole satisfying definition of an actual occupation in Section 276 of the American "Rules of Land Warfare", which states:

"Occupation must be effective. This is shown by the definition of the term, that military occupation must both be present and effective, which means, that organized resistance must have been overcome and the fighting forces, who have taken possession, must have instituted measures, to establish law and order. It suffices, if the occupying army is in the position, to send parts of troops in a given period of time, in order to make its authority to command felt within the occupied territory. It is immaterial how the authority of government is exercised, whether by fixed garrisons or by mobile columns, by small or large forces."

These prerequisites agree factually with those, which Professor OPPENHAIM considers necessary for an actual occupation:

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"Reasonably no other conditions ought to be laid down as regards effective occupation in war than those under which in time of peace a Sovereign is able to assert his authority over a territory.....If, when the legal Sovereign is prevented from exercising his powers, the occupant is in the position to assert his authority and actually establishes an administration over a territory, it matters not with what means and in what ways his authority is exercised, if he only really keeps the territory concerned under control."

In the opening statement of the Prosecution you have already heard several indications about the conditions which the Germans established with regard to an actual occupation in Yugoslavia and Greece. You have, for example, heard that for the pacification of the civilian population, Serbia was divided into several field commands, which essentially corresponded to the larger cities and to the main strategic points in the country and that these field commands again were divided into smaller territorial units, which were called local commands. That was the organizational machinery used for the security of Serbia, the prosecution stated, and it became effective immediately if an act of sabotage had been committed. If you compare these facts with the demands made by Section 42 of the Hague Convention and by the # 276 of the American "Rules of Land Warfare" and in the above quoted sentences by Professor OPPENHEIM for an actual occupation, I believe from this alone the fact results: that the German occupation was actually effective. And if one has heard in the opening statement of the prosecution how the partisans, for example, in Croatia, acted during the first two years of the occupation; through surprise attacks on German guards or garrisons, and acts of sabotage against traffic installations, supply depots and munitions depots of the German Wehrmacht, already such side-lights give the picture of an effective occupation. It will be the job of the Defense to provide the court with detailed material in this respect, in order to show that an actual occupation had been established in Yugoslavia and Greece after cessation of operations in April 1941.

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In connection with the question of the combatants, I must also deal with the problem of the Italian fighting forces, which went over to the partisans and fought against German troops after the surrender of the Italian government to the allied forces on 8 September 1943. The Prosecution states, that it was one of the most illegal and dishonorable acts in the history of warfare, that the Italian officers of such units were shot to death. However, we have heard, that combatants, who did not have the status of legal combatants could be executed according to the laws of warfare and up to now it has never been considered illegal or dishonorable to execute persons, who had been sentenced to death for wartime treason. One may not only consider the fact, that men who wore a uniform were executed, but one must also investigate, what these men had done before they were sentenced to death.

By the surrender of the Italian government, the Italian state ceased to be an ally of the German Reich. There existed, first of all no state of war between Italy and Germany. Therefore, none of the Italian

divisions had the right to fight German troops, and the Italian soldiers who did this could not claim the status of legal combatants. Disarming of the Italian armed forces was an absolute military necessity. Because three effective Italian armies in the Balkans were a very serious danger for the German armed forces, since they could have come to be an effective bridge-head for the Allies. It was known, for example, that Admiral Cambioni in Rhodes had already initiated negotiations with the British. In the case of war between Italy and Germany, which was considered a certainty, and if the Italian armed forces had not been disarmed, the Balkans could not have been held, because the Italian troops had occupied almost all the coasts. The right to disarm the Italian soldiers, primarily resulted from the fact, that "within the territory of operations of a combatant only legal combatants have the right to carry arms. I have shown that the Italian troops no longer possessed the status of legal combatants after their government surrendered. The authority to disarm the Italians also resulted from the negotiations, which the German command authorities carried out with the Italian High Command in Athens and Tirana and on the basis of these, the Italian high command ordered its troops to deliver their arms without resistance and to let the Germans take them captive.

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(The order of the Fuehrer distributed to the subordinate troops by the army groups, for the forwarding of which General Field Marschal von Weichs was held responsible, did not order that Italian officers were to be shot because they and their troops fought against the German armed forces without possessing the status of legal combatants, although this would have been in contravention to international law.)

I repeat again: "The order of the Fuehrer distributed to the subordinate troops by the army groups, for the forwarding of which General Feldmarschall von Weichs was held responsible, did not order that Italian officers were to be shot because they and their troops fought against the German armed forces without possessing the status of legal combatants, although this would have been in correspondence to international law.

Your Honor, I ask for a correction of the translation as I had the second half of the sentence. I said, "although this order would have corresponded with the rules of International Law, not contravention to international law.

What the order of the Fuehrer did decree, was, that Officers of those Italian units, who let arms fall into the hands of the insurgents or in any other way worked to either with the insurgents, are to be shot to death after they had been sentenced by court martial. Sentencing by a court presupposed a legal provision as basis for the punishment. In view of such clear facts, such as the turning over of arms to insurgents or supporting them, one does not have to look very hard for such a legal provision. Just as the American provisions, which are applicable in wartime the German provisions concerning warfare, also know the facts of wartime treason, which is punished by death. It was regulated in section 6 of the special Military Penal Code, and consisted of every kind of support to the enemy. It comprises the same fact as are enumerated in Articles 205 and 214 of the American Rules of Land Warfare.

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Since here the unlawfulness of executing the Italian officers in spite of their wearing uniforms has been emphasized so much, I point out in particular Art. 205 subsection b of the American Rules of Land Warfare which states, that the American legal regulations on wartime treason within a territory under military control in general apply to persons of all classes without regard to nationality or military or civil status.

You have already heard from the Prosecution that at least two Italian divisions joined the partisans. The Defense will, within the framework of evidence, which it will submit to the Tribunal, produce more material about the behavior of these Italian units whose officers were called to account.

Among the Italian divisions that went over to the partisans and thus committed wartime treason was, above all, the "Bergamo" Division which from that time on called itself the "Garibaldi" Division. It has already been mentioned by the Prosecution in connection with the asserted shooting of a large number of officers of this division. General Gandin, who has likewise been quoted by the Prosecution had fought against the Germans although he and his troop were no longer entitled to the status of legal combatants. He had thus violated the agreements reached between the German and Italian high commands. Beyond that, he had committed a particularly serious act of treason by violating a special agreement which he had reached with the German commanding staffs with regard to his division. He had declared himself willing to deliver up arms. When the German troops wanted to receive the arms he ordered that they be attacked. The Germans not being prepared for that suffered considerable losses. General Gandin and the officers who were responsible together with him were sentenced to death by a court martial formed by the competent German commander.

I must now say something with regard to Counts 2 and 4 charging the defendants with wanton destruction of enemy property, devastation of enemy territory and encroachments upon the freedom of the civilian population, above all, with interning the population in concentration camps.

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There is no doubt that only the willful destruction of towns, small towns and villages and only devastation not justified by military necessity can be war crimes. Thus it was expressed in Article 6 of the London Statutes in agreement with the standards of the Hague Convention. As regards the internment of the civilian population in collective camps it must be noticed that quite obviously the freedom of the individual has intentionally not been included in the fundamental rights of the civilian population to be respected by the occupying power in Article 46 of the Hague Convention. The reason for this is apparently that the security of the occupation power has always necessitated very extensive encroachments upon the personal freedom of the civilian population in the occupied territory. A corresponding right of the occupation power has up to now never been contested.

It is very easy to declare with regard to a conquered nation that its troops willfully destroyed enemy towns and villages and undertook devastations without military necessity. And it is very simple to designate the internment of parts of the civilian population in collective camps as war crime if it was carried out by the conquered state. Here the relativity of law is seen which I have already mentioned

and I think it would be good to regard the things with which the defendants are being charged in the light of historical precedents and the opinion of important authors on international law.

The American Professor Fenwick writes in his International Law already quoted:

"General devastation of property as a means of covering the retreat of an army has, however, been a common practice of belligerents.

"A more difficult problem is to determine how far the destruction of enemy property is justified, not in connection with direct hostilities, but as a means of cutting off the enemy's lines of communication eliminating his subsequent sources of supply or intimidating the civilian population and inducing it to bring pressure upon the government to sue for peace."

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Professor Fenwick then states:

"In 1864 General Sherman devastated a wide area from Atlanta to the sea in pursuance of an interpretation of military necessity which included the objects above mentioned, and shortly afterwards the devastation of the Shenandoah-valley to the same end."

I insert here, when General Sherman had finished the devastation of the Shenandoah Valley, he said, and he said himself then, "crow flying over that territory had to bring its own provisions with it." That is according to the General's own statement. This quotation is quoted by "Spaight."

I now go on quoting Fenwick:

I quote again Fenwick:

"In 1901 the British armies in South Africa interned the civilian population in "concentration-camps", with the result of serious loss of life (for details Spaight.). At the same time the country was laid waste far and wide as a means of cutting off the supplies of the guerilla forces.

Professor Fenwick also stresses that Article 23 G of the Hague Convention which prohibits the destruction of enemy property, unless it be imperatively demanded by the necessities of war, leaves to the determination of the belligerent army the circumstances under which military necessity demands such measures.

THE PRESIDENT: May I interrupt? We will take our adjournment at this time, but before....Repeating, we will take our adjournment at this time, but before we adjourn I should like to ask the cooperation of counsel and the prosecution and Secretary General's office and marshal to check on the status of the translation and report to me shortly before we convene for the afternoon session.

The Tribunal will be in recess until 1:30 this afternoon.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION (The Tribunal reconvened at 1335 hours.)

THE MARSHAL: Tribunal No. V is again in session.

THE PRESIDENT: You may proceed, Dr. Laternser.

DR. LATERNSEER: Your Honor, shortly before the noon recess I had talked about the views of Professor Fenwick, regarding the question of destruction I am now quoting on page 52 on the top of page 52:

"Professor Fenwick also stresses that Article 23g of the Hague Convention, which prohibits the destruction of enemy property, unless it be imperatively demanded by the necessities of war, leaves to the determination of the belligerent army the circumstances under which military necessity demands such measures."

It continues on "You heard an unbiased American scientist and author on international law.

I now quote Professor Oppenheim". Oppenheim then continues:

"But the fact that a general devastation can be lawful must be admitted." (Vol. II, Art. 154) It continues:

"As regards captivity, the rule is, that private enemy persons may not be made prisoners of war. But this rule has exceptions conditioned by the carrying out of certain military operations, the safety of the armed forces, the order and tranquillity of occupied enemy territory---And even the whole population of a province may be imprisoned in case a levy en masse is threateningThat in case of general devastation the peaceful population may be interned in so-called concentration camps, there is no doubt." (Vol. 11 Art. 116).

Oppenheim continues:

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"The purpose of war may even oblige a belligerent to confine a population forcibly in concentration camps."

In the court of the following weeks you will hear more details about the reasons why the establishment of concentration camps (Sammellager)...

I have just heard the translation of "Sammellager" to the words "concentration camps", I would like you to change this to "collection camps" on page 52 and not concentration camps. On page 53 of the 2nd and 3rd line of the 2nd paragraph.

Your Honors, you will hear more details about the reasons why the establishment of collection camps, (Sammellager) and the internment of parts of the civilian population of the enemy in the Balkans was ordered and likewise facts will be submitted to you which indicate the necessity for and entitled the German troops to carry out devastations. As regards the collection camps, I wish to note that they must not be confused with the concentration camps in Germany, which were subordinated to the Gestapo and have become a by-word. They were collection camps, such as they were also maintained by the occupation powers in Germany under the name of internment camp and in this connection, I wish to point out that the conception of endangering the security of the occupation troops has been subject to an

entirely new interpretation by the introduction of the so-called automatic arrest, an interpretation which up to the present was unknown in the practice of international law.

With regard to the destructions which were carried out by way of reprisals in order to force the civilian population of the enemy and the partisans to abstain from acts contrary to international law, I refer to Art.

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358 e of the American Rules of Land Warfare which stipulates:

"Villages or houses, etc., may be burned for acts of hostility committed from them, where the guilty individuals cannot be identified, tried and punished."

I conclude my statements to this count with a statement by Professor Lauterpacht in his treatise in the British Year Book for International Law, 1944, page 74:

"Such acts as general devastation .. may supply ample reason for condemnation and protest;they may, at the end of the war, justify the imposition of collective sanctions by way of compensation or otherwise as distinguished from individual penalties of a criminal nature. But criminal proceedings before the municipal courts of the victor may seem to many a questionable method of removing outstanding doubts and laying down authoritatively the existing law on subjects of controversy.

Total war has altered the complexion of many a rule. At a time when the "scorched earth" policy, with regard to the belligerent's own territory, has become part of a widespread practice, general destruction of property ordered as an incident of broad military strategy will not properly form the subject-matter of a criminal indictment."

In the case of the measures with which the defendants here are being charged the principle of military necessity plays an important role. This principle, which formed the basis of all German military measures, was formulated in Article 4 of the American Rules of Land Warfare as the highest general principle of warfare and recognized to a very farreaching degree.

This principle, however, must not be scrutinized in an abstract manner, but must be considered in connection with the conditions with which the accused were confronted and under which they had to discharge their task, i.e. to secure the Balkans militarily. Nothing at all of what forms the subject of this trial can be understood if considered apart from the fundamentals, as is done by the prosecution. The decisive fact was the geographic character of this country and the peculiarity of character of the Balkan population which favored a partisan and resistance activity experienced nowhere else to such an extent.

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I believe this to be the proper time to give the high court in brief a picture of the special conditions in which the defendants were placed in the Balkans.

Every appraisal of the military-political measures in the SouthEast area will remain incomplete and inadequate with regard to the actual conditions as long as it is not based on knowledge of the completely

abnormal circumstances in occupied territory. No historian would be able to name a political area that could measure up to the Balkan area as far as the entanglement of the problems, the multiplicity of the political currents and the fanatic sullenness of the contracts are concerned.

1. This begins already with the split-up character of the country; nowhere else in Europe do we find in an area of about 1600 kilometers so many heterogeneous, tiny self-contained life-cells laid out by the geographic nature of the country. Whereas, for instance, the United States in an equal stretch of 1600 kilometers between Wisconsin and the Mississippi delta uniformly cultivate gigantic plains, a conglomeration of highly contrastly landscapes is to be found here in the Balkans. Every one of has its own individuality. They are littered around in a confused fashion, as though a child had emptied out a couple of big boxes of building blocks and the many-colored cubes now were mixed up in a completely disorderly way on the floor of the room.

The mountains have steep slopes. They often have remote dens and lonely mountain forests and thus offer welcome hiding-places and secret corners. Shepherds and farmers in distress retreat there as do highway robbers, Komitatschis and revolutionaries of many kinds. That has been going on for thousands of years and since the waves of the migration of peoples, since the great population upheaval that came about with the invasion of the Osmanians and since the nationality struggles of the 19th and 20th centuries.

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Partly in consequence of the geographical disruption appears also a far-reaching disruption of communications, commerce and population.

Communications lack transcontinental lines laid out by nature, only the Morowa-Wardar-furrow in the East might have provided such a connection. But even that trails through territories which despite their moderately favorable conditions, as far as lines of communication are concerned, developed rather centripetally than centrifugally. Not even the Adriatic-Ionian seashore in the West remains as a natural line of communication since the course of the mountains condemns the sea to inefficacy. The mountains mostly run parallel to the coastline and thus deprive the ocean of its influence on the interior. A very good map with a scale of 1:500 000 or even better of 1: 200 000 is needed in order to comprehend the splitting up of the South-East into Slovenia, Croatia, Serbia, Montenegro, Albania and Greece.

Railroad construction has only underscored the geographic disruption splitting-up of the lines of communications of the Western Balkans. It is not necessary to get lost in the many details of the territorial-political-economic-historic and ethnico-cultural disruptions: It suffices to state that to date the Balkans are lacking an even halfway efficient rail-road communications system. The only trunk line of European importance, the line Belgrade-Nisch with the extensions to Sofia-Istanbul and Saloniki-Athens is single-track; several territories such as the Peloponnesus have only narrow gauge tracks. Well-known mines have to content themselves with animals as a means of transportation and small cable cars.

Thus, in connection with all those facts always only small communication systems developed in the Western Balkan peninsula; therefore, also always only small economies and small isolated settlements. People live only in villages, small or medium size towns, and the only large cities such as Athens,

Saloniki and Belgrade are on the periphery. Hand in hand with nature the historical development, in particular the agrarian tendency at the beginning of Osmanian rule, has contributed its share; it has driven the Christian population into the mountains and has led to small dispersed settlements in the secret corners up there.

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This difficult territory had always made it possible to escape the authorities and combat them.

The Balkans show an amazing conglomeration of nationalities. An understandable variety if one considers how landscape and economic lines of communication are split-up. This ethnic division comprises Pomakes and Muhadschirs, Kutzowlachs and Croats, Greeks and Slovenes, Serbs and Macedonians, Bulgars and Makedoslaves", Sarkatsaneans, and Albanians, Turks and Armenians, Gypsies and others. Until the redistributions of 1912/13 and the great resettlement of 1923 all of these lived intermingled to an extent that the ethnological map of the Balkans looked like the tangled mess of threads of an overcolored carpet. And it partly looks that way even today.

One must realize how a military government is faced with unending difficulties on account of such an ethnic division, particularly since there is no perfectly correct diagram of the existing division. The few top scientists who can at all survey the conditions have come to the conclusion that all statistics, and that includes all old and new statistics of Balkan nationalities, show more or less great inaccuracies.

In the still undetermined state of development hard and cruel battles occur about the nationality of the individual under the motto "if you don't choose to be my brother I am going to smash your skull".

We must imagine, though, that this struggle follows the forms of fighting in the cultural ways of Middle Europe or of the harmless skirmishes among the sects of the Anglo-Saxon area of culture. No, in the Balkans, from time immemorial all means are being used: Apart from pulpit addresses – be it in the Slav or Greek languages, apart from evening classes for adults and apart from all possibilities of fiscal policy, use is made of personal suspicions and, even in peace, of dagger and musket.

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4. The result of such conditions are quite specific ways of life for the Balkans which are entirely different from those of the real European area of culture: different as far as their fervor, their impulsiveness are concerned, but also their sullenness and their cruelty. Always have there been all sorts of illegal fighters here and here especially; from the common highway robber to the fending sons and grandsons, from the religious fanatic to the gang leader and every kind of underground movement. Accordingly, it was quite normal that the Serbian kings died through assassinations. Europe, not to talk of the world, learned only little of what happened behind the mountain walls of the Balkans. In the seclusion of that part of the world revolts flared up again and again, and all efforts by the states, were unable to up subdue either the robberies or the cruel fight against and suppression of dissenters. What has not been said and written about the "Macedonian question"? Europe and the world shuddered when the scope of the Macedonian atrocities came to light and an International Commission published its report at the end of the Balkan Wars. Yet we must take into consideration the fact that the commission

could only visit the localities that could easily be reached from the outside world and that the ruins of the remote hamlets and villages in the mountains remained unknown, ruins whose population for the most part had been murdered.

Under such conditions the war added new political and ideological groups to those already in existence. A wild battle of every group against the next one set in with all furor and the age old cruelty.

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"In Greece, the revolting nationalist groups (Edes) under ZERVAS were in opposition to the communist movement of the E.A.M. and ELAS. The nationalist Cetniks in Yugoslavia under MIHAILOWITCH were the enemies of the Croatian Ustascha detachments, and the adversary of both of them was TITO, the leader of the communist bands.

Even the struggle against the outside enemy sometimes took second place in the efforts to finish off the political opponent in the own country.

With such conditions, however, the defendants had to cope; in the interest of the military tasks to be expected they had to establish tranquility and pacification in occupied countries, This military necessity alone required severest actions. It will be the task of the defense to show that the fight against the bands in the Balkans was dictated only by these military exigencies, but never—as is claimed by the prosecution in execution of a plan for the weakening and decimation of the Balkan population.

When I now proceed to explain to the High Court the line that I propose to follow in the defense of the Field Marshals List and von Weichs which I represent I would like to state the following at the very outset with particular emphasis:

1. Both defendants were during the time of their Balkan activity, which will have to be illustrated in detail as far as scope, authority and responsibility are concerned, the highest strategic leaders. Thus, it was they who before all others were responsible to the Supreme Military Command for the execution and preparation of operational tasks.

This most important task within the scope of the entire conduct of the war had to and was to commit a secondary place all other tasks resulting from the occupation of a country.

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For a field commander, such as were Field Marshals List and von Weichs, actual warfare is the main thing once a war has broken out in consequence of a decision by the politicians.

All other tasks resulting from the occupation of the Balkan countries appear, within the scope of the strategic task that was assigned to my clients, to be of minor importance. These occupational tasks were transferred to territorial commanders for independent action, and their chain of command did not go through the strategic leader but through the Military Commander Southeast to the OKW. It follows quite naturally from the cooperation that is necessary for military command posts at the front that they inform one another whenever they are outside of the chain of commands. The fact that this principle was followed in itself explains the communication of the events that took place within the areas of the

territorial commanders. On the whole they were bound to interest the strategical leader because they might be of importance connection with the initiating or carrying out of operational tasks. But this reporting of territorial events could in no case constitute a reason for establishing the competency or even the responsibility of the strategic leader as the Prosecution is trying to do.

2. Concerning the knowledge of all the happenings which make up the contents of the indictment, the Prosecution seems to hold the opinion that the defendants represented by me had full knowledge of all happenings during their term of assignment. It is inferred that these happenings were in accordance with a plan designed to weaken and decimate the population of the Balkans:

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Gentlemen of the Court. Field Marshal List and von Weichs learned about this plan for the first time through the Prosecution, as I am going to prove subsequently.

As to the actual extent of the knowledge of the defendants, however the Prosecution in a way is charged with the onus probandi. It has to produce evidence to this effect through introducing certain reports issued by military offices in the Balkans. Apart from the fact that it still remains incumbent on the Prosecution to prove the connection and the relevance of many of the submitted documents as far as the defendants are concerned, the following circumstances ought not to be overlooked as easily happens in consequence of the documents being introduced according to purely chronological points of view and not to the proceedings of the case:

Generally, I maintain that the defendants represented by me can theoretically have knowledge of the reports and the accounts only when they were addressed to their office and had actually been received by the same.

I say deliberately: theoretically.

For in practice; Gentlemen, of the Court, you cannot presuppose even this amount of knowledge. A commander-in-chief, who does not receive incoming reports personally, will from these reports learn only the facts presented to him during the daily discussions with the officers of his staff. And this presentation is necessarily done with a view to the main tasks of a commander-in-chief, that means to the information that must be of interest to him in connection with his operational tasks. This makes the conclusion obvious that a commander in-chief in a certain theater of operations must be much more interested in the fact that his own troops have been assaulted than in the retaliatory measures which might have been ordered, and which, moreover, were subject to the competency of another command. As to these measures he could assume that they had been carried out in accordance with existing regulations, as long as no special facts which had actually been reported to him, gave him reason for a different conclusion.

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For, after all, the appropriate quarters issuing the orders directing retaliatory measures had the same authority as a commander-in-chief of an army or an army corps.

When these important points of view are considered, it becomes quite obvious how the situation at that time must appear to the defendants List and von Weichs represented by me.

Field Marshal Wilhelm Li s t, for whom I shall now present the defense in broad outline, was by no means a Nazi general as the prosecution is trying to make him appear, in complete misrepresentation of the real facts of the case. He was an unpolitical, especially efficient officer and army commander with a strictly Christian attitude. Towards National Socialism he had no sympathy at all; his premature separation from active service in the year 1942 is evidence of this.

His activity in the Balkans was only of brief duration. At that time he watched with anxiety the growth of the resistance movement which he in his capacity as chief of operations of the German forces in the Balkans was bound to prevent and combat.

That was his task and his duty and by no means a culpability.

a.) As evidence justifying Count 1 of the indictment the Prosecution presents above all the directives issued by Field Marshal List dated 5 September 1941, Exhibit 42.

I am going to prove that these directives had their origin only in consideration of military exigencies.

In this document murder of the civilian population is ordered with no word or sentence, which circumstance solely could make it pertain to Count 1 of the Indictment.

Gentlemen, of the Court, I may ask you to read the document in full, instead of only the passage underlined by the Prosecution. You will then receive the impression that it is a question of directives serving the purpose of repressing insidious attacks by ambush.

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A "pacification through terror" is nowhere mentioned.

Further I shall prove that the subsequent orders issued by subordinate quarters were based not on these directives of Field Marshal List, but on the order issued by the Supreme Command of the Wehrmacht dated 16 September, Exhibit 49.

b.) In no case did Field Marshal List order or allow the wanton destruction of towns or villages, and only if this had happened could he be charged with Count 2 of the indictment.

c.) Concerning Count 3 of the indictment the Prosecution has not yet proved that the commissarial order Exhibit 13 (12b of the indictment) and the order issued by the Supreme Command of the Wehrmacht dated 23 July 1941, Exhibit 25 (12c of the indictment) were effective for the Balkan theater of operations, Murder of prisoners of war, as alleged in 12 d, e, and f of the indictment, has not been proved by the Prosecution; it was here a question of reprisals in the course of which insurgents were killed.

d.) Concerning Count 4 of the Indictment I intended to prove that Field Marshal List only considered the internment justified of such persons as had participated in or supported the resistance movement. And to do so was his right and his duty.

Field Marshal von Weichs, by nature perhaps more a scholar than a soldier, also repudiated National Socialism and its methods. He was a Catholic of profound devoutness, and for this reason he was never completely trusted by HITLER.

I have already brought to the attention of the Tribunal – and I still advocate the opinion – that Field Marshal von Weichs because of his physical condition is incapacitated for appearing in court. I base this opinion on

1.) on the expert opinion of Dr. Riffard who confirms the danger of a sudden perilous complication as does also

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2.) the American prison physician Dr. MARTIN who, it is true, subsequently considers this danger more certain to the same extent as in his report made on his own initiative and dated 29 July 1947.

In a short time I shall submit a new petition for examination since in the meantime additional symptoms of a severe illness have appeared.

Gentlemen of the Court:

At the beginning of the campaign in the year 1941 Field Marshal von Weichs was only for a brief period in the Balkans as commander-in-chief of the 2. Army.

A.) Within this period (April 1941) the shooting, alleged by the Prosecution, of 100 Serbs in retaliation for the death of assaulted German soldiers took place.

I maintain that this shooting of 100 Serbs in a proclamation, still unproven, was only proclaimed as a threat but was never executed.

Neither did Field Marshal von Weichs within this period ever issue an order according to which 100 Serbs would be shot in retaliation for every German soldier killed. The Prosecution had introduced no such order. The document submitted (Exhibit 7) is only a proclamation to the Serbian population, threatening with shootings in this ratio only, in order to warn against assaults on German soldiers. This is all that so far has been proved concerning this count.

When at the end of August 1943 Field Marshal von Weichs was again transferred to the Balkans – this time as strategic leader – the situation in this theater of operations had become much more critical. In spite of this he used his influence only for the purpose of mitigation, as I am going to prove. His order dated 22 December 1943 (Exhibit 379) is evidence to this effect.

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Against occurrences reported to him and constituting misbehavior on the part of the troops Field Marshal von Weichs took action in every way possible.

Besides, he in no case ordered or allowed civilians to be killed, as alleged by the Prosecution.

This is what I have to say concerning Count 1.) of the indictment.

b.) Concerning Count 2 of the indictment the Prosecution has proved no case in which Field Marshal von Weichs ordered or knowingly tolerated a w a n t o n d e s t r u c t i o n of towns or villages.

c.) In count 3 of the indictment Field Marshal von Weichs is charged with having forwarded or complied with unlawful orders, but such orders wrer partly not issued, partly disregarded.

Under 12 a) of the indictment Field Marshal von Weichs is charged with having ordered that persons being caught in uniform and in possession of weapons after the conclusion of the armistice should be shot.

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This refers to a stipulation contained in the armistice conditions which had been laid down through agreement with the state of Yugoslavia. In this connection it will be sufficient to refer to previous explanations in my address.

The commissarial order mentioned under 12b) of the indictment did not apply to the Balkans, as I am going to prove.

The executive order dated 18 October 1942 (12 h of the indictment, Exhibit 225) was forwarded to the Balkan theater of operations, and the army corps was unable to prevent this order from being received. As I am going to prove, Field Marshal von Weichs raised an objection to this order. In no case was the order carried out, as I likewise intend to prove.

The measures against the Italian officers and troops following the capitulation (12 i - 1 of the indictment) were necessary from a military point of view. Executions of Italians took place only by virtue of sentences pronounced by military courts or courts martial for wartime treason committed through surrender of weapons to the partisans, support of the same in other ways, and of the illegal resistance in connection therewith.

Concerning Count 4 of the indictment I intend to prove that also during the time at which Field Marshal von Weichs was the highest strategic leader in the Balkans only such persons were and were supposed to be interned as had connections with or supported the partisan movement.

I am at the end of my statement and hope to have presented to the Tribunal the following evidence in broad outlines.

MR. DENNEY: If Your Honor please, I have just been advised that the statement for counsel on behalf of the defendant Lanz is being mimeographed and should be ready shortly.

THE PRESIDENT: There was word sent to the desk here that the address for counsel Kuntze is now prepared and has been delivered.

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MR. DENNEY: I have been sent a copy here in the courtroom, Your Honors. I will be glad to see if they have delivered one to Your Honors' secretary; I will see if it has been brought in.

THE PRESIDENT: If you will check that, Mr. Denney, we will appreciate it.

The Tribunal is informed that Dr. Sauter, counsel for von Geitner, is ready and prepared to present his opening statement at this time. Is that correct?

DR. SAUTER: Yes, it is.

THE PRESIDENT: Dr. Sauter, may I inquire as to whether or not there will be two opening statements, one on behalf of the defendant von Geitner and one on behalf of the defendant Lanz.

DR. SAUTER: Two, yes. One for von Geitner and the other for Lanz.

THE PRESIDENT: You are now prepared to present your statement for the defendant von Geitner?

DR. SAUTER: Yes.

THE PRESIDENT: And the one for the defendant Lanz we are informed will be up here shortly and if it is here by the time you complete your statement for von Geitner you can then proceed with the one for the defendant Lanz.

DR. SAUTER: Yes.

THE PRESIDENT: If that is not true, we will take it up when it is reached or brought to the Tribunal.

DR. SAUTER: Yes.

THE PRESIDENT: Very well, you may then proceed. May I inquire of the Marshal as to where the English translations are of Dr. Sauter's opening statement concerning the defendant von Geitner. Is there more than one copy?

THE MARSHAL: Yes, Your Honor.

THE PRESIDENT: You may proceed, Dr. Sauter.

DR. SAUTER: It is undisputed that the defendant v. Geitner is accused in his character of Chief of the Commanding Staff (Operation Staff) to the Commanding General and Military Commander in Serbia and afterwards in his character as Chief of the Commanding Staff (Operation Staff) to the Military Commander Southeast and that his former military activity is also not debated in those counts of the indictment in which the prosecution does not cite summarily a longer space of time of the Second World War.

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He held the first position in the time from 12 July 1942 to 26 August 1943, the latter position in the time from 26 August 1943 to 6 October 1944.

V. Geitner was in these positions during the time of July 1942 to August 1943 under General Paul Bader, in the time from August 1943 to October 1944 under General Hans Gustav Felber, who gave the affidavits of 19 February 1947 and was interrogated as a witness before court on 11 to 13 August 1947.

Consequently the responsibility of the defendant v. Geitner could not be in question for the cases of the indictment of 10 May 1947 for reasons of timing already.

In the cases concerning the defendant Geitner I need not repeat this summary and I continue on page 3 under Roman 2.

II The attitude of the defendant v. Geitner towards these accusations is as follows:

1) In general:

a) V. Geitner was never during the given time commanding officer of a unit, but always only Chief of the Operation Staff. As such he never had any commanding power. The responsibility for the orders directed to the troops rested according to German conception always and only with the commanding officer; this is also unequivocally recognized in the "Handbuch fuer den Generalstabsdienst in Krieg" (Handbook for the Service of the General Staff in War) of 1 August 1939. The Chief of Staff of a commanding authority is merely the first collaborator of a commanding officer in questions of tactical leadership and supplying of troops and had to organize the staff of his commanding officer besides.

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It was his responsibility to turn the decisions taken by his commanding officer into orders, which were technically unobjectionable from the General Staff's point of view and to secure their execution. But the orders issued to the troops were always only orders of the commanding officer, never orders of the Chief of Staff. If the commanding officer instructed the Chief of his Staff to issue an order, so was according to the German conception only the commanding officer responsible for it. This legal position found its expression in the German service of the General Staff also in the fact that the Chief of Staff, it is true, had the right to express his dissenting conception towards the commander in case of differences of opinion, but that the decision rested solely and exclusively with the commanding officer; the Chief of Staff had in such cases not even the right to have his conception recorded and registered in the files. He had, on the contrary, to use all his power for executing the will of the superior leader.

b) In consequence of this fundamental conception it was not the commanding officer's Chief of Staff who acted for him in case he was prevented, but the highest ranking troop leader of his territory; only in exceptional cases when the commanding officer was really only quite temporarily absent the Chief of Staff could act for him, then, namely, when the commanding officer could not be reached immediately but when the situation demanded an immediate decision. But the orders were to be considered as orders of the commanding authority even in these exceptional cases, not orders issued by the person of the Chief of Staff. Such exceptional orders did not occur in the case v. Geitner and can, therefore, be left out of consideration.

c) V. Geitner in his character as Chief of Staff had nothing to do with the work (report, establishing, and decreeing) on retaliation measures. These measures are no tactical actions but are derived from the "executive power". V. Geitner and his two commanding officers, Bader and Felber, always also took the stand that its release be tied to the character of the commanding officer as "Supreme Judicial Authority" (Gerichtsherr). The sphere of retaliation measures was out of the field of the Chief of Staff's advisory duties.

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This goes especially for all questions in the field of the justice which undisputedly was and is a part of the "executive power". Although the commanding officers have talked about the "fundamental" of the retaliation measures with the Chief v. Geitner, General Bader as well as General Felber reserved the decision on retaliation measures and the decreeing of them exclusively for themselves. They used for work on the cases the service of an officer destined for this purpose. This was never v. Geitner, but in the office of the Commanding General and Military Commander in Serbia and later in the office of the Military Commander Southeast of the 0 1 an administrative jurist.

d) The fact that v. Geitner in his character as Chief of Staff had to put his sign (Signum) also under such orders of the commanding officer which decreed retaliation measures and similar things is not in contradiction to this regulation. Such a sign by the Chief of Staff meant within the service according to undisputed German conception only that the Chief of Staff expressed by it that the order corresponded according to his personal opinion to the commanding officer's views and to the directions of the superior office and was formally all right.

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On the basis of orders from the top the proscribed daily reports were signed by the Chief from a certain time on. But the Chief of Staff assumed merely the responsibility for the correctness of the report, with the signing of a daily report that means the responsibility for the correct rendering in the report of events, happening in the report time within the territory of the order. But the Chief of Staff did absolutely not assume the responsibility for the measures given in the report which were taken by the commanding officer or the troop or intended by them. The daily reports were submitted to the commanding officer every day before delivery through the operational department (Fuehrungsabteilung) and signed by him.

If retaliation measures had been undertaken they had to be told of in the next report, and it made no difference who had decreed them and who was responsible for them and no difference, whether the Chief of Staff approved of them or had previous knowledge of them. Absolutely not all happenings were reported (sabotages, attacks from the ambush). the reports of such happenings were frequently suppressed with the knowledge and approval, partly even at the inducement of v. GEITNER in order to evade the retaliation measures decreed from the top.

e) The fundamental attitude of the defendant v. GEITNER towards retaliation measures and similar things was absolutely negative. He also expressed the conception of his towards his commanding officers (General BADER and General FELBER) from the beginning to the end over and over again, emphasized always the principle of a "winning administration" (gewinnende Verwaltung) and turned aside every thought of a permanent domination of the Serbian people by the Germans. V. GEITNER never even heard of a plan to exterminate the Serbian people, as the prosecution asserts, much less did he agree to it. Both his commanders however saw themselves forced, despite inner hesitations, to carry out such retaliatory-measures, not only on account of compelling orders which the commanders received from their superiors, but most of all because of the totally illegal and often cruel fighting methods of the

partisan units and because of the hostile attitude of a part of the population, which again and again allowed itself to be carried away to commit acts of sabotage and terrorism.

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When GEITNER took over his position as Chief of Staff to the Commanding General and Commander in Serbia, the question of retaliatory measures was generally regulated by reason of superior orders, through an order of General BADER, dated 20 February 42. This order made the carrying out of retaliation measures of killing of human lives principally depending on the assent of the commander. By this all violations and arbitrary acts of the troops were to be prevented. On 28 February 43 General BADER had this order issued in a new form (NOKW No. 382, exhibit 263) without that GEITNER assisted thereby.

f) GEITNER'S attitude towards the Serbs (serbophile attitude) put him in a considerable contrast to the Higher SS and Police Leader MEIYSZNER: the latter acted in matters of police-security but only according to direct instructions issued to him by Reichfuehrer SS HIMMLER, Therefore v. GEITNER had no influence on that.

2) In particular:

Pertaining to the cases mentioned and under I, the defendant v. GEITNER intends to submit as evidence the following facts:

To No 5 e:

Had not been ordered by v. GEITNER To No. 5 f: The same.

Moreover, it has to be remarked that this measure was not only carried out for the assassination of 3 German soldiers but also on account of a shooting attack on a Bulgarian leave train, whereby another 3 were killed and 2 wounded. The orders themselves were issued by General BADER and are to be found in document NOKW No 340 exhibit 276 document book XI page 44 To No 5 g: Had not been ordered by v. GEITNER.

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Those shot, were not "hostages" as assumed in the indictment, but retaliation prisoners.

To No 5 h:

Had not been ordered by v. GEITNER.

To No 9 d:

Had not been ordered by v. GEITNER. Moreover, no "retaliation" is in Question in this case, but it concerns a battle action on a larger scale in the course of a continuous series of military operations on both sides of the Moravica against the DM Main Staff and against the DM bands, by the 24. Bulgarian Division and the German Police Regiment No 5. Nor did v. GEITNER order any destruction of inhabited places.

To No 12 b:

The "Commissar order" of 6 June 41 resp. 8 June 41 had been issued long before the activity of v. GEITNER in Belgrade. In any case, v. GEITNER did not forward this order to the troops or brought this order to the recollection of the troops.

As a precaution, it is remarked, that the order of 10 October 42 (document NOKW No 1722, exhibit 228, document book IX, page 66) was not issued by the defendant v. GEITNER, but by the Commander, General BADER (in understanding with the Higher SS and Police Leader) and that this order, which refers to the general treatment of all rebels (insurgents), only states that Commissars who are found with weapons in their hands among the bands, are to be treated just s the other insurgents, yet are to be interrogated before shooting. This order has therefore no connection with the "Commissar order" of 6 June 41.

To No 12 h:

Order of the Command of 18 October 42:

v. GEITNER is absolutely unable to recollect, that the so-called order of the Command of 18 October 42 was ever received or forwarded by the Commander for Serbia; the detailed reasons given by HITLER, as stated in Document C-81 PS, exhibit 225, were unknown to him.

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V. GEITNER assumes that this Commissar order never reached the Commander for Serbia. This Commissar order had also no validity for the battle against the guerilla bands, as follows from document PS No 1279, exhibit 487, document book XXI, page 57. It never was applied in Serbia.

V. GEITNER can also not recollect an order of the Chief of the OKW of 30 July 41 regarding the treatment of Military Missions with the bands in the South-East; it was not applied in Serbia and was certainly not forwarded, because according to an explicit "regulation" it was not to be distributed beyond the General Commands and Staffs of equal rank of other Wehrmacht parts. The forwarding of this order to subordinated units was therefore quite out of the question for v. GEITNER, just as he had nothing to do with the carrying out of this special Command order.

To No 12 i:

The order concerning the Italians, of 11 September 43 (document NOKW No 910 exhibit 327 document book XIII page 41) had not been carried out in the Serbian territory of the Military Commander South-East. Much more so, the Italians in Serbia had been transported according to rule as prisoners of war into camps; besides, the prosecution has already acknowledged, that this order concerns only the defendant RENDULIC but not the other defendants.

(Minutes of the session of 31 July 47, page 1931)

To No 14:

In SEMLIN (North of Belgrad, on croatian territory) existed a camp of the Higher SS and Police Leader Serbia, which sometimes was defined as a collecting camp and sometimes as a concentration camp, but, to be sure, was never a concentration camp in the sense of to-days interpretation. It served for the detention of prisoners from guerilla band fightings. V. GEITNER had nothing to do with this camp.

The Higher SS and Police Leader was not subordinated to the Chief of the Command Staff (v. GEITNER) but directly to the military Commander personally, who repeatedly intervened, partly upon proposal and instigation of v. GEITNER, when improprieties in the camp became known.

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Besides that (camp)there existed in Serbia during the term of office of v. GEITNER various smaller camps for retaliation prisoners. Also for this camps v. GEITNER had no authority or responsibility whatsoever. The transfers to those camps, was always ordered by the district commands and the police offices. V. GEITNER as the Chief of the Command Staff had nothing to do with the transfer of retaliation prisoners.

The securing of workers (i.e. the putting at disposal of workers for Serbian plants, as well as for Germany) belonged in Serbia to the G.B.W. (Plenipotentiary for Economy) and as of September 1943 to the Administration Staff of the Military Commander South-East. The holder of these offices (by name of NEUHAUSEN) was at any given time subordinated directly to the Commander; v. GEITNER had no right whatsoever of giving directives to the latter.

To No 15 d:

The evacuation and transportation for work in Germany of the entire male population of especially important battle areas, as provided for by the order of the Supreme Commander South-East of 10 August 43(NOKW No 155, exhibit 306, document book XII, page 94) had not been carried out in Serbia.

It should be mentioned that in Serbia existed a, great lack of manpower. A deportation of manpower of entire battle areas would have been therefore senseless. The work allocation in Serbia belonged to the competence of the G.B.W. (Plenipotenciary for Economy) and as of September 1942 to that of the Administration Staff/Dept. Economy; both were not subordinated to v. GEITNER. The transport of captured bandits to Germany belonged to the competence of the Higher SS and Police Leader Serbia, who was not subordinated to the Chief of the Command Staff Serbia(v. GEITNER) either.

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After receipt of the order of the OKW of 8 July 43, also captured bandits had later on been treated as prisoners of war and been deported to Germany.

III.

The defendant v. GEITNER intends on his part to base his arguments on the following:

1.) on his own interrogation under oath:

2.) on the testimony of various co-defendants, insofar as they will be called as witnesses;

3.) on a series of affidavits, partly from German, partly from foreign witnesses; some of these witnesses should be called to appear in person to testify; name and number of those witnesses of the defense which should be called personally, has not been established yet.

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I have read the opening statement for my client.

THE PRESIDENT: As I understand, Dr. Sauter, the opening statement for defendant Lanz has not been delivered to the Tribunal as yet. Is that correct? The deputy Secretary General advises me that it has not been delivered. I understand that there is an effort being made to get it up here shortly. I am informed that the Marshal has gone for these papers now. In the meantime, while we are waiting for them to be brought here I am advised that the opening statement of Dr. Menzel for the defendant Kuntze is ready and can be presented at this time. Are the English translations here and do you have them, Doctor?

MR. DENNEY: If your Honor please, I have sent down from some English translations for the Court and the interpreters and the court reporters and the secretary was just up and said they were on their way. I don't know by which means of transportation but they are somewhere between the assembling room and here at the moment but, not knowing where the assembling room is nor who is going to bring them, I don't think there is anything more I can do about it other than to wait.

THE PRESIDENT: The Tribunal will be in recess at this time, taking its noon recess.

(A recess was taken.)

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THE MARSHAL: Persons in the courtroom will please find their seats.

Tribunal V is again in session.

THE PRESIDENT: Before the next opening statement is made I think that it might be well to read two communications that I have received from the Director of the Language Division. One was received this morning, dated September 15, 1947 which is as follows:

"Subject: Status of Opening Statements in Hostage Case.

"From: Thomas K. Hodges, Director Language Division.

"To: Charles F. Wennerstrum, Presiding Judge, Tribunal V.

"1) Already delivered to the Defense Information is the joint opening statement for the defendants List, von Weichs and von Geitner.

"2) The opening statements for the defendants Felmy, Kuntze, Lanz and von Leyser are in the process of translation and will be delivered to the Defense Information Center before the end of the work day, September 15, 1947.

"3) The opening statement for the defendant Dehner, Kuntze, Rendulic and Speidel have been turned over to the interpreter staff of Military Tribunal V and should be ready for presentation in Court by the end of work day, September 15, 1947.

"(Signed) Thomas K. Hodges, Director Language Division."

At the time of the recess I found on my desk a further communication from Mr. Hodges which is as follows, dated September 15 1947:

"From: Thomas K. Hodges, Director Language Division and Chief Translation Branch.

"To: Charles F. Wennerstrum, Presiding Judge, Tribunal V.

"Listed below are the names of the defendants in the hostages case with the date of the arrival in the Translation Branch of the opening statements on their behalf:

"Felmy -- Thursday, September 11, 1947; Kuntze -- Thursday, September 11, 1947; Lanz -- Tuesday, September 9, 1947; von Leyser -- Tuesday, September 9, 1947.

"1) At 12 o'clock September 5, 1947 the opening statements for Kuntze and Lanz had been delivered to the Defense Information Center.

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The statements for Felmy and von Leyser will be delivered to the Defense Information Center in the course of the afternoon.

"2) --the opening statements for the defendants Foertsch, Dehner, Rendulic, and Speidel were received, I am told, at 1730 hours Friday, September 5. I should like to point out, however, that these statements did not reach my desk until 9 o'clock Monday, September 15. These statements are being translated at the moment by the interpreter staff of Military Tribunal V and will be ready for presentation in court by the end of the work day, September 15, 1947.

"Signed: Thomas K. Hodges, Director Language Division and Chief Translation Branch."

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There was handed me by the Defense Center a statement, which indicated the information that had been given them, which shows that the opening statement for the defendant Dehner was received in the Defense Center on September 12th and I am advised by Dr. Laternser that the counsel for the defendant Dehner, Dr. Gawlik, states that he filed his opening statement on September 11th.

As to the defendant Geitner, the records in the Defense Center show it was received on September 10th and Dr. Sauter states he filed in on September 5th.

As to the defendant Felmy, that would show it was received in Defense Center on September 11th by counsel Dr. Mueller Tougow on September 11th.

As to the defendant Foertsch, it was filed in Defense Center on September 13th and the counsel, Dr. Rauschenbach, states that he filed it on September 13th.

As to the defendant Kuntze, it was filed in Defense Center on September 10th and Dr. Menzel states it was filed on September 10th.

As to the defendants List and Weichs there are no complaints.

As to the defendant Lanz, it was filed on September 8th and Dr. Sauter states it was filed on September 8th.

As to the defendant vonLeyser, it was filed in the Defense Center on September 9th and Dr. Tipp states it was filed on September 8th.

As to the defendant Rendulic, it shows that it was filed on September 12th and Dr. Fritsch states it was filed on September 10th.

As to the defendant Speidel, it shows that it was filed as on September 13th in the Defense Center and Dr. Weisgerber states that he filed it on September 12th.

As to all counsel, other than Dr. Fritsch, there does not seem to be any excuse for the delay that has been occasioned in the presentation of these opening statements. This Court originally adjourned to convene on September 12th and this Tribunal does not see where there is any excuse for the filing of any opening statements on September 13th, 12th, 10th or 11th or any of those days.

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If there is any delay here occasioned by it, the Court will endeavor it by requiring the necessary translation by the interpreters themselves.

This statement is made for the record to show the occasion of the reason of any delays.

DR. SAUTER:(Counsel for the defendants Lanz and von Geitner.) Your Honor, the statements which have made to you by the Translation division are not correct with respect to my clients, but are incorrect. For sometime I have had the habit to always ask for a receipt, which shows the date when I have submitted certain material. I apply this precaution because I have had many sad experiences in the early days. I have here two receipts by the Defense Information Center, that is the roper authority where we defense counsel have to submit our documents. The confirmation for the opening statement for the defendant von Geitner says here expressly, "Delivered on 5 September, 1947." that is 5 September 1947, that was Friday, a week ago and it is signed "Mueller." She is the responsible employee for the Information Center for the Defense. Furthermore, I have here a receipt for the opening statement for General Lanz, which is a receipt showing that this statement was submitted in four copies, as is prescribed, on 8 September 1947, that is a week ago today.

I had assumed , and I assume even today, that one week should be sufficient to translate an opening statement to the extent of about ten pages. This second receipt is signed, regarding the statement for General Lanz, is signed by an employee, "Falkemeyer" of the Defense Information Center.

Your Honor, I attach importance to this last statement, because you can see from this that I should not be reproached because of a delay of the proceedings. These receipts can be submitted by me at any time in order to prove that the two opening statements were already submitted on the 5th and 8th of September, respectively.

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May I add something else, Your Honor? During the course of the previous weeks, I have asked repeatedly at the Defense Information Center about the state of the translations. It is rather difficult to get information on this because the staff of the defense is not allowed to visit the rooms of the translation branch. We defense counsels can therefore only put our complaints or inquiries to the Defense Information Center of the General Secretary and I have done that. That is for my part, I have done everything I could and everything that has been said to you to the contrary can be repudiated by these receipts, which I have here.

Thank you.

THE PRESIDENT: Dr. Sauter, you have ---

(Dr. Sauter hands the receipts to the Tribunal.)

DR. SAUTER: This is for Lanz for the 8th of September and for von Geitner for the 5th.

THE PRESIDENT: Dr. Sauter, will you take one of the earphones so I can make a statement?

I think I avoided making any statement or criticism, which might apply to you, Doctor, I did endeavor to restrict any critical statements to any documents, which were filed prior to September 10th. I again repeat, however, that I can see no excuse for the documents being filed September 10th and afterwards. We were to have convened on September 12th and I cannot see how we could have been prepared to have opening statements when some were filed on September 10th, 11th, 12th, and 13th. The criticism was not directed to you, Dr. Sauter.

DR. SAUTER: Thank you, Your Honor.

THE PRESIDENT: I understand we are now prepared to have the opening statement for the defendant Kuntzby Dr. Menzel.

DR. MENZEL: (Counsel Menzel for the defendant General Kuntze.) Before I read my opening statement, I would like to say one thing concerning the reproach which we have heard concerning the delay of sub mitting our opening statements for translations.

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I had submitted my opening statement on the morning of Wednesday, 10 September and I then pointed out that I was the second person to read the statement and that it would have to be finished on Monday

morning. Thursday the 11th we made inquiries as to whether it would be ready in time on Monday morning and everyone was indignant that we should ask, as that would be a matter of course, that it would be finished on Monday if it was submitted on the previous Wednesday. Well, that finished the matter as far as we were concerned. This morning we again made inquiries and we were told it would not be ready until one o'clock as it had to be stapled, so that it would be at our disposal at 2:00 o'clock. At 1:30 we again made inquiries and we were told an error had occurred and two pages had been omitted and that was the reason that caused the delay.

I am of the opinion that we of the defense counsel, or at least my own person, is not at fault and we cannot be liable for other departments and for delays which occur there.

May I now turn to my opening statement?

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Your Honors:

The accusations brought against General Walter KUNTZE in the indictment concern the time between the end of October 1941 and the beginning of August 1942, when General KUNTZE was acting commander-in-chief of the 12th Army and acting commander-in-chief in the occupied district South East.

This command of General KUNTZE had been limited by the Army Personal Office to the period of illness of Field Marshal LIST who was Commander-in-Chief of the 12th Army and Commander-in-Chief South East. It was originally intended for 4 to 6 weeks only but as a result of the longer duration of Fieldmarshal LIST'S illness and his later re-assignment its extension was implied.

Respecting the duration, from a point of view of time, of his activity as acting Commander-in-Chief of the 12th Army and acting Commander-in-Chief in the occupied district South-East, according to the statement of the prosecution itself, it is established that General KUNTZE took over command on 27 October 1941 and held it until 8 August 1942.

From these established facts three deductions of a fundamental nature may be made to which I should like to call special attention at the beginning of my opening statement:

1. As a result of taking over the command on 27 October 1941, the defendant KUNTZE is freed from practically all responsibility for events in October 1941 and the beginning of November 1941, since General KUNTZE during the period after he assumed command had first of all to get a general idea of his territory and the position there before he could occupy himself with details at all.

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2. As a result of being appointed merely as deputy for a period of time limited in advance, his direction was naturally within certain limits. This consisted above all in the initial stages of his command in the obligation to already existing situations created by the command before he took over.

3. The activity of General KUNTZE consisted in the first place in the carrying out of operative measures. General KUNTZE looked upon the success of these measures as his main task as is the case with every director of strategy conscious of his responsibility. Within the frame-work of this activity the task arising out of the occupation of the South East which were passed on to the Territorial commanders to be dealt with independently were only of secondary importance. From this point of view the characteristics of the offence which form the basis of the indictment must be assessed too.

In my closing speech I will go in more detail into the legal problems which have to be dealt with in these proceedings. Moreover, they have already been thoroughly discussed by my colleague Dr. LATERNER in his opening statement. Therefore I can limit myself to referring briefly to these questions in my opening statement:

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The prosecution bases its accusations exclusively on the Control Council Law No. 10 of 20 December 1945 to prove the punishableness of these incidents. This law, however, was only proclaimed some years after the events with which the prosecution charges the defendant KUNTZE. Therefore, it endeavours with retroactive power to create a punishable characteristic of the offence. In accordance with the legal principles recognized in the criminal law of all civilized countries "nullum crimen sine lege" and "nulla poena sine lege" the subsequent standardisation of a punishable characteristic of an offence cannot, however, constitute punishableness if at the time the offence was committed no norm of punishment existed. If international law had wanted to punish these actions before 1939 the possibility of doing so would have existed for even then there were innumerable international agreements into which such norms of punishment might have been inserted. It will be stated further that other rules of international law too which are binding for a German citizen were not violated by the defendant KUNTZE.

In this connection, I shall demonstrate that international law, insofar as it has not been incorporated in German Reich Law, simply cannot incur a responsibility on the part of individuals. For international agreements entail obligations only on the part of the contracting countries themselves.

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This applies also to the Geneva Convention and the Hague Convention, quite apart from the fact, that in these agreements any standardization of punishableness is lacking in the event of contravention of the rules by one of the partners to the treaty.

Therefore, the defendant KUNTZE could only be held responsible for violation of existing German laws. Since he is accused of acts which he is supposed to have committed as a soldier, the question of responsibility arises only if such exists for these acts according to the Military Penal Code. It will be demonstrated that the measures taken by the defendant KUNTZE were carried out on orders of the highest command of the Wehrmacht and within the frame-work on instructions issued by the latter which were binding for the defendant KUNTZE. In carrying out these orders the defendant had to assume that they were in accordance with the rules applied in Martial law. Accordingly the defendant KUNTZE is exonerated of responsibility in accordance with Par. 47 of the Military Penal Code as I shall demonstrate more fully in my closing speech.

In addition, in these proceedings, the right of admissibility of reprisals, in particular will remain to be thoroughly examined. I shall demonstrate in my closing speech that there is no international law concerning the taking of hostages. In international literature the right is disputed, is, however, extensively recognized as permissible and that also in the literature of Anglo-Saxon countries.

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Therefore there can be no question of prohibition of the taking of hostages. Add to this that, as the nations' conduct of war proves, this right has been exercised until most recent times. The same holds for the right of execution of persons as reprisal hostages in connection with unbearable offences of the enemy against the conduct of the war for which the latter are made responsible.

From the point of view of proportionality I shall demonstrate and prove that in the literature pertaining to international law no limit is fixed for the proportion of atonement. The standard is rather dutiful assessment.

Further discussions in my closing speech will deal with the question of obedience to orders issued. I will go into the character of the military orders and show that these were binding and that non-adherence to them would have been tantamount to revolt against the supreme power. In this connection too, the question of responsibility for measures on the grounds of such order will have to be gone into. I shall demonstrate that orders of the highest command of the Wehrmacht constituted in principle no responsibility on the part of the organs carrying out the orders that rather the responsibility was borne exclusively by the commander in Chief of the Wehrmacht.

Such orders were not subject to checking so that the military rank of the person carrying out these orders was of no account.

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In themselves simply they had the appearance of legality. In a material respect I shall demonstrate the following:

According to Count I of the Indictment General KUNTZE is accused of killing civilians of the South East Area, in so far as this was occupied by Germany, by collective punishing. On the contrary I shall prove that the defendant is not guilty of the charge brought by the prosecution. The execution of reprisals, especially killing reprisal hostages, cannot be traced back to the initiative of the defendant KUNTZE. He neither introduced them in the South East area, nor caused them to be carried out initially. When the defendant KUNTZE took over his duties as deputy military commander South East, he found many orders pertaining to collective punishment already in force. The defendant KUNTZE could not make any changes then, because these orders had already been issued to the subordinate military posts and besides, he was not familiar with conditions in the Balkans at the time he took over his duties. Furthermore, he was only sent to the South East as deputy military commander South East for the duration of his predecessors illness. Finally, the defendant KUNTZE had to accept, as legally binding, these orders that had been issued, and of which he only learned by and by because his position kept him very busy right after he took over his command, especially since he had to make

official trips through the territory he controlled, because they had been issued by order of and in accordance with the directions of the superior office.

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Therefore, these reprisal measures, which were carried out according to these orders, cannot be considered as a charge against the defendant Kuntze.

It can also not be said, as the prosecution says, that the defendant KUNTZE must have realized the "criminal nature" of those orders. As shall be proved, the execution of these orders during his command was no violation of existing national or international laws, and especially not a crime against international law or humanity, even though they necessitated severe measures, such as a war naturally brings to humanity.

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In particular, the execution of these reprisal measures did in no way represent, either in purpose or goal, a plan to terrorize the civilian population, as the prosecution maintains. They were, rather, as shall be proved the result of acts in violation of international law on the part of a portion of the population of the occupied countries, who endangered the peace and security of the occupied South East area by attacks on the German occupation troops, by sabotage and by fighting amongst themselves. Therefore General KUNTZE must necessarily get the impression, from the continuously arriving reports from subordinate offices and commands, that quiet and security in the South East area could only be guaranteed by means of strong measures, as had been ordered by the High Command of the Army and through corresponding orders issued by the military commander South East before he (KUNTZE) took command. The restoration of order was also a duty of the occupation troops toward the civilian population. Even though General KUNTZE had to be convinced, after seeing local conditions and learning about the existing regulations, that stern measures were absolutely necessary, he none the less left no stone unturned, while he was in command to soften the prescribed measures for the benefit of the population. Thus he influenced General BADER in this respect, as will be proved, and arranged, among other things, to have the reprisal ratio reduced through General BADER.

It will further be proved that in the spring of 1942 General KUNTZE even personally requested the highest Army leaders, i.e. JODL and KEITEL, to have the measures softened. He did this even though he well knew that at that time such a request would have personal disadvantages. This is even more so, because he was already considered by the Army High Command as too mild and too soft. He cannot be blamed if his requests were not successful, but rather his attempt must be recognized. At any rate, he could not simply ignore the orders issued by the highest Army leaders, especially since these were issued by HITLER'S express order.

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From then on his efforts were directed toward softening the execution of these orders in his area of command. It shall be proved that the orders concerning reprisals were not carried out to the extent ordered. On the contrary, many of his subordinate offices and commands deviated, with his consent, in

many individual cases, from the reprisal ratios ordered by the Army High Command. I shall show the Court, by a comparison of the losses of the German troops, and their Allies, with the number of persons shot in reprisal during the time General KUNTZE was responsible, that only a fraction of the number ordered by the Army High Command was involved. Also, inaccurate reports of high losses of the Partisans were made to the military commander South East, and by him to the Army High Command. It will also be proved that wherever possible, cruelty was avoided in the selection of the persons to be used in the carrying out of the reprisals. This was especially done by almost exclusively using persons who, through their activities, already deserved the death sentence according to the laws of war. Apart from this it is pointed out that in the final analysis it is not possible to force an elementary incident such as a war, into a legal frame work. Every occupation force must be prepared to use the means that are deemed necessary to assure order and security in the countries it has occupied. The history of war of the past as well as of modern times proves that the application of the measures necessary to insure the security of the occupying force and of the population depend primarily on existing conditions and that the usual standards must necessarily be relegated to the accomplishment of these goals.

In so far as the defendant KUNTZE is accused, under count 2 of the indictment, of burning down homes, I shall prove that there can be no question of a "far-reaching devastation of the occupied country," as maintained by the prosecution. The prosecution has only submitted three documents in support of this statement, in which it is shown that homes were burned to the ground while the defendant KUNTZE was in command. I shall show later that two of these documents do not concern the defendant KUNTZE.

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However, the burning of the house mentioned in the remaining document was, as I shall show, entirely justified by the existing regulations.

Up to this point the prosecution has offered no proof to support its charge that the economy and industry was ruined in order to lower the economic and industrial potential and to destroy the population. To refute these statements of the prosecution I will show that the German army commands did everything they could to bring the economy, which had above all been upset by the Partisans, on its feet again. Railroads, factories and mines were repaired. The German authorities also did all they could under the circumstances to intensify the agricultural program, Over and above that, relief measures for the population of the South East area were instituted, as I shall show in detail in final argument.

In so far as the prosecution looks on the Partisans as members of a regular army, and considers the measures carried out against them as crimes against members of Allied forces, as set forth in count 3 of the indictment, it is pointed out that the prosecution has not so far been able to prove the correctness of their contention.

I shall show that it was only in later years that Allied governments considered the question of whether or not they should recognize the Partisans in the Balkans as regular armed forces. The prosecution will not, on the basis of the evidence they have presented, be able to maintain the charge in the indictment that these bands fulfilled the requirements necessary for recognition as a regular army during the time

up to August 1942, which is the period that the defendant KUNTZE held the positions of Deputy Commander in Chief of the 12th Army and Deputy Army Commander South East.

I shall prove that these bands or Partisans had nothing in common with a regular army. As shall be proved, they generally wore civilian clothes without any insignia that could be recognized from a distance, or also captured uniform pieces, often even German uniforms which they had taken off of dead German soldiers.

Page 3,054

But what is most important, they did not fight according to any rules or customs of war. They did not carry their weapons openly and only fought from ambush. They evaded every open battle. They did not treat captured German soldiers according to the rules of international law or humanity. Captured German soldiers, including the wounded, were murdered. But their deceitful warfare affected not only the German occupation force but also their own people whom they harassed and often forced to tolerate and support their deceitful warfare. As a result of these violations of international law they had to be considered and treated as armed insurgents.

The activities and methods of such bands are known from World War I. This irregular activity of bands is also characteristic of the Balkans. As shall be shown, every foreign occupation force in the Balkans must count on this ambush warfare and meet it with appropriate measures. Even until this day the activity of bands is a source of trouble which does not allow peace to settle in the Balkans.

Therefore, this partisan movement in the Balkan, traceable through the whole course of history, could surely not have been a consequence of the German invasion, as the Prosecution contends. On the contrary, I am going to prove that it was just that Guerilla-bands activity which first engendered the counter-measures ordered by the German Army Chiefs. Consequently, the German Army was in a state of legitimate defense in combatting these bands by way of the measures ordered.

Moreover, I shall prove that the defendant KUNTZE was not the first to order those measures against the Guerilla-bands movement taken by the WB (Military Commander) South-East. Also in this respect there had already at the time, when General KUNTZE took over, various binding orders by the German Army Chiefs been in existence, which resulted in the orders issued by the offices charged with maintaining order and security. Though considering these measures as a legitimate counter-defense by the German Army Chiefs in view of all the reports he had received about the extent and nature of the Guerilla-movement, General KUNTZE nevertheless endeavoured to mitigate those measures in accordance with the situation and with his humane attitude, as I shall prove.

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It will also be proved that his remonstrations with the German Army H.Qu. were in vain, and even considered as evidence for his weakness. I shall explain that the measures taken so far by the WB-South-East (Military Commander SouthEast) were, in a sharp manner quite unusual among military men, called inadequate and that orders were issued to take the harshest measures possible.

Moreover, the defendant KUNTZE also endeavoured to mitigate the measures he had to carry out in consequence of orders received, as I shall prove. I shall also prove that the defendant KUNTZE even allowed that captured partisans whom he ought, on account of the orders issued, to have shot, were not shot, but employed as laborers, thereby saving them from the death which in fact they would have deserved.

As far as the defendant KUNTZE is charged by the Prosecution with the responsibility for orders issued and measures taken by commands subordinated to him, it will be proved that not all the orders and measures of these commands were brought to the knowledge on the defendant KUNTZE. It will be explained that those orders and measures which came to the defendant KUNTZE's knowledge at all, did not allow any action on his part, as they did not exceed the binding orders of the (OKW) Supreme Command of the Armed Forces. On the other hand, the orders and measures which did not come to KUNTZE's knowledge, cannot be charged to his account. In this respect, any responsibility on his part is out of question.

Furthermore, I shall refute the allegation of the Prosecution that partisans had been shot without any judicial procedure. Contrary to what the Prosecution asserts I shall prove that, when the fighting subsided, at least a simplified summary court martial procedure has been instituted.

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In as far as the Prosecution blames the defendant KUNTZE for the so-called "Commissary Order", it will be proved, that this order was issued exclusively for the Eastern theatre of war. But even in the East that order was not carried out by the defendant KUNTZE in the form submitted by the Prosecution. I shall prove that captured commissars were, by explicit order of the Supreme Commander of the 9th Army, under which the defendant KUNTZE was in the East, not to be shot, but to be treated as Prisoners-of-War. In accordance with this order the matter has then been treated in the area of the 9th Army.

As far as General KUNTZE is charged by the Prosecution with the so-called "Commando-order" it will be proved that the defendant KUNTZE was, at the time when that order arrived at the Military Commanded South-East already with the Reserve Army, and had, as Chief of the training in the Reserve Army, nothing to do with that order, so that he was not in a position to carry it out nor to pass it on.

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Besides, in this respect, a conclusive statement on the part of the Prosecution is lacking.

Count 4 of the indictment refers to the charge to have terrorized the civilian population by deporting them for forced labor and detaining them in concentration camps. In opposition to the allegation that deportation of so-called unreliable elements into concentration camps had been ordered and carried out by the WB (Military Commander) South-East or by Commands Subordinated to him, I am first going to prove that those camps were no concentration camps as known today but only so-called Community Camps (Sammellager); so far the Prosecution has really in no way alleged, let alone proved, that the

characteristics of a concentration camp in the currently accepted meaning of that word can be applied to these camps. The necessity to establish so-called Community Camps, however, is in no way incompatible with the rules of International Law, as I will explain in my closing speech, the more so, as also other states considered it necessary to establish camps of this kind even in recent times, and did, in fact, establish here.

Furthermore, I am going to prove what membership to a certain national group or, race or political grouping were, in themselves, no reasons for concentrating people in such community camps. It will be shown that on the Balkans, Communists, Jews and Gypsies were particularly active in the Intelligence Service of the partisans or helped them in other ways, thus proving themselves suspect of being connected with guerrillas and as unreliable elements. Besides, evidence will show that detention in these community camps was not ordered arbitrarily. On the contrary, explicit orders were issued to the effect that it had to depend on the results of the re-examination of the detained, whether they had to remain in these camps.

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I will show that people who proved to be innocent were released. This is, as I will explain, clearly shown by various documents submitted by the Prosecution itself, where, in speaking of Community Camps, also releases are mentioned.

Moreover, I shall prove that the people left in these camps after reexamination were particularly after December 1941, almost exclusively captured partisans or their helpers, who would have deserved to be sentenced to death according to the laws in force. Therefore, it was only just to use these people in the first place when reprisal measures had to be carried out. Incidentally, the defendant Kuntze found those Community Camps, when he took over his official duties, already fully established, so that it was not he who ordered to establish them.

Never has the defendant Kuntze, as alleged by the Prosecution, ordered to establish Jewish Concentration Camps in the current meaning. The Prosecution has produced no evidence for that. Camps of that kind did not exist in the South-East.

Insofar as the defendant Kuntze is charged by the Prosecution with the crime of using partisans in Serbia as workers in the interest of the Germans, it must be replied that this measure was in the very interest of the persons concerned. This way they were saved from well-deserved death. Besides, the Prosecution neither conclusively contended nor proved that any facts about a treatment of these laborers in a manner contrary to human dignity had come to the defendant Kuntze's knowledge while he was in command.

Furthermore, it is asserted that only the Police was authorized in matters regarding employment of prisoners. The police received their orders from the quartermaster General and from Himmler himself, as I shall prove. In so far there is no responsibility on the part of the defendant Kuntze.

In this connection the partly overlapping command-channels will be demonstrated, as found by the defendant Kuntze when he took over. In the first place it will be proved that the Military Administration often acted quite arbitrarily and that repeated representations were made by the

defendant Kuntze regarding the Administrative Staff of the Military Commander in Serbia, even, that frequently the relief of the Chief of the Administrative Staff had been demanded from the O.S.F. (Supreme Command of the armed forces). Having concluded my statements referring to the counts of the indictments I deem it my duty to point again to the difficulties confronting me as a counsel for the defense.

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I can, at this moment, deal only with material that has been chosen and submitted by the Prosecution from the point of view, that of-course-suits it best. The evidence concerning the events that induced the defendants to take the various measures, is, on the other hands, generally not accessible to me. In as far as the documents submitted by the Prosecution do not yield circumstances apt to exonerate the defendant, I am in the main reduced to relying on my client's memory which has suffered in consequence of the long duration of the war and the frequent changes in his military appointments but particularly also as a result of his being psychically affected by the events of the post-war period, so that it has become deficient in a way. Thus, the defense is not in a position to contribute their share in clarifying the extensive material of the trial which would be necessary in the interest of conducting this trial objectively. In addition, the time available to the defense for preparing the evidence must be considered a very scanty one compared with the time at the disposal of the Prosecution for collecting their evidence and preparing their line of action. In this connection I well may point to the difficulties encountered on account of the prevailing state of affairs regarding mail and communications in Germany in carrying on the necessary correspondence in view to collecting evidence. Under these conditions I feel bound, by way of precaution, to reserve all those rights for the further conduct of the procedure which may result from that difficult position of the defense in the further course of this trial.

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In conclusion, may I be permitted to mention the following facts concerning the personality of the defendant Kuntze, which I shall prove by submitting affidavits.

General Kuntze was a general of the old school, who was never eager to push himself to the foreground or to expose himself, but on the contrary did his duty with reserve and modesty. He was deeply religious and had a pronounced sense of duty. By all people who know him he is described as a just superior whose paternal care was appreciated by the soldiers entrusted to his care. His attitude to the population of the occupied countries was also humane, and to the best of his ability he looked after this population. It is significant that he never enjoyed the favour of the people then in power.

It was known that he was not in good repute either with Hitler, or with the Supreme Staff of the Wehrmacht, which is shown by the fact alone that he was not promoted during the whole war and was not appointed Supreme Commander of the 12th Army nor Military Commander South East.

Surely an officer of this type was not capable of consciously committing war crimes or crimes against humanity, such as he is charged with.

DR. RAUSCHENBACH (Counsel for the defendant General Foertsch): The interpreters have the translations –

THE PRESIDENT: Just a minute, please. I understand that the translation for the defendant Lanz has now been furnished to the Tribunal -- or can be furnished to the Tribunal – in its English translation. If Dr. Sauter is agreeable, we might hear it at this time.

DR. SAUTER: (For the defendant General Hubert Lanz) Your Honor, General Hubert Lanz has merely been indicted because of alleged incidents in the Epirus sector which was under his command (including the Jonian Islands). It is an established fact that Lanz was never military commander ("Militaerbefehlshaber") for Greece or her north-west districts but merely troop commander as commander of the XXII Mountain Corps.

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He was given this post in Athens in the middle of August 1943, but in fact it was not until 9 Sept. 1943, that he took over the command in the Epirus sector (See Doc. Vol XIX; page 82) which he kept until 13 Oct. 1944 until the evacuation of German troops from Greece.

During this period he was absent for almost 4 months (i.e. from 11 Jan. 1944 to 25 Feb. 1944 on home leave and from 5 March 1944 to 4 May 1944 on assignment to Hungary) so that by this reason alone he is for the above mentioned periods, not responsible for actions which at that time were supposedly carried out in the Epirus sector.

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DR. SAUTER: "Courts of the Indictment against General LANZ" The Prosecution charges all defendants, thus also General LANZ, with having PLANNED THE TERRORIZATION OF THE BALKAN PEOPLES and having made this plan the basis for their conduct.

Defendant LANZ knows nothing of such a plan, he neither received orders concerning such a plan nor did he ever hear of such a plan in the course of official or private conversation. The defendant encountered this supposed plan for the first time in the bill of indictment of this trial."

Then, Your Honors, on Pages 2, 3 and 4 I have compiled the individual points of the indictment which the Prosecution charges. And I have marked the individual documents to make it easier for the Tribunal. I do not want to read this compilation here; instead I shall turn to the second chapter on Page 4, under Roman numeral II.

"General-LANZ'S Reply to the Indictment LANZ makes the following reply to the individual counts of the indictment, reserving legal problems (such as the Tribunal's competence, the right to make reprisals, limitation of the binding force of military orders, etc.

etc.) to be dealt with at a later date.

A.) General remarks:

1.) In the Epirus sector, LANZ had the task to prevent a landing of Allied troops on the north-west coast of Greece and, for the purpose, to maintain peace, security and order in the country. It was his intention to fulfill that latter task in a peaceful manner, if possible, in order to save his troop from losses and at the same time to spare the country and the population of the occupied territory.

In the course of his efforts in this direction, during the whole period of his activities in the Epirus sector, LANZ

a) worked in Joannina on a peaceful footing with the authorities of the state, the towns and the church;

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b) supported as far as possible the International Red Cross under direction of the Swiss BICKEL,

c) assisted the peaceful population and spared them as far as permitted by war conditions and

d) by mutual agreement avoided whenever possible fights against the national partisans (under General ZERVAS).

General LANZ' efforts were also successful and were recognized by the Greeks.

2.) In the course of his troop inspections which took place nearly every day as well as his numerous conferences with the commanding and line officers he continuously pointed out that all unnecessary severity towards loyal civilians should be avoided so as to ease the inhabitants' heavy burden.

Whenever he learnt that the troop had nevertheless taken measures which were unnecessary in the light of the military position he intervened rigorously and took steps for the punishment of the culprits.

3.) Defendant LANZ opposed the question of hostages on principle. On a single occasion only forced by conditions, did he order the taking of hostages; the hostages were released again as this measure had the desired results.

Besides, the above mentioned order was fully justified from a military point of view and it was also in keeping with American regulations since it was meant as a protection of lines of communication of special tactical importance.

LANZ never ordered any measures for reprisals.

He did, however, express the hope in an obituary notice for a regimental commander (Lieutenant Colonel SALMINGER) murdered by partisans (see order of the day to the Corps dated 1 Oct. 1943 contained in Doc. Book XIX page 128, [NOKW 867](#) Exh. 453) that the division would avenge this murder by a ruthless action of retaliation.

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With this he did not intend to hit innocent inhabitants but to send the culprits to their deserved punishment; as he must have thought that the latter were hiding near the place of murder, he ordered that the area for the carrying out of the action be restricted (20 km).

LANZ never ordered or approved of the destruction of localities unless such destruction was tactically necessary during a battle. The Prosecution's assertion referring to the existence of concentration camps does not apply to Gen. LANZ' command.

4.) As can be seen from Document Volume XIX p. 1104. [NOKW 1104](#), Exh. 451 and Volume XIX p. 150 [NOKW 864](#), Exh. 455, which have been submitted by the Prosecution, the first Mountain Division under the command of General LANZ issued in September and October 1943 "special orders" concerning the Ic-department (that is, enemy propaganda and counter intelligence) which, among other things, also contained instructions about measures to be taken with regard to hostages. General LANZ learned about these "special orders concerning the Ic-department" only now that these two above-mentioned documents have been submitted.

5.) With regard to the reports frequently mentioned in the documents, LANZ, in connection with the procedure and in order to clarify his sphere of responsibility, states the following:

Reports by battalions, regiments, etc, etc, to the divisions which were not transmitted by them to General Headquarters remained unknown to the latter. Therefore, the commanding general (LANZ) could not be expected to know about them.

Reports from the divisions to General Headquarters went to HQ Department Ia (operations), were coordinated there, and were then submitted to the chief-of-staff. The chief-of-staff in turn made an usually oral report to the commanding general about all the essentials in the sphere of daily tactical orientation. If at that time there were objections, uncertainties, or if it was necessary for General Headquarters to issue orders, the chief-of-staff was instructed to clarify the circumstances or to carry out the orders, respectively.

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If the chief-of-staff, in the course of his examination of the circumstances, would establish that an offense against issued orders or another misdemeanor had been committed, the offenders were held responsible for their actions by the commanding general in the appropriate manner.

The relay of daily reports from the corps to the superior command (army or group of armies) took place usually by way of telephone or telegraph through Ia or his assistant (the 01) after having been read by the chief-of-staff, in important cases after having reported it to the commanding general.

The written daily reports which came into general Headquarters from the subordinate mixed forces were submitted to the commanding general only in exceptional cases, namely, if it was a question of matters which were important from a tactical point of view or of reports personally signed by the division commanders. Whether or not a division commander would personally sign a report was left to his discretion.

6.) General LANZ will prove further that at the time when he had dealings with them and within his sphere of jurisdiction, the majority of the partisan organizations did not act according to the provisions of the Hague Land Warfare Regulations, and, specifically, that their manner of warfare in many cases grossly violated the regulations of warfare and the law of humanity. In this connection, the civilian

population in many cases illicitly supported the partisan organizations and participated in the fight against the German troops. The counter measures ordered or approved by LANZ were essential for maintaining order in the country and for the security of the German troops.

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The warfare of the partisan organizations and of part of the civilian population, which ran counter to international law, also had the result that the troops themselves on their own initiative carried out retaliation measures in their indignation about the enemy's atrocities. However, since the troops knew that General LANZ was in principle opposed to such measures, they were sometimes not reported at all, or they were reported in such a manner that they appeared as having been taken solely in the course of battle, so that the General would not have any reason for interfering.

7.) On the occasion of the capitulation and disarming of the Italian army in Greece (September 1943) General LANZ, in contradiction to orders issued by the Fuehrer, took it upon himself to carry out measures favoring the Italians, which caused the disapproval of his superior officers at the time and his down-grading because of "lacking severity". Details are reserved for the actual presentation of evidence.

Specifically:

To the individual points mentioned above under I, General LANZ will bring evidence for the following facts:

To No. 5 j:

Not ordered by LANZ and not known to him at the time of execution. If he should have received a report about that from the First Mountain Div. dated 30 September 1943 afterwards -- a fact which he cannot recall -- this subsequent report obviously could not lead to the conclusion that it was here a case of subsequent revenge, but rather the report gave the impression that it was a question of a tactical measure, that is to say, of shooting partisans in the act of sabotage during fighting with parts of the First Mountain Division.

To No. 5 L:

It is here a case of a surprise attack by a gang of partisans on a part of the escort party of General LANZ which was overtaken and left behind on 3 October 1943, on the main road, 13 kilometers south of Joannina, General LANZ learned about that only during the day.

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It is not a case of shooting "hostages" (that is, persons who had already been captured before the surprise attack), but, rather, it is a case of killing the attacking partisans in the course of action (surprise attack).

It is possible that further "retaliation measures on the part of the troops were instituted", but there is no further report on and about what is supposed to have constituted these "retaliation measures" and whether or not they were really carried out.

To No. 9 f:

The destruction of Akmotopos and the alleged execution of its entire population was not an act of reprisal, but was carried out in the course of a tactical "mopping-up operation" against a strong partisan group which had been operating from the area around Akmotopos for a long time, which carried out continuous attacks on the main communication road Joannina - Filippias, and which maliciously murdered first the chief of a bakery company (thus not of a fighting group but of a supply organization) by name of STITZINGER (father of five children) and soon after that the commander of the Mountain Infantry Regiment 98 (Oberstlt. SALMINGER).

The order for this mopping-up operation was given independently by the 1st Mountain Division on the strength of their knowledge about the enemy situation even before the "daily corps order" of 1 October 1943 at 1900 hours had been received by the Division. The daily corps order, by the way, did not contain any instructions about shooting hostages or any other concrete reprisal measures, but aimed only at punishing the malicious killing (murder of regiment commander Oberstlt. SALMINGER) in the person of the perpetrators whom General LANZ thought to be in hiding near the spot where the murder was committed. It was the duty of the General to protect his troops against continuing malicious partisan attacks from such supporting bases and from thereby suffering heavy losses.

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According to the report of an eye-witness, the population of Akmotopos had left the village already before the fighting began; parts of the partisan group were fighting with rifles and machine guns in the village itself and nearby, so that the village had to be stormed by the attacking troops with mortar and artillery support.

To No. 9 j:

Was not ordered by LANZ nor did he know about it at the time of execution. The Korea area in Albania was always made insecure by Communist bands, and the civilian population regularly participated in the fighting on the side of the bands. The village in question was occupied by bands and was defended by them with the aid of the civilian population. The report of 1 December 1943 (NOKW 755 Exh. 449) expressly states that the village was taken "against resistance". Therefore, this is not a case of reprisal measures, but of house-to-house fighting in the course of a combat operation. The mopping-up operation taking place in the area of Korea at that time was aimed against the bands operating there. The corresponding order did not originate with LANZ, but was independently given by the local troop commander.

To No. 12 b:

The "Kommissar Order" dated 8 June 1941, was not issued by LANZ nor transmitted by him during the whole term of his activities in the Epirus.

To No. 12 h:

The "Kommando Order" dated 18 October 1942 was not issued to General LANZ nor transmitted by him during the whole of his term of activity in the Epirus.

To No. 12 i:

The so-called "Italian Order" of 11 September 1943 (Doc. Vol. XIII, p. 40, Doc. [NOKW 910](#), Exh. 327) concerns Rendulic only. LANZ had nothing to do with it.

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To No. 12 j:

The Italian General GANDIN had twice been ordered to lay down arms and to surrender to the German Wehrmacht. This order was once given by his Italian commander-in-chief, and the second time by General LANZ himself, after GANDIN had voluntarily surrendered to LANZ and had requested such an order. General GANDIN, however, did not execute these orders, but commanded his troops to fight, yes, even to attack the German troops on the island of Kephallonia. This was how General LANZ was forced to suppress the Italian revolt and at the same time, to relieve the German occupation force on the island Kephallonia who were in distress. In the course of this fighting which lasted several days, and which General LANZ had attempted to avoid, both sides suffered great losses. General GANDIN, contrary to his orders, commanded and tolerated this fight against the German troops, which went on without Italy being in a state of war with Germany at the time. In spite of this, General LANZ did not execute the order issued by his superior according to which at first every Italian and later at least every officer who offered resistance to the German troops was to be shot.

On the contrary, he ordered an investigation by a summary court martial against GANDIN and the other officers of his staff who were guilty. The shooting of General GANDIN and of a part of the officers who had been pronounced guilty then took place on the strength of the verdict of this summary court.

To No. 14:

General LANZ had nothing to do with this. These matters belonged into the sphere of competency of the Higher SS and Police Leader in Athens who was not subordinated to the commanding general of the XXII Mountain Army Command, General LANZ.

To No. 15:

General LANZ had nothing to do with this either.

In conclusion, Roman numeral III, "Presentation of Evidence by General LANZ", I have to state that "General LANZ intends to support his evidence on the following:

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- 1.) his own interrogation under oath,
- 2.) the testimony of various co-defendants, insofar as they are called into the witness stand,
- 3.) a series of affidavits, partly from German and partly from foreign witnesses; some of these witnesses will be called into the witness stand; the names and the number of these defense witnesses who are to be heard in court is at present not yet established."

That is my Opening Statement for General LANZ. Thank you.

THE PRESIDENT: Before the Tribunal adjourns, it might be well to state that the translations have been promised as to the Defendants Felmy and Leyser, and that they will undoubtedly be ready for delivery to the Tribunal and the translators, and the Reporters in the morning. The Opening Statements for the Defendants Dehner, Foertsch, Rendulich, and Speidel will undoubtedly have to be presented through the Interpreters of this Tribunal. However, they will be furnished in typewritten form to the Tribunal at a later date.

The Tribunal will adjourn until 0930 tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until tomorrow at 0930.

(The Tribunal adjourned at 1635 to resume session at 0930, Tuesday, 16 September 1947).

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Official Transcript of the American Military Tribunal in the matter of the United States of America, Against Wilhelm List, et al., Defendants, sitting at Nurnberg, Germany, on 16 September 1947, 0930-1630, Justice Carter Presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session, God save the United States of America and this honorable Tribunal.

There will be order in the court.

May it please your Honors, all defendants are present in the court room.

The persons in the court room will be seated.

JUDGE WENNERSTRUM: Judge Carter will preside at today's session.

DR. RAUSCHENBACH(For the defendant Hermann Foertsch): The interpreters have a manuscript of the translation.

OPENING STATEMENT FOERTSCH Your Honor, the Honourable Judges, The Prosecution charges the Field-M Marshals and Generals who were active in the South-East area with having carried out a well-thought out unlimited program of terror and destruction, by denying and undermining the most fundamental principles of civilization and by arrogant contempt of human beings in enemy territory.

In that manner they madly let loose a senseless torrent of deaths in South-East Europe. In the course of this they are supposed to have shown themselves Henchmen and tools of Himmler, Sauckel and of other Nazi worthies. The Prosecution charges General Foertsch in particular with having played an important part in the realization of this so-called program of destruction and extermination stressing that he was an experienced chief of staff. This is shown by the assertion that the physical presence of Foertsch is

supposed to have given the terms of authority of List, Kuntze, Loehr and Weichs a steady and tragic uniformity.

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As against that I am going to prove that

1) the exposition of events in their totality as given by the prosecution with regard to South-East area does not correspond to the actual developments in any of the four counts, since the prosecution gives an incomplete and therefore incorrect picture of such events, which does not give sufficient consideration to conditions in the Balkans, to the actions perpetrated by the opponents, nor to the activities of those authorities which were not under the jurisdiction of military commanders, thus making no mention of the reasons for the measures of the German Army . With regard to above I agree to the argumentation of counsel for the defense, of the defendants List and Weichs and I shall add a few supplementary remarks thereto.

2) In order to refute the allegation that the defendant Foertsch disregarded and denied the most primitive principles of civilization I shall prove that he always considered the laws of morality and of the Christian religion as binding and that he also observed these laws in as far as he was free to do so during his term of office in the South East.

3) With regard to the further accusation that his attitude and behavior towards the people in enemy territory was distinguished by arrogant contemptuousness. I shall prove that he was in reality a man of varied interests and of comprehensive ideas whose aim it was to, by thorough research to acquire conception of land and soul of foreign nations in order to act to their advantage.

4) With regard to the accusation that the defendant permitted himself to be guided in his activities by a well-thought-out program of terror and destruction , I shall refute that by proving that in order to pacify the country it was all important to him to make the occupation bearable and as little oppressive, as possible, to take into account all desires in any manner reasonable and all needs of the population and further to do all in his power in order to exclude or limit the influence and activities of men and authorities which in ignorance of the problems prevalent in the Balkans aggravated conditions by their faulty measures.

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5) To refute the allegation that the defendant proved himself a henchman and tool of Himmler, Sauckel and of other Nazi worthies, I shall give a true and complete picture of his personality, and thereby make clear his attitude to the dictatorship.

6) As to the accusation that the defendant Foertsch had proved himself the evil spirit who was responsible for the tragic uniformity of the terms of service of List, Loehr and Weichs, I shall refute that by giving an explicit picture of his activities as they really were. Therefore I shall first prove what tasks and authorities were not those of a chief of staff of an Army or of an Army Group according to the service regulation then in force. The following limits were set to the activities of the chief of staff:

- a) He had no authority to give orders or commands to the troops.
- b) He had no authority to supervise the troops nor did he have a disciplinary or judicial authority with regard to the troops.
- c) He had no right to decide in fundamental questions.
- d) Thus he had no responsibility with regard to the troops. I shall prove that the defendant Foertsch observed the limits which according to the existing regulations were set to his activities and that thus he never

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- a) gave any orders himself
 - b) made any decisions himself exceeding his authority. I shall prove that according to the existing regulations his task was merely that of a first adviser to the commander-in-chief. He actually understood his responsibility in such a manner
 - a) that he never tried to provoke stringent measures
 - b) that it was rather his aim to help reasonableness to prevail
 - c) that in consequence he was not a bad but a good spirit.
- 7) But in order to point out the difficulties with which he had to cope, I shall describe the obstacles which he had to deal with. These were:
- a) The dictatorship which could be felt on all sides.
 - b) He was bound by his oaths.
 - c) The orders which were issued to the commander-in-chief by his superior authority and were considered by him himself as binding.
 - d) The orders which had to be issued directly to subordinate troops by these superior authorities which made their activities independent of the orders of the jurisdiction of the commander-in-chief.
 - e) The threat of punishment existing according to the laws then in force.
 - f) The small understanding which the High Command of the Army showed to his submissions and suggestions.
- 8) That General Foertsch in his capacity as chief of staff did not help bring about the tragic uniformity of the reprisal measures, which has been stressed by the prosecution I shall refute by proving that
- a) he was absent just during such times when incisive and fundamental orders were issued.
 - b) he did not consider the part which he had to play as in any manner satisfactory but he tried to be released from these tasks which he felt to be unpleasant and oppressive.

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Count 1 of the Indictment charges the defendants with having madly unleashed a senseless torrent of death. This formulation implies 2 things, namely:

- a) That the defendants had instituted measures of hostage taking and shooting of hostages arbitrarily, that is without cause and without any necessity in blind madness.
- b) Disregarding the assertion that every reasonable cause for these measures is supposed to be lacking they are supposed to have been senseless also with regard to their alleged or asserted reasons which is obviously to be expressed in the words "senseless torrent of deaths".

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with regard to these allegations and at the same time with regard to Count 2 of the Indictment I shall prove the following:

- a) From the very beginning it was the aim of the military leaders in the South-East area to achieve a real pacification of the country which was to be also in the clearly conceived interests of the population of the occupied territory.
- b) These reasonable endeavors of the military leaders were defeated for reasons for which not they but in the first place the opposition were responsible.
- c) The success which was to be achieved by these measures could in part not be realized because conditions occurred which could not have been for seen when the above measures were ordered.

Count 3 of the Indictment Shooting of prisoners of war.

Here we have to differentiate between the following:

- 1) Shooting of members of Yugoslav and Greek forces
- 2) Shooting of members of other Allied forces
 - a) by reason of the Command-Order.
 - b) by reason of the Commissar Order.
- 3) Shooting of members of the Italian Forces.

To 1:

As far as the Yugoslav and Greeks, who had been shot, were concerned they were not members of the Armed Forces of a Nation at war but insurgents who by fighting placed themselves outside of the realm of law, which is shown by the following:

- a) Capitulation of Yugoslav and Greek armies carried out by the commanders in charge.
- b) The actual power in these countries had been transferred to Germany as the occupying power.

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- c) The fight was resumed in violation of international law.

- d) The internationally accepted land war regulations were not adhered to.
- e) Furthermore, the recognition of a power as a power at war is a political decision which was not the task of the military leaders in the South-East.
- f) The military leaders in the South----East endeavored to achieve political recognition of a state of war without being able to raise any legal claims with regard to that.
- g) In spite of the fact that this recognition which they were trying to achieve was refused, the captured partisans were treated as prisoners of war.

To 2:

- a) Shootings by reason of the command order were not carried out.
- b) The Commissar Order did not apply to the South-East.

To 3:

Shootings of members of the Italian Forces.

I shall prove that the individual shots were to be regarded as partisans according to international law because of the following facts:

- a) By breaking her alliance with Germany and by virtue of her capitulation Italy lost her authorities which she had enjoyed in her capacity as occupying power.
- b) The territories in the Balkans which had so far been occupied by Italy now became exclusively Germany operational territory.
- c) The organized Armed Forces of a power which had suddenly become hostile and which were in this territory constituted an extraordinary danger to the operational projects within the German operational sphere. Thus the German request to surrender all arms was justified.
- d) This request was consequently acceded to in the form of appropriate orders of the Italian commanders -in charge.

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- e) The Italian soldiers or units which in spite of that continued to carry arms against the German troops were acting contrary to international law.

To Count 4 of the Indictment.

It is alleged that the defendant had without any reason connected with military operations helped to free Souther-eastern Europe from socalled inferior persons as for example: Jews, politically unreliabel individuals, e.g. democrats and nationalists. And that they helped to enslave and deport millions for forced labor.

As to that I am going to prove:

- a) That the internment of certain groups of individuals in collection camps and the evacuation have been approved by the military leaders in the South-East only insofar as this was necessary in order to pacify the country and to secure operational objects.
- b) That the military leaders in as far as they co-operated in the procurement of indigenous labor did that only because they considered this a way to pacify the country.
- c) In as far as such measures could not be justified by military necessity the military leaders had no influence on these matters.

The above mentioned points I shall prove:

- a) By examining the defendant as a witness on his own behalf.
- b) By presentation of documents.
- c) By examination of witnesses.

Already at this point I should like to mention that at the time when the defendant Foertsch will appear in the witness stand this evidentiary material will still be very incomplete. Besides the difficulties which are well known and which have been described in the motion for adjournment brought by my colleague Dr. Laternser as well as by me with regard to the procuring of affidavits as well as the translation of the document books must in this particular case be added that the defense has so far not had any opportunity to examine those documents which had been presented to the prosecution in the form of excerpts to the full extent.

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This alone would give counsels for the defense the opportunity to prove the reasons for the shootings about which the prosecution has brought numerous examples from the same documents. So far it is not possible to say whether or not counsels for the defense will get the opportunity to do that at all. For that reason I must reserve the right even at this stage, to make this extraordinary limitation of the defense which in the case of the defendant Foertsch may possibly lead to grave incompleteness of his evidentiary material the subject of an appeal which may possibly have to be lodged in this case.

I refrain from legally arguing against the charges which have been brought in the case of Foertsch at this stage. I shall do that in the course of my plea, but I should at least like to point out that I shall base his defense in the first place on the problem of participation according to criminal law. This comprises the following legal problems:

- 1) Is a mere "knowledge" of and "being connected with" the retaliation measures which have been designated by the prosecution as criminal actions sufficient to condemn the defendant Foertsch. I should like to correct here that instead of retaliation it should simply be measures.
- 2) If that is not sufficient which positive actions or omissions contrary to his duties is he charged of which prove that he aided in any criminal actions. Did he as chief of the general staff have any

responsibility according to criminal law for retaliation measures which were ordered by others than himself and in turn were carried out by others than himself.

This last word "retaliation" again I would like to have corrected to "measures."

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JUDGE CARTER: Is counsel for the defendant Leyser ready to present the opening statement?

DR. TIPP (For the defendant von Leyser): Yes, your Honor.

In contrast to other cases which were conducted in this building before the High Tribunals of the United States, it is to be ascertained in this trial whether soldiers have committed in actual combat acts which are not consistent with the rules of international law and with the precepts of humanity. It is perhaps the first time in history at all that the military leaders of a vanquished nation are summoned before the tribunal of a victorious State in order to be tried for military matters, at least on the same scale as is done here.

The Prosecution has accused the Generals arraigned here, and with this the German Armed Forces in general, of a inhuman warfare on the largest scale. The Defense has consequently got the difficult task of refuting this general accusation and of proving that the German Armed Forces as a whole have showed themselves as chivalrous and fair as is required by the honor of every honest soldier.

In order to be able to refute these accusations, it will be necessary to give to the High Tribunal as a basis for its judgment first of all a picture of a general nature of the conditions under which the fight in the South-East took place. For only the knowledge of the conditions prevailing at a given time and place makes it possible to give an explanation for many a thing which as a matter of course perhaps seems to be incomprehensible for any one who is not informed of these conditions. As in any case, this general clearing up will also in the case of my client, General von Leyser, form a basis for refuting the individual accusations made by the Prosecution.

General von Leyser came on 1 November 1943 for the first time to the Croatian area as Commanding General of the XV, Mountain Corps. It will therefore be necessary to make clear to the High Tribunal in the course of the evidence to be taken, what situations and existing conditions General von Leyser had to face at that time.

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At that date a uniform "national Yugoslav" army no longer existed in the theatre in Croatia. Therefore there were no clear front-lines as they exist as a rule in normal warfare. No complete military units were arrayed against each other, on the contrary everybody was fighting there against everybody else at that date. In the territory of Croatia which was occupied by the German Armed Forces groups of the most different political, religious and ethnic orientation were opposed to each other, which were fighting against each other and against the German Armed Forces. The weak German forces in this area were assisted by the Military Forces of the United State of Croatia which, however, were not likewise united among themselves. They were divided into the Ustascha, which were particularly hostile to Serbians,

and the Domobrans. The fighting power and especially the discipline of these units left much to be desired. The enemies of these two groups were principally the Cetniks who in their turn were only hostile to the German army when the latter carried out operations together with Croatian units.

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It is characteristic for the conditions prevailing in the Balkans and makes clear the difficult situation of a German commander that above all the Cetniks were not only enemies of the Croatian government, but that they opposed especially violently the Communist Tito bands which they combatted by all means. All these short allusions, which have to be cleared up in the course of the evidence to be taken by the defense as a whole as well as in the case of General von Leyser, show what enormous difficulties had to be overcome in the Croatian area in the military sphere alone.

These political contrasts are augmented by sharp religious and ethnic ones between Pravo-Slavs, Roman Catholics, and Mussulmen. The latter joined in most cases the party which predominated at the very moment so that in this connection the front lines were not clearly definable either. Add to this a certain antagonism between Serbs from the territory of Serbia proper and the Serbs from Croatia.

In order to make it a complete chaos, smaller groups of guerilla bands were of a fatal local importance, bands which were not part of a larger group, but joined for private raids. These were partly raids on their own account which have been customary in the Balkans for centuries, partly vendetta fights between individual families. Principally these groups were augmented by remnants of the capitulated Italian army which had stayed there.

All these groups and small groups waged war among themselves with the utmost cruelty and lack of consideration as well as against the civilian population who were not concerned in the matter. Respect for the laws of war was just as unknown to them as the sparing of property and human life. They created disorder wherever they could, because only in this disorder could they accomplish their own aims.

These are the obscure and confused conditions which confronted General von Leyser when he came to Croatia in November 1943. It was impossible for him as well as for anyone else to disentangle these conditions and to act as representative of the power of order.

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An added difficulty was the fact that in all measures the competence of the Croatian state had to be taken into consideration, on whose officials General von Leyser had hardly any influence.

The Croatian armed forces did likewise not come under his command in principle and frequently frustrated his aims.

These circumstances, which necessitated the individual measures of General von Leyser, will have to be clarified in the course of the defense because only a thorough knowledge of these events enables the High Court to judge justly his way of acting.

It will further have to be pointed out on principle that General von Leyser had to submit to the command already established for years for the conduct of war in the Balkans. It was impossible just for

him, newly arrived on the scene, to change these principles on his own initiative. He was further bound to the instructions and commands given him by his superior offices. His position was not so high that it was his business to determine the fundamentals of politics and conduct of war in his territory. All that he could do was to voice his opinion against commands which according to his mind did not answer the territorial conditions, thereby imposing his conception of humanity. It will be proved that he did this within the scope of the possibilities given him.

Before I touch upon the individual counts of the indictment brought against General von Leyser, one point for General von Leyser in my opinion has to be referred to, a point which already has been expressed in the speeches of my predecessors.

Without doubting the authority of the Honorable Court, conformable to duty, it must be pointed out that according to the conception of the defense the Honorable Court for international reasons is not competent to convict the defendants. In my opinion Regulation No. 7 of the Military Government for Germany, on which the formal competence of the Honorable Court is founded, is a violation of the Geneva agreement (Abkommen) as regards the protection of rights of war prisoners of 1929.

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After the capitulation of the German armed forces, General von Leyser as well as the other generals were taken prisoners of war. Last January it was indeed attempted to release him as prisoner of war. But he did not agree to this release. Even if it would have been effected, it would have been without legal effect because it would violate the principles of the agreement just mentioned, chiefly because an actual discharge in freedom, a presumption for a discharge with legal effect of a prisoner of war, has not taken place.

General von Leyser therefore has to be treated according to the regulations of the agreement concerning war prisoners. Article 63 of this agreement, however, is worded as follows:

"A verdict against a prisoner of war must only be pronounced by the same court and according to the same procedure as a verdict against the persons belonging to the armed forces of the nation furnishing the custody."

Competent for the conviction of all defendants, including General von Leyser, would therefore be in my opinion only a court martial constituted of generals of the U.S. Army. The Tribunal, however, before which the defendant von Leyser has to stand trial is a civil court constituted of civilians.

I am of the opinion that the agreement concerning the rights of prisoners of war has an international character and therefore according to the guiding principles of international law cannot be altered by only one signatory power alone or likewise by the agreement of several signatory powers but alone and exclusively by the agreement of all the signatory nations. Such an agreement, however, is not present; the change only took place because of Regulation No. 7 of the Military Government for Germany. Said regulation thus far violates an international agreement and cannot have legal effect.

I therefore do not think the Honorable Court competent for the conviction of my client.

This conception of law had to be expressed at this place before the defense begins with the presentation of evidence to safeguard the rights of the defendant.

In the case of General von Leyser it will be first of all the concern of the defense to prove considering the different counts of the indictment that General von Leyser in his official position as commanding general of an army corps of the German Army could have committed the crimes charged by the prosecution just as little as in performing the tasks which were put before him particularly as commanding general in the Croatian territory.

As I have already mentioned in the beginning, General von Leyser took over the XV Mountain Corps from General Lueters in the beginning of November 1943. The predecessor of General von Leyser, General Lueters, was originally commander of the German troops in Croatia and had as such besides tactical also territorial tasks and powers. After the conversion of his staff to the XV Mountain Corps, he did not have these territorial powers and tasks theoretically any more, it is true, but practically they continued to be in existence. They ceased to exist on principle and finally only with the taking over of the XV Mountain Corps by a new man, namely General von Leyser. In contrast to his predecessor, General von Leyser had only tactical problems; his staff was completely converted to a tactical operation staff.

In the course of the defense this will have to be cleared up through testimony and affidavits.

The task to which General von Leyser was put on taking over the XV Mountain Corps was unequivocally limited and clear. It was the occupation of the territory between Karlovac and the coast, occupied by the Italian armed forces until then, and the preparation of the defense against anticipated attacks from the sea. These great and exclusive aspects determined all other measures. The war on the guerillas and the safeguarding of the roads and railways in the Croatian territory had an exclusively tactical meaning for General von Leyser. His measures in the field of guerilla warfare were directed only to the safeguarding of the supply routes in the event of an anticipated attack from the sea.

Everything he did and ordered was subordinated to this tactical task.

It is not so as generally represented in the indictment that the measures of General von Leyser were "a part of a certain plan for terrorizing and intimidation" or were even taken "to decimate the native population of these territories for coming generations". They likewise were not "arbitrary" or "senseless", but were based upon military requirements and were thereby justified. This will be cleared up in detail in the course of the defense. These great aspects, however, should not be disregarded when individual actions and individual regulations are judged.

I now come to the various counts of the indictment against General von Leyser. Under Count I of the indictment he is also blamed for the terrorizing, torturing, and murdering of persons who arbitrarily were designated as "partisans, communists, persons suspected of communist tendencies, bandits and persons suspected of banditry" or who were taken as hostages. I can keep the argumentation of this

count very brief. The evidence presented by the prosecution does not contain any proof in this field. The prosecution has presented no documents which would testify the execution of such measures of General von Leyser. Just as little has evidence been presented that General von Leyser had proclaimed, passed on, or executed an order to shoot hostages in the ratio of 1:10, 1:50 or even 1:100. On the contrary the defense will be able to prove alone by reason of the evidence presented by the prosecution that the shooting of hostages was never personally ordered by General von Leyser. If such shootings were carried out at all by the troops under his command, they were only done in extremely rare cases and also in a proportion according to martial law adapted to the military necessities.

There is likewise no evidence that information of the so-called national army had been extorted from the population by using terror measures. On these two counts the indictment remains only a statement, without any attempt at proof.

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As far as General von Leyser is charged, with acts of the 21st SS Division Skanderberg, the defense will prove that this unit was not subordinated to the disciplinary power of General von Leyser. He therefore was not responsible for the actions and omissions of this division. Disciplinary powers over this unit likewise did not belong to General von Leyser when in a particular, specific case a tactical subordination ensued.

In reference to Count II of the indictment, evidence will be shown that General von Leyser has never given or forwarded orders for the pillaging, destroying, and burning of localities. In reference to this allegation quite generally made by the prosecution, the indictment of General von Leyser lacked every proof. If troops under his command destroyed buildings, such acts were in no case arbitrarily directed against a peaceful civilian population, as alleged in the indictment. These destructive acts were rather a direct result of hostilities, because the guerillas preferred to use houses and localities as positions. It further happened that houses which evidently had been used by guerillas as protection and shelter during raids were destroyed immediately after these raids. This conformed entirely to martial law. If destructions on a bigger scale took place, it will be proven that these destructions were based on the tactical necessity of taking the supply bases and shelter possibilities from the guerillas. Only in this manner was it possible to end the raids on roads used for supplies, because it was impossible to even occupy the smallest locality due to the small size of occupation forces. The evidence on hand will show that the destroyed buildings had long been deserted by the peaceful civilian population and only served as shelter to the guerillas, who had already been fighting in these regions for years using the most brutal methods of terrorizing the civilian population.

The indictment under number 9 1 of Count II holds the commanding general of the XXI Mountain Corps responsible for the burning, robbing, and looting of the villages Dresnica, Pisac, Tuzovic, and Vojvodorsa by troops of the 392nd Infantry Division.

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The time given is January 1944 to March 1945. To this it may be first of all said that the 392nd Infantry Division was never under the commanding power of the XXI Mountain Corps. This division was only

under the command of the XV mountain Corps, whose commander General von Leyser was only until the end of July 1944. Therefore General von Leyser can only then be held responsible for the destruction of these villages if the destruction took place within this period.

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Furthermore the prosecution has only produced evidence in reference to the village of Dreznica. Through the documents presented in the indictment the defense will prove, that this destruction took place in the course of heavy fighting, lasting for days, against strong guerilla groups, in other words during actions of hostilities, and that after all only 20 guerilla shelters and not the entire village were destroyed; looting did not take place.

On count III the indictment holds all the defendants responsible for illegal commands, namely the commissar order, the commando order and commands of general nature against the capitulated Italian army.

In reference to the commissar order, the defense will prove through affidavits, that General von Leyser, during the Russian campaign as commander of the 269th Infantry Division, neither received nor dispatched the commissar order nor caused its execution. It shall not be disputed that he knew of this order. But the knowledge alone is not punishable. Beyond this it will be proved that General von Leyser rejected this order as violating the honor of the soldier. Furthermore every evidence for the indictment of General von Leyser is missing on this count, on the contrary the documents presented by the prosecution show that this order was not carried out in the Croatian territory while General von Leyser was in command.

The commando order from 18 October 1942 was not intended for the Eastern theater. The command of 30 July 1944, which extends said decree to the foreign military missions in the Southeast theater, was neither forwarded by General von Leyser nor carried out in his sphere of influence.

Likewise on this count of indictment every actual evidence for the indictment of General von Leyser is missing. In spite of it, the defense will carefully prove that Englishmen as well as Americans were taken prisoners and were treated as prisoners of war.

In reference to the orders and measures against the capitulated Italian armed forces the following may be said:

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The capitulation of the Italian armed forces took place in the beginning of September 1943. General von Leyser took over the XVth mountain corps on 1 November 1943. The orders presented by the indictment had at that time already been proclaimed, the measures against the Italian armed forces had for the biggest part been taken. Even if measures against parts of the Italian armed forces should have been carried out in the first days after General von Leyser took over the command, the defense will be able to prove, that basically he was not in a position to have any influence on the carrying out, by subordinates of orders proclaimed by higher authorities previous to his assumption of command.

If the prosecution accuses General von Leyser in Count IV of "inhuman" evacuations, the defense will prove with regard to this that those were no inhumanities, but military measures dictated by tactical requirements.

As the defense will prove with regard to this, it would have been necessary from tactical reasons to evacuate civilians from areas which in case of an enemy landing at the coast might have become focal points of fighting or especially endangered zones for supply, in the course of the actions which were to be foreseen. Such a measure corresponds to military habits and does not constitute an offense against the laws of war. For the basis of this assertion it is to be pointed to the fact that at the beginning of the war such evacuations were carried through by the German commanders in the Reich territory as well as by the French government in France, and that the American government also considered it necessary to evacuate, at the beginning of the war against Japan, large parts of the Japanese population from the Western coast of America. It was neither the task of General von Leyser in his capacity as Commanding General of a tactical operational staff to decide on the further destiny of the evacuated civilians, nor was he obliged to do this. He had nothing to do either with the civilians being committed to concentration camps, which was a purely police measure, or with the employment of parts of the population as compulsory workers or even with the deportation to the Reich for labor.

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Such measures would have been taken by the German authorities endowed with territorial powers, in agreement with the offices of the United Croatian State. Such measures could neither be ordered by General von Leyser nor had he exerted any influence on them, as will be proved in particular by testimony and affidavits.

As far as workers were employed for the army, for the construction of fortifications and pillboxes, it was done as the defense will prove on the basis of free mutual agreement. There were people enough volunteering for work in the United State of Croatia, who were happy to have a possibility of earning money and to at the same time supplied with food.

It will be necessary, in this connection, to deal in detail with the operation "Panther". This operation is set forth by the Prosecution in Count IV, paragraph 15 g. As far as an evacuation of the civilian population was intended here by General von Leyser, it was based on military and tactical requirements. Even the documents of the Prosecution prove that the territory in question had for years been a centre for the activity of bands, from which continuous and increasing disturbances of indispensable supply roads and railroads were undertaken. In order to secure the line of retreat for the attack to be expected from the sea-side, it was necessary to remove finally the risk of being endangered by bands in this area. An order to deport the population to the Reich, as alleged by the Prosecution, had not been given by General von Leyser, as such a measure exceeding the more tactical field was outside his jurisdiction. Evidence that the operation "Panther" was indeed carried through in the sense alleged by the Prosecution, was not produced by the Prosecution.

In order to refute the individual Counts of the Indictment, the Defense will prove that General von Leyser has done everything in his power to guarantee chivalrous warfare in accordance with the precepts of the laws of war, even in the confused and complicated conditions of guerilla-warfare in Croatia.

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He strictly supervised the troops under his command by all possible means as to their conduct and proceeded with rigour against excesses and enroachments. In this endeavor to fulfil in every respect his obligation to supervise and care for the troops under his command, he always tried, as far as ever possible, to inform himself on the spot of the actual conditions and to come by personal observation to a rightful judgment on the situation.

The Defense will also prove that General von Leyser in every regard took into consideration the conditions of the civilian population as far as the fulfilment of his tasks allowed this. Moreover he always helped the civilian population to a large extent for reasons of humanity and he endeavoured to relieve the distress caused by the war, by their own and enemy action in land warfare and by air raids.

I will show you General von Leyser as an officer of the old school, bound to the old traditions of honesty and loyalty, who fulfilled his duty of a soldier and officer in the hardest combat of his nation, respecting the laws of war and the precepts of humanity.

JUDGE CARTER: Is counsel for the defendant Speidel ready to make his opening statement?

DR. WEISGERBER: Yes, your Honor.

Mr. President, your Honors, as defense counsel for the defendant Speidel I believe to be able to keep my plea very short.

I can refrain, at this point, from dealing with questions of international law about arrest and killing of hostages by way of reprisals; especially if and how far the Greek partisans gave cause to such reprisals. However this may be, even according to the evidence material so far submitted, considerable doubts have come up as to the question of warfare according to international law. Defense counsel Dr. Laternser has given sufficient evidence of this in his plea for his own client. This is equally valid for General Speidel and I do not therefore have to repeat it.

The prosecution charges my client with the following points:

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1. The arrest and shooting of hostages by units under his command.
2. Wanton destruction without military necessity, and plunder by troops under his command.
3. Giving and passing on of so called Kommissar orders and Kommando orders, and giving of orders for the punishment of resisting Italians, as well as carrying out of such orders by troops under his command.
4. Forced deportation of the entire male population of whole villages within Greece for the purposes of forced labor to Germany.

I shall prove that the defendant Speidel can in none of these cases be held responsible: Especially, as he had no executive power. And if he was not in the position to give orders, he can naturally not be made responsible.

In none of these events he took part either.

(A) as perpetrator (B) or as aid, or abettor, nor did he give orders or approved of such.

Naturally, the defense of the defendant Speidel is considerably hampered by the fact that the prosecution has made no exact statement which of the individual cases that have come up, the defendant Speidel has been charged with.

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Admittedly, it enumerates a number of happenings in the indictment but at the same time declares that this enumerations is not exhaustive.

Is the defendant Speidel supposed to make his own choice of the charges by the prosecution? This is a task which should be done by the Prosecution and the prosecution cannot be relieved in this by the defendant; or is Speidel being made responsible for everything that happened in the Greek theatres? Does the prosecution want to charge him even such events in which, according to the documents submitted, one executive army unit did not even participate? The lists which have been added to the individual document books are, in this respect, not complete.

But, in order to give the defense the possibility to take up a definite attitude as to the charges of the prosecution, the prosecution should not only mark the documents which, among other matters, contain some material against my client; they should mention each case and in that way it refers to each individual defendant.

But this does not become evident either from the oral submission or the submission of lists added to the document books because almost each one of these documents contains in a varied succession, compiled according to entirely different points of view, a number of reports and facts which, according to these documents, would be put in a new order referring to each individual defendant.

The prosecution has charged the defendant Speidel with cases which without the slightest doubt are even outside his geographical territory of command and, therefore, are certainly not within his competence.

I refer only to English Document Book XVI, [NOKW-674](#), Exhibit 381.

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The connection between the Military Commander of Greece and the Second Panzer operating in Croatia and the evacuation of the islands at the Adriatic Coast is and remains incomprehensible.

All these obscurities are evidently based on a number of primary errors:

1. The prosecution misjudges the extent of the executive power of the defendant Speidel. I shall prove that it did not apply to the areas in which the mentioned events happened and, furthermore, that the

emits which were carrying out these actions did not come under his command and, furthermore, that Speidel's competence did not extend in this direction at all.

2. The main reason for the prosecution's conclusion that the responsibility of the defendant was far reaching is the mere reason that he was in charge of "Maintenance of Peace and Order."

However, this task can, in a case of military commander, not apply to war areas and theatres. In those areas only the military authorities are the rulers. This basis rule is expressly stated at a number of points in the regulations about the command in the Southeastern area but Greece always was and remained a war theatre (fighting zone).

3. Speidel is mentioned as the holder of executive power. In this assumption the following has been overlooked:

a) At no point the term "executive power" is properly explained by the prosecution.

b) It has furthermore been overlooked that, according to the degrees about the Southeastern Command and the regulations for the Military Commander Greece he, (the Military Commander Greece) only holds the executive power "if he has been entrusted with it." Not a single order has been submitted which describes the extent of this entrustment more explicitly.

c) It becomes, however, evident from the very nature of the matter that the military commander can in any case only be entrusted with the executive power in the areas under his administration.

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This automatically excludes fighting areas and war theaters.

d) There are, furthermore, a number of orders which prove that the executive power of the defendant Speidel in the area remaining under his administration did not pertain to matters of the sphere under question here; I shall prove this to be so by aid of the documents through affidavits and witnesses.

c) The means at Speidel's disposal were in accordance with his subordinate competence. I shall prove that the few military units under his control partly served an entirely different purpose and partly would not be any means have sufficed to carry out the executive power to the extent assumed by the prosecution. Thus apparently only his high sounding military title has led to a misinterpretation of the true extent of his competence. The truth of the matter is that this title was nothing but a conspicuous signboard advertising his representative position which, of necessity, had to deceive outsiders, inducing the Greek population, by lack of proper perspective about the true facts.

Only through this it can be explained that the witness Santos towards the end of his examination expressed the view: who else was supposed to see to it that the German troops behave and act according to international law if not the military commander? After all, he had the supreme position in Greece.

4. It would be a further basic error to charge the defendant Speidel with the responsibility for the actions reported by him or by others from the area under his command. The daily and monthly reports of the district and field commandanturas serve the purpose of informing the superior command of all events

happening in the area to the possible degree. They do, therefore, not admit any conclusion as to the responsibility of the reporting authority for any individual incident. Responsibility is only taken for the fact that the incident had actually happened.

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This is especially valid for reports from the Ic area as the Ic task consists mainly in accumulating and passing on of news for information of superior authorities. This I shall prove in detail.

In spite of this, I shall at this point try and outline my basic principles which I deem important for the exoneration of my client.

Regarding Count 1:

All these measures were taken during and in combat against armed bands within the war area.

By submission of documents and producing witnesses I shall prove that the defendant Speidel did not have a hand in this at any time during his term of office in Greece.

a.) As long as Speidel was Supremo Commander in Greece (12 October 1942– September 43) these tasks were dealt with by the Italians. At this time Speidel was only in command of a very small area at the Coast of Africa in which at that time no band activities had been reported.

b) During Speidel's activities as Military Commander Greece September 1943 – 15 May 1944) he had under his command not a single one of those units which were in charge of those areas from which any of the incidents have been reported.

We find the shooting of hostages under the caption, "Greece." The factual connection, however, only becomes evident if the military unit carrying out and responsible for the action is mentioned.

Only in a very few cases the prosecution documents mention merely the geographical term "Greece" without naming any military unit– but even here the context shows that another authority is in command which is not the defendant Speidel.

I shall prove conclusively that the higher SS and Police Leader did not even come under the Military Commander as far as police matters were concerned. Even here he came immediately under the Reichsfuehrer SS.

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Regarding Count II:

What has been mentioned in connection with Count I is equally valid for Count II. As Speidel had nothing to do with combatting armed bands, he cannot be made responsible for the destruction mentioned in this connection. Apart from this, the prosecution has not in a single case submitted conclusive evidence for the destruction having been "wanton" and "without military necessity" or for Speidel having ordered or tolerated them. This the prosecution must still prove. It is not for the defendant to prove that the burned villages were destroyed "not wantonly" and "on account of military necessity." In almost all documents submitted by the prosecution itself, the statement keeps appearing

that the burned villages had served a retreat for the bands and as ammunition dumps or that the inhabitants supplied the bands with information and food. Who, then, will call their destruction "wanton" or "not a military necessity?" Furthermore, in a variety of cases it must be assumed that the destruction was admissible according to international law as it was the immediate consequence of battle.

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Regarding Count III.

- a) I shall prove that Speidel never received the "Kommisar" order. This order applied exclusively to fighting units at the Eastern front; but Speidel never commanded any fighting units.
- b) The same is valid for the "Kommando" order. There was no possible reason for sending such orders to Speidel. Neither as the Chief of the Luftwaffen mission (air force mission) in Rumania (October 1940 - May 1942) nor as Commanding Officer Southern Greece he participated in this program as he was excluded from field action.
- c) Speidel had nothing to do either with the arrests and measures against the Italians. This also comes under the category, "Field action."

Regarding Count IV:

Here the defendant Speidel is charged with the following: murder, torture, terror, confinement in concentration camps, arbitrary forced labor for fortification, abduction of Greek civilian population for slave labor by troops under his command by his order.

The Prosecution, under letters "a-g", does not make mention of a single case which happened in Greece. I would, therefore, be justified to ask:

- a) What individual cases is my client being charged with?
- b) Which were the units that carried out these actions?
- c) How far were these units under the command of the defendant Speidel?

The prosecution has not in any way made any exact statements regarding these questions, but only the following incidents can have been meant:

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- 1) Concentration Camp Chaidari. This camp had been instituted by the Italians and later came under the police supervision of the higher SS and Police Leader who himself was responsible to the Reichsfuehrer SS.
- 2) The Greer workers' transports:

I shall prove that there was a special authority in Greece dealing with allocation of labor acting independently and in no way responsible to Speidel. Furthermore, during his term of office, assignment of labor in Greece was on a voluntary basis.

3) Fortifications and military positions.

Speidel did not have to deal with such tasks as field action was not within his sphere of activities. It was solely the tasks of the combat unit. The assumption that Speidel supplied forced labor for such programs does not become evident anywhere.

4) No documents or other evidence have been submitted pertaining to torture and terror by troops under Speidel's command. Again this is a mere assumption.

I shall base my evidence on;

1) Hearing my client in the witness stand,

2) Examination of the co-defendants insofar as they will be put on the witness stand,

3) The submission of affidavits,

4) The testimony of witnesses, the number and names of which will be duly indicated to the High Tribunal, as soon as I can find out the details.

PRESIDING JUDGE CARTER: Is counsel for the defendant Rendulic prepared?

DR. FRITSCH (Counsel for defendant Rendulic): Your Honors, after this war for the first time in history soldiers and army officers are being brought before courts which are not composed of their own countrymen, but of members of the victor nations.

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The defendants are not charged with violating their duties towards their own people but with violating general principles. These general principles have been compiled by the prosecution on the basis of Control Council Law No. 10 under the two conceptions, war crimes and crimes against humanity. This fact makes it highly necessary for the Defense to sift and to examine with extreme care the material submitted by the Prosecution.

In the main, the defendant General Rendulic is charged with two complexes in which he was active and by which he is supposed to have made himself punishable. The Balkans and Norway. Before going into details with regard to the charges against my client, I would like to point out the following which is a fundamental importance:

The judgment will have to deal in particular with the legal questions which are supposed to be valid as a basis for this trial and especially with these legal foundations which have been separately set up for trials of this kind. The final plea will show in detail that Control Council Law No. 10 raised by the prosecution as the material foundation cannot in my opinion, fulfil this task. The principle of *nullum crimen sine lege*, *nulla poena sine lege* is generally recognised in all national legal provisions and the

violation of this principle has already been determined in another trial before these military tribunals and has been described as particularly reprehensible.

Undoubtedly some of the provisions of Control Council Law No. 10 coincide with the facts constituting a crime laid down in the national penal codes and also in the German Reich penal code. Other facts set down in Control Council Law No. 10, such as the "killing of hostages" and participation therein do not observe this principle, so that application of this kind of facts constituting a crime is a violation of the legal principle quoted.

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Above all, the acts of participation contained in Article II of Control Council Law No. 10 go far beyond the forms of participation contained in the German Reich Penal Code and also in the wording valid prior to 1933. In particular fact of "conspiracy" as an act of participation, as set down in Anglo-American conception as defined in Article II of the Control Council Law No. 10, finds no support in the more subtle standards of German penal legislation. The defense, therefore, at the appropriate time will regard it as a special task from the legal point of view to deal with these questions in detail and if necessary, to submit evidence.

I would also like to refer quite briefly to another question here.

The defendant General Rendulic was released from a prisoner of war camp in the United States of America and immediately placed on trial. The defense, in its presentation of evidence, will be obliged to deal with the question of whether this trial before this military tribunal is at all in accordance with the international principles laid down in the Hague Land Warfare Convention and the Geneva Convention for Prisoners of War.

Your Honors, the highest duty of a soldier in the armies of all countries is obedience towards his superiors and to the Laws.

General Rendulic was a soldier of the Austro-Hungarian monarchy; naturally, after the affiliation of Austria to Germany which was universally welcomed by the German people, he did not, and could not, refuse to perform his duty as a soldier, and continued to serve his Fatherland. There is no need to go into details about the fact that he always fulfilled his duty as a soldier and obeyed the orders of his superiors, as far as he could reconcile them with his own general ideas of humanity and the fundamentals of law.

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But the defense will also prove that whenever General Rendulic recognized faults in orders from his senior officers, he always carried them out or passed them on in a suitably altered form.

And now, the Prosecution brings against this man the serious charges of having committed war crimes and crimes against humanity, charges which, in the opinion of the defense, are without sufficient substantiation.

As an introduction to its charges, the Prosecution stated in its opening Statement that the defendant Rendulic ranked as a "Nazi-General". The mere fact that the defendant was a member of the NSDAP

in Austria from May 1932 until the dissolution of the party in 1933, that is, one year and a quarter, cannot justify this description. The defense will prove that the reasons which caused him to join the party were of an entirely idealistic nature and that from inside Austria the defendant could no more envisage the development of the NSDAP than could the rest of the world.

The defense will also prove that, when later on, army officers were allowed to join the party, the defendant refused to become a member of the NSDAP.

If perhaps the Prosecution meant by their comment the conferring of the Golden Badge of Honor on the defendant by Hitler in September 1944, then the defense will show that this "Golden Badge of Honor" was at that time a decoration which did not of necessity have anything to do with belonging to the party and furthermore, the bestowal in the case in question had a purely military origin, because of the situation brought about by the Russian propaganda in Norway.

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If the Prosecution chose this term to cause the rise of the defendant during the war from Colonel to General to appear in a special light, then the defense will also submit evidence to show that there can be no question at all of a "Phenomenal promotion"; on the contrary, the promotion was quite a normal one and was exclusively the result of the military capabilities and experiences of the soldier Rendulic and his successes in the Russian theatre of war.

I now turn to the two general charges, which can be dealt with under the terms "Commissar Order and Commando Order".

1. The Commissar Order.

According to the evidence submitted by the Prosecution, there seems to be no dispute about the fact that the so-called Commissar Order was, according to regulation, sent in writing only to the Armies and from there downwards to the lower-rank officers, that is, to the Corps and the Divisions. It had to be passed on orally. If necessary, I will produce the requisite proof for this fact and will also prove that the defendant who, when this order was issued, commanded an Infantry Division in Russia, neither passed on this order personally nor ordered it to be brought to the notice of the regimental commanders.

I will also prove that within the sphere of his division not one commissar was ever shot.

2. The Commando Order.

Here the defense will merely point out that the Prosecution has not proved that the defendant Rendulic received knowledge of this order in the Russian theatre of war, (for which it was not valid) and that he executed it or passed it on within the meaning of the charge. It is not the business of the defense to produce the negative proof of ignorance. *Negativa non sunt probanda.*

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Nothing arises from the documents submitted for the assertion of the charge. As far as they are supposed to prove that the defendant knew of this order in his later official capacity in the Southeast. I will prove

that when the defendant took over his new position in this combat zone the order had already been passed on some time before to his subordinate troops. I will also prove in general to this point and later on in particular that in a typical commando operation within the sphere of the Panzer Army this so-called commando order was not applied.

PRESIDING JUDGE CARTER: Dr. Fritsch, I think this is a suitable time for our morning recess. We will recess for fifteen minutes.

(A recess was taken.)

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DR. FRITSCH: On page 6 of the German text:

III. The Fighting in the Balkans.

In the view of the defense, the fighting in the Balkans cannot be properly evaluated from the perspective shown here by the prosecution. It will, therefore, be the task of the defense to describe the general conditions in the Balkans, conditions, which cannot be compared with those general in Europe. In this connection it will be necessary, for the maintenance of historical events to refer to the former fighting and to the situation at that time in the Balkans. To understand the connections it will also be necessary to observe more closely current events in the Balkans. The defense states here, that it will ask for the support of the Tribunal in obtaining from the General Secretary of the United Nations the records of the inquiry into the current events in the Balkans, as far as they deal in detail with the method of warfare. The defense wishes to present in this connection as clear arid as graphic a material as possible, but realises that this desire is beset with enormous difficulties. It will, therefore, often have to produce only general data, but these, as for example the fact of the recent large excommunicztion by the Holy Seat, will throw significant light on the confused happenings and the now usual methods of fighting in the Balkans.

One of the chief preliminary questions will be to go into the entirely unfounded claim of the Prosecution that the partisans, regardless of their leanings, were belligerents, and that the statement in German orders describing them as partisans or bandits was wrong. The claim of the prosecution that the partisans openly carried arms, observed the laws and customs of war, and that the groups of partisans were under a unified and responsible command and wore uniforms or insignia recognisable at a distance, - this prosecution assertion will be confronted by the defense assertion that this was not the case. There can be no doubt that according to General knowledge of the methods of warfare in the Balkans, the defense assertion takes prima facie precedence, and the prosecution must therefore bring the corresponding evidence for its assertion.

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When necessary for the defense, the illegality of the warfare carried on by Tito and the other groups of partisans will be proved, as will also the fact that at least until the middle of 1944 the Allies did not recognize the various kinds of partisan units within the sphere of the 2nd Panzer Army as belligerents.

Before the defense deals with the individual charges, it will be shown that the defendant did not arrive in the Balkans until the end of August 1943 and remained there until the end of June 1944. Especially important in the view of the defense is the statement that General Rendulic came into a situation which had arisen without his help, it will prove that with the means at his disposal it was quite impossible for him to regulate his own actions and those of his troops on completely new lines.

With regard to the general charges made by the prosecution, on these questions, the defense sub-divides them as follows:

- a) Treatment of reprisal hostages.
- b) Treatment of franc-tireurs, especially of the Italian forces.
- c) General behaviour towards the civilian population.

A) The defense has already pointed out that the admission of a fact such as the "killing of hostages" in this short form as contained in Article II 1b of Control Council Law No. 10 must arouse legal doubts. And in this respect I will also refer to the statements of my colleague, Dr. Laternser who in my opinion, has already proved that the Control Council Law only refers to the so-called treaty hostage (Vertragsgeisel) of classical international law, a hostage taken according to international treaties. But I will, however, prove that the hostages taken in the area of the defendant's army were persons taken by the troops in their zone as a security measure against unlawful actions by hostile sections of the civilian population. And I will also prove that these measures were in accordance with the American "Rules of Land Warfare," dated 1940 which contain the provision in article 358. I quote:

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"Those forces and sections of the populace committing illegal acts may be subjugated with legally appropriate reprisal measures. Hostages taken and held for the declared purpose of ensuring security against unlawful acts by hostile forces or the population may be punished or killed if the unlawful acts are committed in spite of this measure."

Even if the Control Council Law does not refer exclusively to the hostage in the meaning of classical international Law, it also would not express the prevailing view of international law but would contradict this view. The defense will prove that within the sphere of General Rendulic's 2nd Panzer Army no illegal killing of reprisal hostages was carried out.

And in factual connection the following can be pointed out here:

It will not be difficult for the defense to prove that within the sphere of the defendant General Rendulic's Army high command expiation measures only took place on a very small scale. And here the fact must be taken into account that mostly 12, and for a time up to 16 German divisions, were continuously in action and within a very large area. The defense is able to prove that the reprisal figure stated by the prosecution was in no way applied, but that if reprisal figures were drawn up, the combat conditions of the 2nd Panzer Army necessitated these being kept at a considerably smaller ratio, and that this ratio, however, must be taken as the justifiably lowest possible limit in view of the military

necessity. The defense will bring evidence to show that the defendant mitigated Hitler's so-called Expiation Order and never insisted on the observation by his troops of the ratios demanded by Hitler and always approved of the far smaller ratios reported. Furthermore the defense will prove that the defendant never issued a single initial expiation order. The measures so executed were in no way contrary to the customs of war and to the law of war.

b) A large area of the Balkans, under the command of the 2nd Panzer Army later on, the whole coast, was mainly occupied by Italian troops as can be assumed to be known to the Tribunal.

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Italy's exit from the war resulted in a particularly critical situation for the defendant General Rendulic's 2nd Panzer Army, because apart from the partisans, a new enemy had arisen in the Italian troop units. These units, as can be proved, were numerically superior to the German units, and in addition there was the possibility of an Allied landing in the Balkans. In this situation, the defendant General Rendulic concluded with the competent Italian army officer a legally effective capitulation in accordance with international law, the details of which will be proved by witnesses and documents. In case further difficulties were caused by the behaviour of the Italian troops, the defendant Rendulic, as a responsible army commander, was authorized to provide measures and if necessary to threaten their use, in order to guarantee the execution of the conditions agreed to by the Italians. The Prosecution, however, has provided no proof for its assertion, that the defendant ordered expiation measures against the Italians, and that his troops carried out such measures. The defense will prove that the Prosecution obviously misinterpreted an order by the defendant, which misinterpretation was probably aided by a wrong translation.

The defense will furthermore refute the assertions of the Prosecution that 300 captured Italian officers from the Bergamo division were shot to death. It will bring evidence to show that the Italians fighting against the German Wehrmacht after the capitulation were franc tireurs, and that those Italians who gave arms to the partisans after the capitulation were treated no differently from the way in which would have been German soldiers if they had committed the same offense.

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In so far as Italian officers of the Italian division named were shot at all, the defense will prove that contrary to the OKW order merely a fraction of the named figure was sentenced to death and executed after a regular trial according to martial law.

It is not clear What sort of evidence the prosecution wants to submit with the document containing the order by the Defendant Rendulic concerning the Italian General Roncaglia. The defense states again, that it sees no need to go further into such prosecution assertions as these, if the prosecution itself does not produce corresponding evidence to support its statements. In any case, the defense would be able to prove that the order arose from absolute military necessity and in addition that General Roncaglia left the defendant Rendulic's sphere of command alive.

c) As far as the defendant is charged with the operations "Panther" and "Hafenfahrt", the defense will show that the order to send members of the civilian population for work in Germany was an affair of the German and Croatian civilian authorities, and did not come within the competence and the sphere of decision of the 2nd Panzer Army. The defense will prove further that when raids took place in combat zones, the troops only took those unreliable people who endangered the security of the troops.

IV. Norway.

With regard to Norway, I would like to mention a few general facts in advance:

The question of the evacuation and destruction in Finmark must be considered from two points of view:

- 1) With regard to the military necessity of the destruction and with this also the evacuation, and
- 2) with regard to the treatment of the population during the evacuation.

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In the view of the defense, the prosecution have neither been able to prove original treatment during the evacuation nor the non-existence of a military necessity for evacuation and destruction, so that even the destructions must still be regarded as in accordance with Article 23 of the Hague Land Warfare Convention, and therefore does not constitute an offense. The defense therefore moves that the Tribunal rule that proceedings against General Rendulic, in so far as criminal actions during the evacuation and destructions of Finmark are maintained, be suspended, and that this count without the possibility of a new charge, be stricken from the indictment. The reasons for my motion are:

The best proof for the manner in which the defendant General Rendulic wanted the evacuation to be carried out, is his order of 29 Oct. 1944, which has been submitted by the prosecution as exhibit No. 504, in document book 22 on page 9 of the German, and on page 10 of the English book. Under point 7 of this order he expressly directs that the evacuation is to be carried out as a welfare measure for the population and that the Norwegians were to be safeguarded. From the report of the evacuation staff, dated 25 Nov. 1944 exhibit No-506 Prosecution Document-Book 22 page 14 of the German and page 16 of the English text, which cannot be doubted in any manner and the verdict of which is very sincere, it can be seen that the evacuation was carried out very carefully and considerately, and counsel for the defense believes that he can establish that this evacuation was carried out differently from any other of the many evacuations which took place during the war and especially also after the war. That also in this case mistakes were made at one or the other point must be considered the result of the tactlessness and incompetence of various subordinated offices, and as the report itself states, such mistakes were unavoidable. With the exception of the hints, which occur in above mentioned report, the defendant was never informed about that. The fact that the events which occurred on the ships are not part of the responsibility of the defendant Rendulic can be seen from the documents presented by the prosecution as well as from the fact that the Navy was not under the jurisdiction of the commander-in-chief of the 20th Mountain Army.

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I consider it necessary to point out that Hitler had to give the order for the evacuation twice before it was actually carried out by the 20th Mountain Army. In the Beginning, the defendant Rendulic did not consider the evacuation as absolutely necessary. At that time he did not yet know of the overwhelming deployment of forces of the Russians who were by far superior in strength, a deployment which would scarcely have been thought possible in this territory. At that time he did not know either that he would soon have to send off more than half of his Army for operations on the continent.

To ignore the second evacuation order, which had been solicited by the commissioner of the Reich or to carry it out in like manner as the first, proved to be impossible for the defendant Rendulic. On one hand he was in a way constantly under the supervision of the commissioner of the Reich, who saw to it that Hitler's order was carried out, and on the other hand, and that was of decisive importance, Hitler gave as the reason for his repeated order the military necessity. At that time, on 28 October 1944, the Army had already clearly recognized the entire impact of the superiority of the Russian Forces and the danger, which was constituted by the Finns. The 19th Corps alone had at that time lost more than 6 000 men. Furthermore, on or about this date the first orders to relinquish troops had been received. Under these circumstances it was impossible for the commander-in-chief of the 20th Mountain Army to reject the idea that by destruction would make it difficult or even impossible for the enemy to advance. In view of this attitude the condition which appears in Article 23 of the Hague Land Warfare Convention must be considered attained, as it states, that the destruction or confiscation of enemy property is permissible, if the necessities of the war should make such action incumbent.

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Furthermore, in every Army throughout the entire world there would in any case, in which it was doubtful whether or not it was a military necessity, the judgment of the superior authority be decisive and must be decisive, especially since Hitler had issued this order clearly referring to this military necessity. One must also point out that the commander-in-chief of the 20th Mountain Army had been given besides these purely military reason an important political reason for the evacuation and the destructions in the Finmark. Hitler wanted to prevent the Norwegian exile government from settling in Finmark. It was clear that such an event must influence the life of the German troops in Norway and the defense of the country to a great extent. Although the defendant Rendulic was not responsible for the evaluation of political questions he was nevertheless bound to assume that although this matter fell within the scope of Article 23 G of the Hague Convention, which does not speak of military necessities but of the much broader concept of a "necessity of War." Thus it is apparent that this term covers also political measures which are important to the conduct of the war. To carry out the evacuation order was made easier for the defendant as commander-in-chief of the 20th Mountain Army by the fact that in view of his accurate knowledge of the Finmark he could assume that these destructions could not cause any undue damage. In an area of the extent of Belgium and Holland together there were living only 62 000 people. Although the calculations of the Norwegian government with regard to damages have resulted in an amount which although regrettable cannot be considered unduly high. Such damages and frequently even greater damages were caused in a single air-raid against a German-English or French

town. It has not been possible for the prosecution to prove by the testimony of the witnesses which it has called namely:

1. That there was no military necessity for the destruction and for the evacuation.

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2. That the evacuation was carried out in an incompetent manner in violation of the laws of humanity. The two generals whose testimony we have heard, expressed the opinion, which, however, they based merely on assumptions, that they did not consider the evacuation necessary. Both generals did say, however, that one could count on the possibility of a Russian advance. One of them stated, that the destructions had been justified if one counted on such a possibility.

The focal question when dealing with the evacuation and the destructions in Finmark is decisive whether or not these measures were justified by necessity in the sense and meaning of the Hague Convention.

The literature on international law of the Anglo-American legal circles, which is here of decisive importance, is particularly and uniformly expressive with regard to this question. Thus Professor Fenwick states in his book "international Law", Second Edition 1934, page 483: "General destruction of property as a means to cover the retreat has, however, been common usage in the conduct of wars." He backs this view, amongst others, by mentioning the destruction of a large territory from Atlanta to the Sea as well as the destruction of the Shenandoah valley by General Sherman in 1865. Professor Fenwick even stresses that Article 23 G of the Hague Regulations leaves it to the Army which is engaged in warfare to decide which circumstances would make such measures a military necessity.

The leading author on international law Professor Lauterpacht writes in his essay, which appeared in the British Annual for International Law 1944. On page 74:

"Such actions, as general devastation can offer sufficient reasons for condemnation and protests; . . . after the conclusion of the war they may justify the imposition of collective sanctions either by way of reparations or by other measures to be distinguished from condemnations in individual cases of a criminal nature.

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Criminal proceedings, however, before state tribunals of the victorious powers may appear to many a questionable method in order to remove existing doubts and in order to establish authoritatively what is right in doubtful cases. Total war has changed the nature of many a law. In an age when the policy of "scorched earth" is partially applied by the warring power in its own country to a large extent, the general devastation, which has been ordered in the cause of large scale strategic operations is not a suitable subject of a criminal proceedings."

Since the prosecution has not proved its allegation, since further it has not shown any facts which could be considered criminal actions perpetrated by the defendant during the evacuation, the motion which I have put forward is justified and I beg the High Tribunal to rule upon it.

V.

With regard to the general position of the defense in my case I consider myself now at the conclusion of my remarks obliged to point out to your Honors the difficulties with which I as counsel for the defense have to cope; especially with regard to the case for the Balcans only a small part of really very extensive material is available. The evidentiary material, which would serve to show more clearly all possible circumstances which led to the various actions of the defendant Rendulic are not accessible to me. Also it is possible for me to submit parts of the prosecution documents only to a small extent, parts which can serve to exonerate the defendant, the defendant and therefore also the counsel for the defense must in the main rely on the memory of the defendant in the conduct of his defense. It is simply beyond the capacity of the human brain still to remember details, facts, persons, conferences and discussions, relevant for this trial after 4 years and more than 3 years since the conclusion of the war during which the defendant was active on many fronts, during which he had to deal with any number of superiors and subordinates in constantly changing positions, and during which he had to tackle the most complicated problems of warfare, and to prove such reminiscences with material of probative values The prosecution had many months in which to prepare its case.

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The defendant and his counsel have received the evidentiary material of the prosecution only at the end of June and during the month of July 1947 in such a short period of time it is not possible to examine this material as thoroughly as one should and at the same time to collect the necessary rebuttal evidence especially since the latter is particularly difficult in view of the present situation in Germany and takes an unduly long time. As counsel for the defense I consider myself obliged to help to establish the truth. But I am also obliged to point out those circumstances which might make this even technically impossible for me.

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PRESIDING JUDGE CARTER: It is the opinion of the Tribunal that a prima facie case, at least, has been made against the defendant Rendulic in regard to the evacuation of the province of Finnmark, and the motion of his counsel to dismiss that portion of the count will be overruled.

Is counsel for the defendant Dehner prepared to make his opening statement?

DR. KLINNERT(For General Dehner): Your Honors, James W. Garner, the well known American teacher of International Law, Professor for International Law at the University of Illinois, author of the well known work "The International Law and the World War" gave a lecture in Berlin, on 30 November 1935, on the subject of "The International Law and the Wars of the Future". In this lecture Garner said in regard to international law during world war I, 1914-1918, inter alia the following: I quote:

"Both sides maintained that many of the old standards dating back to a time in which conditions were either not applicable, illogical or ineffective and would therefore have to be discarded. Or they would

have to be adapted, by way of additions, to the new conditions, or the new means of warfare, under which and by means of which the war was to be continued.

It is a fact that the laws of war were in a chaotic state; many points were not covered by any law at all, with regard to other points there existed no agreement as to what was lawful, and with respect to other points again the standards were hopelessly incomplete, illogical and badly suited to the new conditions under which the war had to be waged."

With a prophetic eye this lawyer, who is among the greatest teachers of international law of our century, stated the following with regard to a future war which unhappily has become reality: I quote:

"The next great war -- in case we should unhappily have to live through one again -- will thus to a large extent have to be waged without fixed standards or under standards, which will be ineffective or imperfectly adapted to present conditions, unless in the meantime the existing standards are revised or supplemented by new ones"The world did not grant Garner's demands for a revision and a new setting up of the standards of International Law.

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The standards of International Law have not been supplemented or strengthened. They have not been revised. It was not ascertained which parts of the laws of war were still valuable and useful.

On the strength of these facts the following questions arise:

Is it possible at all for a charge to be based on standards which have been termed hopelessly incomplete, hopelessly illogical and hopelessly ineffective by one of the greatest teachers of International Law?

And would it not be an injustice to base a condemnation on such standards?

Prior to the examination of the evidence the following task must therefore be fulfilled:

The Laws of War that are laid down in the Hague Convention and in the text books of International Law, must be analysed with regard to all their finer points. First of all one must ascertain, which parts were still generally valid during the last war. Only when this is established could the Tribunal arrive at a just decision.

I am expressly using the word "could", for establishing this point only does not suffice.

No punishment without a wrong being committed.

This is a universally valid legal maxim of all penal systems.

This legal maxim is valid in particular in all countries guided by English and American Law.

It is true that on principle ignorance of a law is no excuse for a punishable act.

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This maxim, however, does not possess unrestricted validity even as far as the penal law of individual states is concerned, American law especially knows of exceptions to this rule. In this context I refer to

Winthrop "Military Law and Precedents" edition 1920. On page 29 of this work Winthrop cites some examples in which ignorance of the legal norms excludes culpability.

Owing to the chaos concerning the validity of the legal standards in International Law, this maxim can, however, find no application at all in International Law.

Otherwise this would mean demanding a better knowledge of the standards of International Law from a soldier than from the recognized authorities on International Law.

General Dehner, who is represented by me, could thus only be punished,

a) if violations of those norms of the Laws of War can be proved whose general validity was still recognized during the last war by those nations abiding by International Law, and,

b) if it is established that General Dehner was also conscious of this.

It is therefore necessary to subject the Laws of War as laid down in the Hague convention to a very searching analysis.

For this reason I cannot by any means agree with the Prosecution if in their Opening Statement they say:

"Nor--- can the true meaning of this case be drawn from learned arguments by counsel, analyzing and refining the laws of war as they are written in the Hague Conventions and in textbooks on international law."

(Page 10 of the German and page 11 of the English record) But I can even less agree with the Prosecution if in its' Opening Statement it further says that questions of evidence are of secondary importance.

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The questions of evidence play a very considerable part, particularly in view of the confusion which predominated in matters of international law during the last world war.

In peace time it is, as a matter of principle, forbidden to kill a human being, not so in war time. Even the killing of hostages may be legal, as even the Prosecution has stated.

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Destruction of foreign property, also, is not always illegal in case of war.

Therefore, the facts have to be thoroughly established in order to answer the question, whether the few norms of laws of war which still have general validity, have been violated.

It is not sufficient, therefore, when the prosecution presents evidence for the fact that hostages have been killed, and that inhabited localities have been destroyed.

Instead, the prosecution will have to present in all cases the pertinent circumstances, especially the reasons leading to the killing of hostages and destruction of inhabited localities.

The documents which have been submitted, especially the teletypes do not show this in any way.

Generally speaking the following can be said with regard to the documents which have been submitted as evidence against General Dehner, especially with regard to the daily reports:

These documents have no probative value according to the regulations concerning evidence of the American rules of procedure, for the following reasons:

1. They do not constitute the best evidence which could be presented by the prosecution, but instead "secondary evidence" which is not admissible:

I quote: "The best evidence must be produced of which the case is susceptible." (Winthrop, Military Law and Precedents 1920, page 321.)

2. It does not suffice, therefore, that the prosecution submits that their evidence consists of captured documents.

Instead, the prosecution has to prove, that General Dehner himself, either wrote them (daily reports), received them, or was informed of their contents. Such a proof would be necessary even if – which is not however the case – these documents had been captured amongst General Dehner's effects. I quote:

"Neither is it sufficient to show merely that the letter or telegram was found in the possession of the person in question, without further showing that he wrote, received or knew of such writing". End of quote.

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(Wharton, Evidence in Criminal Cases 1935, Vol. II, page 1394.

To refute these statements the regulations of Ordinance No. 7 could be quoted, according to which Military Tribunals are not bound to any rules concerning evidence. In this connection I would like to point out the attitude of two judges, who even today are members of the Supreme Court. These two judges have expressed the following attitude in connection with this question in the case of Yamashita:

Mr. Justice Rutledge has said:

"The rules of evidence are not only a matter of evidence. They go to the basis right of defense." (Case Yamashita, page 12.)

I quote further: "They go also to the basic standards of trial", end of quote. (Case Yamashita, Page 2.)

Mr. Justice Murphy has said: "The punishment should be based upon charges fairly drawn in light of established rules of international laws and recognized concepts of justice." (Case Yamashita, Page 12.)

In this connection the Prosecution further submitted, they did not believe it would be refuted; that:

1. the killings charged in the indictment actually took place, 2. they were carried out by troops under the command of these defendants, and 3. they were actually ordered by the defendants.

These statements of the prosecution do not apply under any circumstances to General Dehner, whom I represent.

To begin with, it will certainly be refuted that all killings alleged in the indictment did actually take place. The Prosecution did not present full evidence for these allegations.

Furthermore, it will certainly be refuted that, inasmuch as the killings with which General Dehner has been charged, took place at all, they were carried out by troops under the command of General Dehner.

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Thirdly, it will be fully refuted that General Dehner did ever at any time order an execution. Instead, the allegation to this effect by the Prosecution will be confronted by an allegation of the Defense that General Dehner had never ordered any execution. This can be seen from the very presentation of the Prosecution. The orders which have been submitted by the Prosecution in this connection were already valid at the time when, in August 1943, General Dehner took over the command of the LXIX Corps. The order of the 15 Sept. 1943 was passed on by General Dehner's deputy, without the former's knowledge, while he was on leave.

According to these orders the divisional commanders were exclusively responsible for the reprisal measures and the executions of hostages.

As my colleague, Dr. Laternser, has already shown in detail, the court will have to go deeply into the question to what extent General Dehner can be at all punished for actions which his subordinates committed without his orders and during his absence. For all actions committed by General Dehner in his capacity as Commanding General of the LXIX Corps, were committed pursuant to orders of his superior military authority.

I do not want to repeat the statements which my colleague, Dr. Laternser, has made here, but instead I wish to point out the following points: This question cannot be decided on the basis of the principles of either the American or the German Penal Law, but solely according to the principles of international law. International law, however, is completely void of any norm, such as is defined in Article II, No. 4 b, of Control Council Law No. 10 of 20 March 1945. International law does not know of any norm establishing that a soldier should not base his actions on superior orders. Therefore, the court will have to go deeply into the question to what extent the Control Council could establish the norm of Article II, No.

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4 b of Control Council LaW No. 10, dated 20 Dec. 1945 with retroactive power. In case that the Tribunal should want to base this decision on the principles of the American Penal Code, I should like to draw attention to the writings of William Winthrop in his work "Military Law and Precedents". In this book, it is stated - on page 296 that actions of a soldier, committed pursuant to written or oral orders by a military superior, are not punishable.

In this connection the Prosecution has referred to the stipulation of Art. 47 of the German Military Penal Code and stated that the law of the German Army itself says that every soldier is in duty bound to refuse the carrying out of orders the criminal nature of which is known to him. The Prosecution has, however, not taken into account here the following point of view for the application of this stipulation. This stipulation always presumes the possibility of refusing to carry out an order. If this possibility were not open to the soldier, then his refusal would result in strict punishment for failing to carry out orders, without examining the legality of the order and the illegal act which had been ordered could not be prevented. The common soldier can refuse to carry out a criminal order given to him by a lieutenant, because he then has the possibility to complain to the superior of the lieutenant. The lieutenant can refuse to carry out a criminal order given by a staff officer, because he has then the possibility to turn to the superior of the staff officer. This possibility, however, does not exist if orders of any kind, the illegality of which should now be proved, have been issued by the Supreme Commander of the Wehrmacht. And this possibility does not exist under any circumstances, if these orders have been issued by a dictator, who unites in his hand all the powers of the state, as in the case of Hitler, a dictator who would, in fact, have had the orders issued by him carried out by using every means at his disposal. What was General Dehner to do in the face of the orders given him? How could he have prevented their being carried out, and after his September leave those orders had already been carried out.

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Where was General Dehner to seek justice when confronted by illegal orders of Hitler's?

Without answering these questions reference to a superior order cannot be excluded.

With regard to the four counts of the indictment under which General Dehner is charged I have to make the following detailed observations:

Under Count 1 of the indictment General Dehner is charged with responsibility for the cases listed under 5 i, k and m.

In case 5 i General Dehner is charged with the responsibility for the shooting of 40 hostages on or about 15 September 1943 in Croatia by troops of the 173rd Reserve Division.

The Prosecution has submitted no proofs to this effect.

From none of the documents submitted by the Prosecution it follows that on 14 September 1943, 40 hostages were shot in Croatia by troops of the 173rd Reserve Division. None of the witnesses examined by the Prosecution has testified to that effect.

If the Prosecution had proved these facts which they have asserted, I would prove that General Dehner was on leave during that time and that for this reason alone General Dehner could not be held to account under penal law for the shooting of these hostages.

It will, however, not depend on proving this point because as already mentioned there is so far a complete lack of evidence on the part of the prosecution.

JUDGE CARTER: We will take our noon recess at this time.

(A recess was taken.)

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AFTERNOON SESSION

THE MARSHALL: The Tribunal is again in session.

DR. KLINNERT: I shall now continue my opening statement:

Under 5k of the indictment General Dehner is held responsible under penal law for the shooting of the 40 hostages in Croatia on 28 September 1943 through troops of the 173rd reserve division.

The arrest and execution of these hostages took place on the basis of an order of the 2nd Panzer Army of 15 September 1943. Document NOKW 509, Exhibit 340, Document Book XIV; Page 10. This order was passed on during General Dehner's leave. For this reason along General Dehner bears no responsibility under penal law for the passing on of this order.

On the basis of this order the divisional commanders decided independently with regard to the shooting of the hostages.

In the case of Yamashita the Supreme Court had pronounced the following legal maxim:

"And in Gen. Orders No. 264, Hq. Div. of the Philippines September 9, 1901, it was held that an officer could not be found guilty for failure to prevent a murder unless it appeared that the accused had "the power to prevent" it."

(Supreme Court Nos. 61 Miscellaneous and 672, October Term, 1945 (Page 10.)

General Dehner did not possess the power to prevent the execution of these measures ordered by a superior.

Moreover the shootings of hostages reported by teletype of 28 September 1943 were carried out during the leave of General Dehner. Under count 5 m General Dehner is charged with responsibility under penal law for the execution of 20 bandit suspects by troops of the 187th Reserve Division.

The teletype of 10 October 1943 submitted by the prosecution as evidence for this assertion; bears no signature; initial. It is merely an unauthenticated typewritten letter. This document has no probative value whatsoever.

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No further evidence was offered by the prosecution for this assertion made under count 5 m.

I therefore move to discontinue proceedings against the defendant Dehner regarding the indictment point 5 i and m because the prosecution has offered no evidence which incriminates General Dehner beyond a reasonable doubt.

With respect to the further shootings listed in the teletype of 15 November 1943 and 12 November 1943 (Document [NOKW 658](#), Exhibit 375 I shall prove that these shooting were not carried out by the divisions belonging to the LXIX Reserve Corps.

In a further teletype of 21 September 1943, Document [NOKW 659](#), Exhibit 375, a report is made of the shooting of 10 hostages as a reprisal measure for an attack on the motor truck of a Croatian Panzer Regiment. Here I shall prove that

- a) General Dehner was on leave during this time,
- b) the shooting of these hostages was carried out not by troops of General Dehner's, but by Croatian units not subordinate to General Dehner.

Under Count 2 General Dehner is charged with plunder and devastation.

The devastation of 2 Croatian villages listed in the indictment under 9 c was carried out while General Dehner was on leave. For this reason alone General Dehner bears no responsibility under penal law.

Regarding the destruction of villages on 16 October 1943 listed under count 9 g, I shall first of all prove that it may be doubtful whether these two communities were burnt down at all.

In any case, the destruction of these two villages was not ordered by the corps.

I shall further prove that in so far the prerequisites of military necessity as well as the prerequisites of a reprisal action under international law were present.

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To Count 9 h the Prosecution has up to date not offered any evidence that on 15 November 1943 troops of the 187th Reserve Division which was subordinate to General Dehner set fire to the village of Mamena. Up to now it has only been proved that this village was partly burned down as a definite nest of bandits on 7 November 1943.

This incorrectness of the Prosecution's assertion that the village was set on fire on 15 November 1943 follows from Document Book XVI, page 88, the daily report of 23 December 1943. According to this daily report this village was attacked in December 1943.

Thus it cannot have been destroyed on 15 November 1943.

Regarding the partial destruction of the village on 7 November 1943, I shall prove, that this measure was necessitated by the military situation.

Regarding the destruction of the village Grorewsky, on 27 November 1943 – mentioned under count 9 i of the indictment, I shall prove that this destruction was not carried out by troops under the command of General Dehner. Rather was this village burned down by police troops which were not subordinated to General Dehner. General Dehner neither ordered this destruction nor did he have the possibility to prevent it.

Besides, the teletype of 27 Nov. 1943 shows, that the locality concerned was strong point of the partisans. The destruction thus was a military necessity, and therefore not illegal by international law, as I shall prove, during the course of my evidence.

In so far as the other documents, which have been submitted by the Prosecution, show that destruction of villages in the area of the LXIX Corps had taken place during the time when General Dehner was in charge of this Corps. I am going to prove that the destructions were either carried out by police units or that we are here dealing with measures which, taking in to consideration all circumstances, constituted urgent military necessities.

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General Dehner is charged under Count 3 of the Indictment with having carried out and drafted illegal orders and the decrees subsequent to such, with having passed on such orders and decree and with responsibility for their execution through units of the Army.

As evidentiary material with regard to count 12 of the Indictment, the Prosecution has submitted the Commissary by von Brauchitsch. This document merely proves that Brauchitsch issued the Commissary Order to the above date. This document does not even go to show that the authorities listed under distribution actually received this order.

In June 1941 General Dehner was in charge of the 106th Infantry Division. This Division is not listed under the distribution given in the above document. Further evidentiary material with regard to this matter had not been submitted by the Prosecution. Under no circumstances can it therefore be taken as proved that General Dehner received this order. Besides, all evidence is lacking to show that General Dehner passed on this order or instituted any measures in order to have it carried out.

At this point I should like to refer to Wharton's words, which I have mentioned above, according to which it would have to be proved, that General Dehner wrote the above documents or received them or in some way informed about their contents.

Under count 12 h of the Indictment General Dehner is charged with having issued the Command Order; with having passed it on and with having carried out. To prove this the Prosecution has submitted document C. 18, exhibit 225; the order of Hitler from 18 October 1942.

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A distribution list does not appear in this document. For the reasons given by me previously; this document merely goes to prove that Hitler issued an order. All evidence is lacking to show which authorities; if any received this order. If particular it is not proven that General Dehner received it. The Prosecution submitted no evidentiary material to indicate that General Dehner passed on such an order or carried it out. The allegation contained in the indictment to the effect that General Dehner issued this order is refuted through exhibit C 18 which has already been mentioned and which shows that the order was issued by Hitler.

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Also with regard to this charge the evidence is not sufficient. Under Count 12 I of the indictment General Dehner is charged with having ordered the shooting of 1 staff officer and of 50 men for very division of the capitulated Italian Army as well as with having carried out this order Also with regard to that, the evidentiary material submitted by the Prosecution is insufficient to prove its allegation the prosecution has, to start off with submitted two Keitel orders of 9 September and 15 September 1943 document [NOKW 898](#) exhibit 317 and NOK W 916 exhibit 323 which are supposed to show that General Dehner committed a criminal action.

Neither of these orders is addressed to General Dehner. As to that I am referring to page 27 of the English version Doc. Book 13.

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On this page it can be seen to whom this order of 9 September 1943 was addressed. Document [NOKW-916](#) does not show to which commands this order was actually sent. Besides, neither of these documents contains an order of the contents described in the indictment.

Therefore, neither of these documents proves that General Dehner received this order. There is no evidence showing that General Dehner passed on such an order.

Document [NOKW-910](#), exhibit 327, page 43 of the English version of Document Book 13, which has not been submitted in evidence against General Dehner, shows, that such an order was sent only to the 15th Mountain Corps, which has never been subordinated to General Dehner, but that it sent to the 69th Corps for special tasks.

Neither was there any reason to send such an order to the 69th Corps for special tasks as there were no Italian troops within the area of the Corps. Apart from that General Dehner was on leave doing the period in question.

I therefore move that the proceedings against the defendant Dehner be discontinued with regard to Count 3 of the Indictment, since the Prosecution has not submitted any evidence, which might incriminate the defendant Dehner beyond a reasonable doubt.

Also the evidentiary material, which has been introduced with regard to Count 4 of the Indictment, can in no manner suffice to convict General Dehner. In accordance with the prosecution's own statements General Dehner is not involved in any of the individual cases mentioned under Count 4. None of the documents which have been submitted show that General Dehner has ever ordered arbitrary arrests of people indigenous to the area of his Corps for reasons of alleged racial inferiority or for political reasons. No case has it been proved that General Dehner ordered the indigenous population to be maltreated or even murdered. There is also all evidence lacking to prove that General Dehner ordered the civilian population to be seized and to be taken into the Reich for labor employment.

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To prove this the prosecution has submitted documents [NOKW-509](#) and [NOKW-657](#), which are exhibits 340 and 376 respectively, which, however, do not show that General Dehner was responsible

according to criminal law. Document [NOKW-509](#) on page 13 of the German Document Book 14 contains an order of the commander-in-chief of the 2nd Panzer Army from the 15th September 1943, which had been passed on by the Supreme Command of the 69th Corp for Special Tasks on 19 September 1943 and to which there was added a Supplementary Order on 23 September 1943, Both documents prove beyond doubt that the evacuations mentioned were by no means of an arbitrary nature. The order states literally. I quote:

"In those areas which are particularly important for the conduct of the war and which are infested with bands the male inhabitants from 15 - 60 years are to be evacuated. To begin with, they are to be collected in guarded labor-camps. The Army will issue further orders regarding their employment in labor. The evacuations are to be carried out as surprise actions in order to prevent the population from escaping before they take place.

Territories to be evacuated are: The surroundings of important passes and pass-ways, territory along railway-lines which are particularly endangered etc.

The intentions to carry out the evacuations are to be reported by the Corps Headquarters to the Ia of Panzer Army 2, and to the Quartermaster of Panzer Army 2. One Copy each."

This proves clearly that this evacuation constituted a military necessity and was therefore permissible according to International Law and which, incidentally, was stopped when General Dehner returned from his leave.

This is Document [NOKW-509](#), Exhibit 340, page 26, A, first paragraph. For these reasons these documents do no suffice for the conviction of General Dehner.

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The Prosecution has offered no evidence whatever to show that these evacuations were actually carried out. Also the evacuations, which had been ordered by General Dehner's deputy, according to Document [NOKW-509](#), page 26 of the German document book, had been ordered because of constantly repeated attacks against the railroad Zagreb Joganovac, as can be seen from the document. Also these evacuations were legal in the sense of military law.

The prosecution has further submitted document [NOKW-657](#) in evidence. This document does not prove any responsibility according to criminal law either, since first of all this order is not illegal and secondly it was not been proved that this order, which was not even signed by General Dehner and was issued by his deputy when General Dehner was on leave, was ever carried out. Also with regard to count 4 of the indictment, the prosecution has not proved that General Dehner was responsible according to criminal law.

I therefore move that proceedings against General Dehner be discontinued with regard to Count 4 of the Indictment.

In summary I therefore move that proceedings against General Dehner be discontinued with regard to 5i and m of Count 1 of the Indictment, and with regard to count 3 and 4 of the Indictment, since the Prosecution has not proved that General Dehner is incriminated beyond a reasonable doubt.

JUDGE CARTER: The Tribunal is of the opinion that the ruling on these motions should be reserved until the conclusion of all the evidence. If counsel for the Defendant Dehner sees fit to renew the motions at that time they will then receive the consideration of the Tribunal.

DR. KLINNERT: Thank you, Your Honor.

DR. MUELLER-TORGOW: (Counsel for defendant Felmy) Your Honors, May it please the Tribunal, in 25 document books the Prosecution has submitted the pertinent material which is to show that the defendants committed war crimes and crimes against humanity according to Control Council Law No. 10.

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The documents submitted are of a purely military character, such as war time diaries, activity reports, daily reports etc. There was a certain form and contents prescribed for them in the German Wehrmacht. Higher authorities wanted to be informed on certain matters; these reports had to be short, but complete as well, so that the decisions made by the higher authorities would correspond to actual conditions. The documents, which were submitted by the Prosecution in the form of copies, have lost their original significance, insofar as omissions were made in essential points and their contents was thus robbed of its context from which alone the documents can be understood. For instance, in the Ic-daily reports the following matters had to be reported on: under paragraph a) the tactical position, under, b), c, d, e) further indications concerning the position, concerning judgment of the enemy position, etc., under paragraph f) "Miscellaneous", to which, among other items, also belonged reprisal measures.

Therefore, if, as happened in many cases, paragraph f) was included in the copy of the document but paragraph a) to e) were left out, then we are solely being acquainted with an actual fact as a result of some cause, which we are unable to perceive. This is only one example, but it is typical for the whole presentation made by the Prosecution. The Prosecution's presentation only states actual facts without even so much as making a marginal note about the cause, it does not inquire into the "why" and we shall see how important and decisive this question is.

The Tribunal has decided that in the document books copies do not constitute evidence, but that only photostats are being considered as such. But these, too, are partly not complete in themselves, besides other pertinent documents for other periods are missing, which also have to be submitted so that the contents of the document can be understood.

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But even if the entire material in question would be available complete, the over-all connections would not be evident from it. These, however, are the decisive factors. At present I do not want either to examine the various documents as to their value as evidence, or to answer the various counts of the indictment from an actual and legal point of view. I only wish to make an attempt in general to remove

from my client's, General Felmy's, picture – as it was presented to the Tribunal by the Prosecution in the course of its case-in-chief, the features of biased distortion, in order to go into details later on in my presentation of evidence.

For this purpose let us imagine that we make a journey to the South of Greece and at the same time into the past, that is to say, into the years 1943/44. At that time, General Felmy was commanding general of the LXVIII Army Corps.

First the preliminary question comes to mind: what was the function and the position of a commanding general in the German army? With regard to its orders and its competency, the army corps was just between the subordinate divisions and the superior army or army group, if there was no complete army. It is now especially important to realize that in the structure of the army there was a sharp break between divisions and army corps. The division was independent, tactically as well as with respect to supply. It formed an organism which was complete in itself, and whose members acted side by side and together on behalf of the whole, that is to say, the division. In the so-called "order of battle" (Kriegs*liederung), those links, that is, the subordinate regiments, battalions, and units, were graphically depicted. With one glance at the order of battle of, let us say, an armored division, one could immediately tell what was its concentration, and through that one know its operational possibilities and its fighting strength. The separate links, every one of which had its definite assignment, remained closely together and kept in continuous touch with division headquarters.

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This necessitated of course a continued contact between the division commander and his staff on the one hand, and with the troop commanders subordinated to him on the other hand, with the result that the division commander knew his troop commanders well from a military and human point of view.

The army corps, on the other hand, did not have a battle order in the sense mentioned above. The army corps could have two, but also five divisions subordinated to it, as the case might be, and the conditions of subordination changed if strategy or tactic required it, sometimes very often. An order of battle existed only for the corps staff and for the few so-called "corps troops" which were directly subordinated to the commanding general. The orders he issued or transmitted to the division he gave as the military superior outside of, and above, the organism as described above. Therefore, the commanding general as a rule did not have a continuous personal contact with the troop commanders within the divisions subordinate to him.

If we now look at the conditions in South Greece during the years 1943–44 from this point of view, we notice that after the capitulation of the Italians in September 1943, there was stationed there only one German division, the 117th Infantry Division, to which was added the 41st Fortress Division only in the winter 1943/44. It was spread over a territory which normally would be taken up by an army group. The space covered by the LXVIII Army Corps which included outside of the Peloponneso also Attica, Boetia, and several islands, corresponded to the territory usually allotted to an army. This, of course, meant a further increase in the difficulties connected with General Felmy's supervisory activities. If in addition to that one takes into consideration the dreary and inaccessible landscape of South Greece, one

must realize that it was extremely difficult for him and his staff to form a correct picture of whether or not the measures taken by the troop units under his command had been chosen and executed in a manner which corresponded to the local conditions and was correct and appropriate.

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However, if General Felmy had the opportunity of ascertaining excesses any where, and when he actually ascertained them, he put a stop to them with the necessary severity.

The answer to the question, what actually was his field of supervision, depends on the answer to the preliminary question: what was the tactical mission of the LXVIII Army Corps? The answer is: primarily and above all else, its mission was to secure the occupied territory against surprise invasion by the enemy. This was the primary purpose to which all military measures taken and to be subordinated. In addition to this, the army corps had a series of tasks which were considerably less important as seen from a higher tactical point of view, military, political, economic, and propagandistic missions which followed from the occupation of the territory.

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To this belong especially also the lighting of guerrilla bands which turned against the German troops only after a certain definite time, which I shall discuss below. The German troops were technically in no way equipped for guerrilla warfare in the impassable territory of South Greece which was favorable to this type of warfare in every respect-the mountains there reach a height of 2, 500 meters. The German soldier was neither skilled nor trained in guerrilla warfare; he was accustomed to stand before an open and recognizable adversary.

What was it that led to guerrilla warfare at all? As long as the Italians participated in the occupation and, in addition, as long as the 1st Armored Division was stationed on the Peloponnesos, the Germans had only very occasional clashes with the partisans. Only by the elimination of the Italians the situation became disagreeable for the German troops. And this was not only the case because the Italians partly deserted to the guerrillas and thereby reinforced them, or at least sold arms and munitions to them, but it can be exactly established that from that time on the guerrillas received supplies from territories outside of Greece, and were additionally supplied by air through the British. The partisans now more and more turned against the German soldiers without the latter having given any provocation whatsoever. The guerrillas unquestionably were the attackers and, especially in the Peloponnesos, there was hardly a day without attacks.

In which way they proceeded, in which manner they fought and in which inhuman way they treated captured and wounded German soldiers, for all this, evidence will be submitted by the defense. The position was particularly uncertain and not clean for the Germans also because apparently peaceful civilians, the so-called "house partisans" unexpectedly took part in sudden attacks, to disappear again afterwards among the population. Mention may be made by the way in this connection of the fact that these people, partly, made common cause with the bands only under pressure. The excitement of the German soldiers concerning the most terrible atrocities, committed by the bands in increasing numbers

be proved by me – is only too understandable, – as far as feeling is concerned – and the reaction was often severe, but unavoidable.

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If, to-day, similar things would happen to members of the BS occupation army, the consequences would certainly not be different. And I extend this comparison not only to reactions of feelings of individual soldiers but also to the measures which would be taken in that case by high military authorities. And here, High Tribunal, we come to the central idea of International Law in the event of war which has been expressed in the official French text of the Hague Convention of 1907 by the term "Necessites militaires" –military necessities The question – justified in itself, for several reasons – whether this convention and its supplement, the Hague Regulations of Land Warfare, are – or are not – valid entirely or in part, is irrelevant in this connection) for the notion of "military necessities" can also have a generally recognized meaning in customary law. The question arising after the last total war is: has the requirement of military necessity any relevant meaning at all any longer?

High Tribunal, I should like to submit – sine ira et studio the example that I am going to mention now and that – as the nearest in space – is only one example out of many. If you consider the impression given by this town which was formerly Nuernberg and which, for centruies, had been called "the little treasure chest of the German Reich", and if, then, you conclude that in the ruins below the castle, apart from many human lives, culture, too, had been buried, is there not, for any fair person, necessarily the question unavoidable: Was that necessary for warfare and victory? The answer, I think, seems to be clear, unless, in modern total war which is, it is true, far away from the Hague Regulations of Land Warfare, terror can be considered as a military necessity. But it is on the other hand, just "a well-calculated program of terror and destruction" that the defendants arc being charged with in the opening statement of the prosecution.

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This is the only conclusion which can be drawn: either the concept of the "necessites militaires" actually disappeared, or, if still existing, it was broadened through the general usage of war to such an extent that the defendants must benefit by it, assuming that they actually gave the orders with which they arc charged. However, there will be no need for an association of thought with these negative aspects of warfare to prove that General FELMY cannot be held responsible within the meaning of the indictment. He did not provoke the guerrillas to assume an attitude against German soldiers which, was in contrast to the tenets of international law. The partisans were fully aware of the precarious situation of the German troops, they led to, and did anticipate, reprisals against hostages who had been found to be connected with them. They could have rendered any form of reprisals unnecessary through cessation of hostilities. They did not do so. Apart from that, the national Greek element they pretended to represent was merely a cloak to deceive the population. They acted on higher orders. Had this not been so, they would have had to stop their activities at the latest upon the withdrawal of the German troops from Greece. However, conditions in this unfortunate country not only have not improved since, on the contrary they deteriorated considerably Although during the last phases of the German occupation

entire sections of the City of Athens were in the hands of the partisans and they could no longer be kept in check by the customary means, General FELMY refused to subject Athens to artillery fire, just as 20 years ago as a Major in the Reich Ministry of Defense (Reichswehrministerium), he had abhorred the principle of air raids on open cities.

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After the withdrawal of the Germans it was left to the British to attack the sections of the rebels from the air. Winston Churchill in his essay, "If I were an American", published in "Life" of 12 May 1947, states that in the course of their retreat from Athens in December 1944, the guerrillas murdered at least 20,000 men women and children to whom they objected or who obstructed their path. They are the same guerrillas who formerly used to attack the Germans, even though the Prosecution uses the word "bands" in quotation marks, which however will have been lost even for them after the withdrawal of the Germans. "The Greek Dilemma", the title of a recently published American book, has since become a generally accepted idea. Formerly the Balkans were the "powder cask" of Europe, Greece is at present the "powder cask" of the world.

General FELMY, as all other defendants, is charged with "appeasement through terror". I shall bring evidence to the contrary and to the fact that during the entire period of his sojourn in Greece he made honest endeavours for a true peace through collaboration with the population. He not only did not terrorize and exterminate the latter but gave help when ever possible. He protected them against gross transgressions on the part of the Italians, he assisted them against the inhuman and cruel treatment of the partisans.

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And that not only because Article 43 of the Hague Land Warfare Convention prescribes that the occupying officer "must make all the arrangements dependent upon him in order to re-establish and maintain as far as possible public order and public life." .. From inner compulsion he worked together with the population against the partisans in order to help them and bring peace to the country.

I do not want to go into detail at this point as to the abundance of arguments which are available in this respect.

Generally speaking, I have received during the last months from high and low, from soldiers and civilians, a large number of statements - in some cases without having requested them - all of which more or less culminate as to content in the following declaration: "I consider General FELMY incapable of having acted against the law and against humanity." He never was a "militarist" in the negative sense with an "odd conception of military discipline" as was expressed in the opening statement of the prosecution. The officers who worked with him all agree in describing him as a man who was in every respect a model of military and human respect, and ordinary soldiers speak of him as their "Papa Felmy", tireless in his concern for their welfare. That is the general opinion of him. Greece for him meant the land of the Hellenes, which in ancient times had once been the cultural center of the world. This reverence for Greece gave him additional strength to stand up with all the means at his disposal for peace in Greece.

And such a man, who is deeply rooted in religion and endowed with character and culture, who thinks, feels and acts like any decent person and any honorable officer in all countries of the world and who had thus clearly remained within the boundaries of behavior recognized as permissible by international law – could such a man be a criminal?

The German poet Matthias Claudius wrote a war song of a special kind 150 years ago. It contains a confession which was and is likewise the confession of General FELMY:

"Unfortunately it is war, and I request not to be blamed for it."

PRESIDING JUDGE CARTER: This, I think, concludes the opening statements of the defendants. I trust that the defense counsel are now prepared to go ahead with the evidence in support of their defense.

DR. LATERNSEER: (Counsel for defendants List and von Weichs): Your Honors, do you intend to start this afternoon?

PRESIDING JUDGE CARTER: I know of no reason why we should not proceed.

DR. LATERNSEER: Your Honors, I am prepared to start. I shall, to begin with, put the defendant Field Marshal List on the witness stand. Then I shall hear other witnesses and, finally, I shall submit to the Tribunal document books and present documents. Before I put the defendant Field Marshal List on the witness stand I should like to draw attention to the following.

My position is this. When I have heard the defendant I can for the moment not continue my case because the witnesses which have been requested by us have not yet turned up, and the document books are, unfortunately, not ready for submission and that because continuously new material comes in, and, therefore, they could not have been finished.

For this reason, I would like to put the question to the Tribunal how I am supposed to proceed after I have heard the defendant Field Marshal List. If what possibly may not be avoidable, the other defendants are called to the stand, then we would have the disadvantage that the various cases could not be submitted in a complete form.

I would like to put this question to the Tribunal and to make clear thus the position of defense counsel in order that the Tribunal may know how the defense will have to proceed in the event that, in consideration of the short time which the prosecution took up by their presentation, there may possibly be a recess after the defendants have been put on the stand until all material is complete in the hands of the defense. I want to be very frank. The defense does at the moment not know its position clearly. As is well known to the Tribunal, it has made a motion that two of their representatives may look at the documents in Washington. The prosecution for its part has declared that all documentary evidence will be brought here. That latter alone would help the defense to a certain extent but not completely because

we have made the motion to look at the documents ourselves because we expect to find documents beyond those which the prosecution has presented and which may be important to us.

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In this connection again there is a further disadvantage. All this is a consequence of the fact that the prosecution submitted its case so briefly. In case we get material which the prosecution is about to have brought to Nuernberg, I for my part will not be in a position to make a complete presentation of the case List and what disadvantages are connected with such a factor can well be estimated by the Tribunal.

The reason why I am explaining all this is the following. I just want to make clear the position of the defense at the moment -- that is, when I have heard the defendant List I can then not continue because other witnesses haven't arrived yet. For that reason I would not be in a position to have talked to any one of the witnesses and my document books which, of course, as far as they are finished, I am in a position to deliver up today for mimeographing; but that, on the other hand, would not help me because then my presentation could not be complete.

That is the position, as I want to put it to the Tribunal.

PRESIDING JUDGE CARTER: The Tribunal suggests that you proceed with the evidence of your client. Sometime during the day or tomorrow morning, at the earliest, the Tribunal will advise you of its feelings in the matter that you have expressed here if that is agreeable, Dr. Laternser.

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DR. LATERNSE: I want to start this way. I have just been given a communication which I would like to make known to the Tribunal in addition and I attach importance to the fact that it be incorporated in the record. This communication too, will show the extreme difficulties of the defense. May I read it? I am only doing this so that the prosecution may gain a complete picture of the situation.

"The Prosecutor of the Spruchkammer Weissmain to Defense Center Nuernberg, Palace of Justice.
Subject: Southeast Generals.

"The appeal which was published in the press on the 8th of last month to former members of the Wehrmacht who have participated in partisan warfare in the Balkans, to the effect that those people should put themselves at the disposal of the defense, only reached me now and I would like to put the following question to you in this connection."

The communication is very short, your Honors.

"Officially released prisoners of war from Jugoslavia prisoner of war camps are very few or none at all. However, there will be a few who have succeeded in escaping further prisoner ships, either by escaping or by pretending not to be of German nationality.

"I can well imagine that such people who have thus escaped a very hard fate, that those members of the Wehrmacht will not report in compliance with your request, even if they could make testimony of

importance, because they will surely be afraid that possibly they will again be extradicted to the Jugoslavs; and then comes the question -- or wouldn't that be the case?

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What assurance will be given in such a case."

And then comes the signature.

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By reading this letter I was only going to show the Tribunal what the general opinion is to volunteer as a witness for the defense in this trial.

Now, before I put the defendant Field Marshal List on the witness stand, I would like to ask that the chart which has been put here by the prosecution for informational purposes be removed. I think it is wrong and I don't want this chart to exert any influence on the charts which I intend to submit to the witness. Maybe that can be done in the recess afterwards.

PRESIDING JUDGE CARTER: Is there any objection of the prosecution to the removal of the chart during the offering of the defendants' evidence?

MR. DENNEY: Your Honors, no, we have no objection to taking the chart out.

PRESIDING JUDGE CARTER: The chart may be removed during the afternoon recess.

DR. LATERNSE: Thank you, your Honor. I now call the defendant Field Marshal list to the witness stand.

PRESIDING JUDGE CARTER: I swear by God the Almighty and Omniscient that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath).

DIRECT EXAMINATION BY DR. LATERNSE:

Q: Field Marshal, will you please tell the Tribunal your full name?

A: Siegmund Wilhelm Walther List.

Q: Before you answer any one of my questions, please make a short pause so that the question can be translated.

When were you born?

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A: On the 14th of May, 1880.

Q: And where?

A: In Oberkirchberg in Wuerttemberg. That is in the district of Ulm.

Q: What was your father's profession?

A: District counsellor (Laudrat)

Q: What is your religion?

A: I am a Protestant.

Q: And what is your schooling?

A: At first I visited a private school. Later I went to elementary school in Ulm and also visited there the first classes of the gymnasium.

Q: Who was in charge of your education when you went to school in Ulm?

A: My grandmother. She was the widow of a clergyman and when aided in this by her daughters, one of whom was a teacher in a girls' school.

Q: How long did you remain in Ulm?

A: To the year 1890.

Q: And where did you go then?

A: Then my father transferred to Munich.

Q: And what school did you go to in Munich?

A: The Humanistic Gymnasium (High School).

Q: When did you leave that school?

A: In 1898.

Q: Had you been determined for a long time to become an officer?

A: I had gained the first impressions which led me to this in Ulm but I was not decided for a long time whether I wanted to become an officer or a forester. My grandmother originated in a forester's family and I lived with her for a long time near the Danube and I there made experiences concerning pioneer activity which influenced me deeply.

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When, in the year 1898 I had to choose what kind of a profession I wanted to take, I then decided to become an officer. That was a profession which at that time was quite frequently taken up by young people in Bavaria just as any other kind of civil service.

Q: Why, then, did you decide to become an officer?

A: Because I endeavored to do a lot of work out in the open and to have as much as possible contact with other people.

Q: Where did your military career start?

A: It started in Munich at the then pioneer detachment which later became the pioneer battalion.

Q: And when?

A: In July of the year 1898.

Q: When did you become an officer?

A: In March of the year 1900.

Q: What was your further training as an officer?

A: To begin with, I worked with the troops; 1902 to 1904 I went to an artillery and engineering school; and then I became battalion adjutant and as such I made an examination at the War Academy. I went to the War Academy from the year 1908 to 1911. That is the Bavarian War Academy in Munich.

Q: Are you married?

A: Yes.

Q: How many children do you have?

A: Three.

Q: How did your further military career develop?

A: After I had finished the War Academy I again worked with the troops in an Infantry Regiment. Later I was ordered to the Bavarian Staff and there, as an officer of the Second Bavarian Corps, I was assigned when the troops were mobilized in 1914.

Page Unlabeled

After the First World War, 1914 to 1918 -- or, rather, at the end of the First World War -- I was called to the Bavarian Ministry as an expert and there I participated in the dissolution of the Army.

Q: What was your activity during the First World War?

A: During the First World War I was an officer of the General Staff, as well in the Western, in the Main, also for a short time in the Eastern theatre of war.

Q: What decorations did you receive during the First World War?

A: During the First World War I received the Iron Cross, First and Second Class; then the Hohenzollern House Order with Swords, the Bavarian Order of Merit, with sword, a Wuerttemberg Order, an Austrian Order and a Bulgarian decoration.

Q: What intentions did you have for the period after the First World War?

A: After the First World War, I had the intention to become a farmer. However, that did not come true because, on the occasion of the Munich Putsch, I saw myself forced to flee from Munich; together with government troops I participated in the conquest of Munich and I was then taken over to the standing Army of the First World War of 100,000 men.

Q: What were your assignments after you had been incorporated into the standing army after the first World War?

A: Partly I worked with the Staff; partly in the troops. As of the year 1922 up until 1924 I was Commander of the Mountain Infantry Regiment, Kempten, 19th Inf. Regt.

3l51 Later I worked on the staff of the Military Command District 7, and from there, in the year 1926, after I had in the meantime been promoted to Lieutenant Colonel, I came into a training department of the Army.

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In the autumn of that year I was made full Colonel. I was put in charge of the department as deputy the dept. chief who was sick. In the spring of the year 1927 I became Chief of the Army Training Department.

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(Dr. Laternser)

Q You have mentioned just now a battalion of the Infantry Regiment 19. Have you ever been actively employed with this battalion?

A Yes, I was employed with this battalion in the year 1923, that was on the occasion of the Hitler rise in Munich, and they had to suppress that rise, and I was instructed to effect law and order in Munich.

Q You said that in 1927, I believe, you were Chief of the Army Training Department?

A Yes.

Q How long did you remain in this position?

A I remained as Chief of the Training Department to the spring of the year 1930.

Q And what did you become then?

A In the year 1930, I became Commander of the Infantry School; that was, in those days, the only infantry school; that was located in Dresden.

Q What were your tasks for this position?

A My task was to train young officers of the Reich Army and to educate them; with regard to the educational task, I received a special instruction in those days, just before that time, the National Socialists had formed cartels amongst the young officers of the Army. I recall the case Ludin and I was instructed then by the then Minister for the Defense, - that was the Democratic Minister Groener, and from the chief of the OKW, and from the chief of the troop office, that was General of the Infantry von Hammerstein, to make sure that any political activity, and especially an influence of national socialism on the young officers in Dresden, should be avoided.

Q And what did you do, according to this instruction?

A In order to carry out this task I educated and trained my officers in this sense. I influenced their teachers and occasionally made appeals to the young officers.

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In the year 1933, in the autumn, I was promoted to Brigadier General, and on the 1st of October I was given the fourth division in Dresden. In 1934 I was made Commanding General of the newly created 4th Corps, and in 1935, I was promoted General of the Infantry (Lt. Gen.)

In 1938, in the spring of that year, I was, for a short period, made commander-in-chief of Army Group II in Kassel. However, I only remained there for one month, up to 1 April, 1939, and then I became commander-in-chief of Army Group V, which had been newly created in Vienna.

Q Did you participate in the march on the Sudeten area in the occupation of Czechoslovakia?

A I participated in both as commander-in-chief of Army Group V, Vienna, - that is, I participated in the occupation of Moravia. That is the southern part of the occupied area.

Q When were you made General?

A I was made Major General in the spring of 1939.

A Now to the war.

MR. DENNEY: Dr. Laternser has asked when he was made Generaloberst, a four-star general, and the interpretation came through as "Major General". The rank he is referring to is a four-star general, the rank just above the rank of Field-Marshal. Will you please have it corrected?

BY DR. LATERNSEER:

Q When were you made a full general?

A In the spring of the year 1939.

Q And may I say the word, "Generaloberst" has been translated from "four-star General".

Field Marshal, we now approach the period of the war. What were your positions at the beginning of the war?

AAAt the beginning of the war, in the year 1939, I became Commander-

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in-Chief of the 14th Army. That was in the campaign against Poland.

Q And what was your next position?

A With the 14th Army I participated in the campaign in Poland, and soon after the campaign was finished, - that was in October, 1939, I was sent to the west with the high command of the army, and this command was then given the designation, "High Command XII".

To begin with, I came to the army group von Bock, which was divided up later, and on the occasion of the division, I came to von Rundstedt's Army group, that is, the southern wing in the Eiffel territory.

Q In what capacity did you participate in the campaign against France?

AAAs Commander-in-chief of the 12th Army.

Q And after that campaign was concluded?

AAAt the conclusion of the campaign in France, I was again transferred to the east, to the district of Cracow, together with the army command XII.

In the meantime I had been promoted Field Marshal. That was in the middle of July.

Q And what were your further positions during the war ? Very briefly.

A I remained in the east for a short time, Before Christmas, on the occasion of the visit of the Commander-in-Chief of the Army he informed me that my army command would be transferred to the southeast, -- in order to form there army forces in the Roumanian area, and at that time, when I was informed of this, this had already started.

Q And how long did you remain in the Southeast area? Quite briefly to begin with, we will come to it more in detail later.

A I remained in the southeast until my illness, that was on the 15th of October, 1941, and I was then in the hospital in Athens up to December, 1941.

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Q Did you later on have another position?

A Yes, I did have another position for the duration of about two months.

Q And what was that?

A From July and August to September, 1942, I had the command of Army Group A. Army Group A was then located on the southern wing of the Eastern front.

Q How long did you maintain this command?

A From the 7th of July to the 10th of September.

Q And why did you discontinue?

AAAt that time there were serious differences of opinion between me and Hitler.

Q What decorations did you receive during the war?

A During the war I received the clasp to the iron cross, first and second class, and the Knight's Cross to the Iron Cross, and furthermore a number of foreign decorations, Slovakian, Hungaian, Italian, - Bulgarian and Roumanian, decorations.

Is it necessary that I mention them all in detail?

Q No, it is not necessary.

What was your attitude to the party of the National Socialists?

A My attitude was, from the very beginning, critical and rejecting, and this, my attitude, was based on my activities, that is, when I had to take part in suppressing the Hitler rise in Munich, I had then noticed the whole manner in which the party proceeded. Furthermore, my attitude was based on the experiences I had made during the struggle before the elections between Hitler and Hindenburg, and especially it was based on the manner of how the party showed itself toward the Wehrmacht, – how the party endeavored to destroy the above-party character of the Wehrmacht and how they tried to gain influence over the Wehrmacht; as I had described before, there were certain cartels amongst the young officers corps; in the years 1929/30 that it was possible that such a thing existed was due to the influence of the party, and on all of these facts my rejecting and critical attitude toward the party was based.

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Q Why did you remain in the service then, in 1933?

A In spite of this, my attitude, I saw no cause, and none of the officers could see any cause, for resigning the service because after all Hitler had gained power legally. We served under the Weimar Republic, as long as this Republic held the confidence of the German people, and there was no cause now, just because the political party had changed, and a different political party had taken over, -- there was no reason for us to resign the service. Besides, we did not serve the armed forces of the party. I saw my service as that of the Fatherland.

Q Did your rejecting attitude toward the party of the National Socialists diminish later on?

A No, maybe at the beginning one was somewhat influenced by the successes which Hitler doubtlessly gained in the inner political sphere, as well as on other spheres, and which had gained him respect abroad in broad circles, but it was shown repeatedly that within party circles, and mainly in the inner life of Germany, excesses occurred on the part of the party, which were directed especially against the officers' corps, so that it became necessary to watch out, and my rejection did not diminish, but after a short time, sort of an "in-between" period, I felt rather more strongly in this rejecting attitude. For this reason, in order to not have to accept these excesses towards the Wehrmacht, and even those of a general nature which became felt, I, during the time from 1933 to 1938, when I was commanding general in Dresden.

PRESIDING JUDGE CARTER: It is not only time for our afternoon recess, but they have run out of sound recording tape, so we will have to recess.

DR. LATERNSE: The question has not been fully answered yet, maybe the defendant can answer it after the recess.

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JUDGE CARTER: You probably will have to repeat part of the answer, because it has not been taken down.

DR. LATERNER: Vary well.

(In recess until three-fifteen o'clock)

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THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

PRESIDING JUDGE CARTER: You may proceed. I don't know how much of the last question or the last answer was on the tape, so you'd better ask it again.

BY DR. LATERNER:

Yes, Your Honor.

Q Field Marshal, you were just enumerating the reasons why you remained in office in spite of the excesses which had become known.

A I said that Hitler came to power legally so that was no reason for us to leave the service, all the more so, since we did not serve the party but the fatherland, so as we had done in the Weimar Republic, as long as this Republic enjoyed the confidence of the people. Furthermore, I was of the opinion that the purely objective activity of the Reichswehr, especially of the officers corps which knew only the cause and their duty, and the fact that I would carry out this idea in general, and I was of the opinion that just in such times of political unrest it was necessary for the elements of peace that they should remain at their posts.

Q You mentioned before transgression by the party into the territory of the Wehrmacht. Did you object against such attempts at transgressions against the Wehrmacht?

A Yes. In 1933 until 1938, as long as I was a commanding general, I frequently made representations to the Gauleiter.

Q It was only in 1938?

A No, from 1933 to 1938.

Amongst other things, it was at the time of 30 June 1934 the Roehm putsch, when excesses commenced by the SS. In the same night, I sent a staff officer to the office of the Minister Reichenau and at that time asked him if he would take care that these excesses ceased.

Q And were you supported in this?

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A Emphatically, in these attempts, my chief of staff, who was later general of the artillery Olbricht.

Q What was the result of your step on the 30th of June 1934?

A Unfortunately, it was not successful.

Q Did you also on other important occasions object against methods taken by the party?

A Later on, yes.

Q When?

A 1938, on the occasion of the Jewish pogrom in Vienna.

Q What did you do then?

AAAt that time I learned it first of all from the newspaper and then I went to my office and when I was certain about events which had happened and I sent the staff officer to the Gauleiter at that time and told him that he should take care that these events did not recur.

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Q. Did you also apply to some other office?

A. At the same time, I went to the police president and I told my commanders that if soldiers took part in those kinds of things then they must intervene and punish them.

Q. What sort of happenings were they at that time?

A. In these Jewish programs, I didn't experience them myself. There were plunders and destructions of shops and synagogues.

Q. In order to make this quite clear, when was it?

A. It was in November, 1938.

Q. Did you know Hitler before 1933?

A. No.

Q. When did you meet him for the first time?

A. I met him for the first time in late autumn, 1933, or perhaps winter, 1933-1934.

Q. When was that? On which occasion?

A. Well, I can't say in detail. It was some kind of official occasion.

Q. Then did you see him later on frequently?

A. During the course of the following years, of course I saw him. It may have been three times or four times a year.

Q. And what sort of meetings were they at that time?

A. They were either visits to the troops by Hitler or they were public meetings or it was a discussion which Hitler had in a large circle.

Q. Did you also have private discussions with Hitler?

A. Before the war, no.

Q. Did you go to conferences of a military kind with Hitler?

A. No, never.

Q. From when onwards did you count on the serious possibility of a war?

A. I did not count at all on a serious possibility of a war before the actual outbreak of war.

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Q. What about summer, 1939?

A. In summer 1939, the situation was very tense, but I regarded Germany's armament at that time as such that a war could not come. In addition, the diplomatic solution of the Sudetendland and the protectorate had preceded and so I counted on the Polish question also being solved in this manner.

Q. What were you doing at that time of the crisis?

A. I was commander-in-chief of Army Group 5. And I received the order to carry out fortifications along the new Polish frontier and to visit troops which were not under my command.

Q. And what did you think would be the outcome at this time of crisis?

A. Well, I hoped and counted on the fact that as in other cases there would be a diplomatic solution.

Q. And what strengthened you in this view?

A. In this view, I was especially strengthened by the conclusion of the pact with Russia.

Q. But nevertheless war came. And as you have already said, in the Polish campaign you were commander-in-chief of the 14th army, and what was your commission at that time?

A. The 12th army was on the southern flank of Army Group Runstedt --that is, on the southern flank of the army group advancing towards the east and I had the task of going via Cracow in the direction of Lemberg.

Q. And did you get to Lemberg?

A. We got to Lemberg. We also took Lemberg but then in face of the advancing Russians we had to leave Lemberg to them with the oil fields between Lemberg and Prezmysl, including Prezmysl.

Q. Field Marshal, this evacuation before the Russians took place during the fighting then?

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A. Yes, this took place during the fighting. At that time, the fixed demarcation line, as a result of the pressure of the Russians, had to be very quickly changed and repeatedly pushed back towards the west.

Q. How long did you remain in the eastern theater of war?

A. Until approximately the middle of October, 1939.

Q. Where did you go then?

A. From there I went with the staff of the 11th Army which was then called Army Group 12 to the west to army group von Bock.

Q. Of what intentions did Field Marshal von Bock inform you?

A. When I arrived in Godesberg, Field Marshal von Bock, who was then general told me at that time rather agitatedly that Hitler was having ideas of operations against England and France.

Q. If you say ideas about operations, what do you mean by this ?

A. I mean an aggressive intention.

Q. What was Field Marshal von Bock's attitude towards this?

A. General von Bock rejected this idea and he told me of this idea of Hitler's -- they were obviously the first thoughts--and he was all excited about it.

Q. And what was your attitude towards this?

A. My attitude was the same as that of General von Bock.

Q. What did you do in order to make your attitude clear to your superiors? I mean your attitude towards these aggressive actions?

A. I talked with some of my commanding generals, with my chief, I worked out a short memo and this memo I presented it to General von Brauchitsch when he came to visit me. This memo contained the idea that I was of the opinion that one should try to avoid a new war and to find a peaceful and diplomatic solution.

Q. And what was Brauchitsch's opinion at that time?

A. Brauchitsch shared my opinion entirely and he instructed me that when I had the opportunity I should submit it to Hitler the same as I submitted it to him.

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I was under the impression that Brauchitsch wanted this as a support for his own opinion.

Q. And did you later receive any answer to this representation?

A. Well, an indirect answer, in so far as Hitler called the generals including all the commanding general, I think it was in November, 1934, to come to Berlin.

MR. DENNEY: Your Honor, that is a wrong translation. It would be November, 1939. You said 1934.

A. I received an indirect answer through Hitler who in November, 1939, called the generals together in Berlin. At this discussion, he told us all his ideas and reproached us older generals with timidity.

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Q Along came the Western offensive, and what was your task in this?

A I stood with my Army in the Eiffel, and my job was to break through the Maginot line near Mezieres and Sedan and further on to advance towards the West.

Q And was this carried out?

A In the West of Sedan my Army was stopped and turned towards the South against the Aisne to set up a new front which the Panzer forces which were behind me advanced towards the West.

Q How long did you remain in France after the conclusion of the Western campaign?

A Until the middle of October or the end of October 1940.

Q Then where did you go?

AAAt this time the Army High Command was again transferred towards the East, towards Cracow.

Q And how did you learn about this new task.

A By orders, an order that the Army High Command had to go toward the East and take over a new task. This task consisted of the development of the fortification line along the German-Russian demarkation line.

Q And at that time did you speak to the Commander in Chief of the Army?

A The Commander in Chief of the Army came during December, shortly before Christmas, and visited me. He was on a visit to the troops.

Q And what did he tell you?

A On this occasion I received a new commission, namely, that the Army High Command from 12 should build out a new group in Roumania whose advance at this time was already in force.

Q And for which reason did one think that kind of assembly of forces from Roumania was necessary?

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A There were indications that the British were retrenching themselves in Roumanian there were reports of landing intentions, and of the erection of air bases and that could force us to turn against this in order to prevent it.

Q What operation did you have to count on then?

AAAt that time there were thoughts that it could be necessary to occupy Greece up as far as the Aegian coast and in this way to prevent a threat to the Italian Front by the British forces and at the same time to prevent the British from setting up air bases in Greece which would be a great danger to the oil fields, especially those near Ploesti and to the supply along the Danube.

Q And what hopes did you entertain at that time?

AAAt that time too I thought that an armed dispute would not arise. And Hitler too didn't want a war with Greece and I counted on the fact that the establishment if necessary by our troops in Bulgaria

would along have been sufficient to stop the Italian-Greek conflict and that an armed dispute would not be necessary.

Q Did you express this opinion?

A Yes, I discussed this opinion with my officers and other things were also discussed immediately prior to my departure to Rumania, that is, in the last days of February 1941, with the Dowager Queen of Roumania, the sister of the King of Greece, who at that time of course expressed the hope to me that we would not be forced to wage war against her brother. Her brother was the King of Greece and I could only tell her that I shared this hope.

Q Then was your opinion strengthened by any kind of events that war should not come in that stage.

A This opinion in the next few weeks was of course strengthened by the Anschluss of Yugoslavia joining in the German-Italian pact.

Q Then how did the situation become changed?

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A The situation was completely changed from the 27th of March 1941 by the Revolution in Yugoslavia.

Q Then what else happened in Yugoslavia?

A Some news came from Yugoslavia that Yugoslavia since January or February had been mobilizing and on the Bulgarian and Yugoslavian front there were also signs at this time of troops of various formations and, according to British sources later on, Yugoslavia at this time had nine times a hundred thousand men under arms.

Q What orders did you receive then?

A By reason of this coup d'etat I received the order not only as was intended before planned to advance against Greece but simultaneously from the East against Yugoslavia.

Q And what was necessary in order to carry out this order?

A Formerly my eyes were exclusively in the direction of Greece. About my long right flank, already in the weeks before, I had been calmed down by the Commander in Chief of the Army, and I also received the order to reassure King Boris of Bulgaria who told me repeatedly, said to me repeatedly, "don't be so sure; I know my cousins; in the shortest time possible they will advance in your right flank." The forces at this time were not present and were not envisaged and therefore the new task demanded a sudden swing around the whole plan of operation and a new advance against Yugoslavia and so an alteration of the former advance against Greece.

Q The Prosecution contends, Field Marshall, that the campaign against Greece was well prepared.

A The campaign against Greece was prepared; the campaign against Yugoslavia was in no way prepared, but before the 27th there was a friendship pact which was concluded with Yugoslavia, to prepare for an attack against Yugoslavia, we only had the period from the 28th of March until the 6th of April.

Q. When did you receive an order to start a campaign?

A. In the last days of March 1941.

Q. And when did the campaign start?

A. The campaign started against South Macedonia and against Greece on the 6th of April 1941 with the Tank Group Kleist which was further to the North on the 8th of April 1941 it was two days later, because Kleist Panzer group was not ready for the advance.

DR. LATERNSEER: Your Honor, before I question the witness about the forces which were under his command at that time I would like to show the Tribunal Exhibit List No. 1. This is four sketches and the photostats are four exhibits together. Actually, when I need them during the examination I will hand them over to the Tribunal and the General Secretary.

MR. DENNEY: Could we have the understanding that they are offered in evidence before determining whether or not an objection should be made. Perhaps Dr. Laternser would like to lay a foundation for it, as there is nothing to show what they are. At this time I object to them.

DR. LATERNSEER: Of course I would be very pleased to show them to the Prosecution.

MR. DENNEY: We have them but don't know what they are.

JUDGE CARTER: I assume Dr. Laternser proposes to show when questioning his witness, what they are.

DR. LATERNSEER: That was my intention, I think they were distributed a little too early.

Q. Now, Field Marshall, you will see from these sketches, looking at the first one --

MR. DENNEY: I don't want to be unreasonable about it but throughout the presentation of our evidence we constantly were abiding by the 24 hour rule. We won't insist upon it because this document is nothing more than some sort of a chart which has been prepared by somebody who has something to do with the defense. However, I don't think it is unreasonable to respectfully request the Tribunal to direct in an exhibit as simple as this that we be served with copies before so we will have some idea what was being offered and to save time both for the Tribunal and counsel.

DR. LATERNSEER: Of course, Your Honor, I realize that, and everything I submit to the Tribunal I will submit to the prosecution 24 hours beforehand.

JUDGE CARTER: There appears that the Prosecution has not made an objection on the 24 hour rule so you may proceed.

BY DR. LATERNSEER:

Q. Field Marshall, please look at the first chart. Does this chart give a clear picture of the forces which were under your command at that time?

A. Yes.

Q. Please explain this chart to the Tribunal?

A. At the top is Hitler and at the same time OKW and then OKH, Commander in Chief of the Army, General Field Marshall von Brauchitsch; I was subordinate to him at that time.

MR. DENNEY: The interpreters don't even have a copy of this thing and what they are saying, for instance she just said about the center, talking about OKW; OKW is not at the center and I ask that the defense counsel give them a copy. It is not the interpreter's fault but they are just repeating what the witness says without having the document.

DR. LATERNER: I am sorry I didn't know that the interpreters didn't have a copy. Your Honor, in this connection may I say the following: I don't want to make any difficulties; it isn't so simple for the defense to get so many copies of German photostats because if we ask for a certain number then we are told, "you can do with less," and it makes a difference whether the defense asks for a certain number of copies or the Prosecution asks for them. In this case I would ask the Prosecution to take this into account.

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It is exactly the same with translations. In this connection I would like to state this:

If the Prosecution gives anything to be translated and say they needed it in two days. I assume this, this is a pure assumption -- I assume they get it, but if I, as defense counsel, ask for it, I may not get it according to the experiences I have had up to now something of this kind might well happen in the course of the trial so that technical difficulties arise in this direction and I would ask that what I have just said be taken into account.

JUDGE GARTER: We evidently have enough copies of this so let's proceed.

BY DR. LATERNER:

Q. Field Marshall -

A. Then AOK 12 and my Chief was von Grafenberg, and subordinate to me the Panzer group 1 von Kleist, and General Command Stumme, and General Command 18 Mountain Corps Boehme, General Command of the 30th Corps, under off, and under Panzer Group 1 there were two general Commands the 14th Panzer Corps, von Wietersheim and the General Command 11th Army Corps von Kortzfleisch.

Q. Now Field Marshall, what about Panzer Group von Kleist.

A. Panzer Group von Kleist advanced on the Northern flank, via Nisch towards Belgrade and they had to smash the Serbian forces between there and then to occupy Belgrade. With the entry into Belgrade Panzer Group 1 with its troops was transferred to AOK II and General Field Marshall von Weichs.

Q. That is sufficient from this chart. I now would like to ask you how the campaign went on. Please describe it to the Tribunal quite briefly.

A. I have already said on the right flank from the East to West there was Panzer Group Kleist which went via Nish towards Belgrade.

Q. Just a minute Field Marshall, the other charts, which are joined to this one, which I will submit to you later on, I will come to these.

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Q. And then towards the South General Command Stumme with the divisions under him had to advance, break through, the Bulgarian-Jugoslavian frontier mountains, smash the Yugoslavian forces there, and take up communication with the italians. The 18th Mountain Corps had the last sector, had to limit attacks to this line towards the South, also the corps Ott in the direction of Thrace, where were the Creek Bulgarian frontier mountains.

Q. When was Salonika occupied?

A. A Panzer division of Corps Boehme to go around and attacked this line towards South Macedonia in the direction of Salonika. Salonika was occupied on the 9th of April 1941 without fighting.

Q. What was the result of this occupation in Salonika?

A. By the occupation of Salonika the Greek-Thracian Army and the occupations of the Metaxas line fortifications were cut off from their communication with the rear. The Greek-Thracian Army, therefore, capitulated on the 9th of April 1941.

Q. What happened after the capture of Salonika?

A. After the capture of Salonika the forces of the 18th Mountain Corps turned against the Olympic positions which were occupied by Creeks and British.

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Q: And when were these positions removed?

A: I can't say the exact date, during the next few days.

Q: And then what happened after this removal?

A: These troops then went towards Larissa, and at the same time from the North a Panzer Division came down. This was sent by Panzer Group Kleist, and went from Florina, towards Larissa. From there the troops went on towards the south in the general direction of Athens which another group of forces went against the rear of the Greek Epirus Army, who faced the Italians.

Q: And what was the result?

A: One of these detachments went over the Mecovo pass in the direction of Joannina; the headquarters was in Joannina, the headquarters of the Greek Epirus Army. This Greek Epirus Army then capitulated.

Q : Why, Field Marshall?

A: By reason of the fact that through this advance their communication, too, was completely cut off.

Q: Who concluded the capitulation of this Epirus Army?

A: The capitulation of the Epirus Army was concluded by me with the Deputy Commander in Chief of the Epirus Army, a General Zolacoughlu.

Q: Where was the real commander in Chief?

A: The real commander in chief had left his Army shortly before.

Q: When was the capitulation concluded?

A: The capitulation was concluded and signed on the 21st of April 1941.

Q: And did things remain like this?

A: No.

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Q: Why not?

A: The capitulation had to be renewed, that is had to be effected again with the same contents. The reason was that the commander in chief of the Epirus Army had only offered this capitulation to the Germans. Of course, I asked during the negotiations for capitulation that with the signing of the capitulation the fighting had to be stopped also against the Italians. Now Mussolini objected to this conclusion, because it was against his prestige that the capitulation also wasn't offered to him and it was not signed by the Italians, so this had to be done.

Q: And when was the capitulation signed for a second time?

A: It was signed again. I think, on the 23 of April 1941 in my headquarters.

Q : And who concluded it? Between whom was it concluded?

A: This capitulation was signed between -- for the Germans Generaloberst Jodl, for the Italians I don't know who signed it, and for the Greeks General Zolacoughlu. I refused to sign the capitulation which had already been concluded.

Q: Did you meet this Greek General again?

A: In the capitulation negotiations on the 23 April, which took place in my headquarters, even if I didn't take part, I met General Zolacoughlu again. I invited him to breakfast without the Italian mission, in order not to offend his honor as a soldier, because he hadn't been conquered by the Italians.

Q: With the signing of the capitulation did the fighting stop?

A: Yes, completely, at least against the Greek troops?

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Q: How many Armies did the Greeks have?

A: The Greeks had two armies.

Q: And what were these armies?

A: The Thracian Army and the Epirus Army.

Q: Could you make it quite clear when the Epirus Army and when the Thracian Army capitulated?

A: The Thracian Army capitulated on the 9th of April and the Epirus Army capitulated on the 21st, and again on the 23rd of April 1941.

Q: To whom did those forces capitulate, who were in action in Albania against the Italians?

A: That was the Epirus Army.

Q: And which provisions did the capitulation negotiations contain about the treatment of the Greek soldiers?

A: The Greek soldiers immediately after the cessation of fighting and after the arms had been turned in the soldiers were released.

Q: At that time did you issue an order with regard to the treatment of the Greek soldiers?

A: I issued an order to the effect that to correspond with the bravery of Greece and the Greek soldiers should also be treated in such a manner.

Q: And did any Greek forces come into the captivity of the Italians?

A: No.

Q: Why not?

A: After the Greek Army had first of all only offered the capitulation to the Germans, I wanted to save the Greeks from this. On former Greek-Italian fighting line set up German Security troops in order to prevent the Italians from going over this demarcation line until the disarming had been carried out, and the Greek troops were started on their way home.

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Maybe not all of them succeeded in getting through this mountain territory. Maybe some of them remained there.

Q: And how was the sending home of the Greek soldiers carried out?

A: As far as the troops could do this the Greek soldiers were given every facility, and they were put on a baggage vehicle, which went along with the columns.

Q: And were the officers treated in the same way?

A: The officers were released with arms.

Q: When was Athens occupied?

A: Athens was occupied on the 27 April.

Q: And then how did the Peloponnesus campaign come to end?

A: I would like to repeat it all happened after the signing of the capitulation, and while the soldiers of the Greek army were already in the process of being released. Violent fightings was still going on with British troops around the Thermopylae positions. After the entry into Athens, motorized forces, Panzer divisions went via Corinthian Isthmus toward the Peloponnesus, and these forces smashed the British troops which were still there, and those who could no longer get into the ships were taken prisoner. These were the last group in the south of Peloponnesus and there were about 10,000 British.

DR. LATERNER: Your Honor, may I ask one more question to finish this chapter? I can be finished at once.

Q: What were the losses of the German side and the other side?

A: On both sides they were very small.

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JUDGE CARTER: The Tribunal will recess until 9:30 tomorrow morning.

(Whereupon at 4:30 a recess was taken)

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Official Transcript of Military Tribunal V, Case VII in the matter of the United States of America against Wilhelm List et al, defendants, sitting at Nurnberg, Germany, on 17 September 1947, 0930, Justice Wennerstrum presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshall, will you ascertain if all the defendants are present in the Court room?

THE MARSHAL: May it please your Honor, all the defendants are present in the Court room.

THE PRESIDENT: You may proceed, Dr. Laternser.

DIRECT EXAMINATION (Continued) WILHELM LIST BY DR. LATERNER:

Q Field Marshall, yesterday we stopped at the end of the Balkan campaign. Have you anything to add to your testimony of yesterday?

A. I think that I said a name wrongly at the end, I said that the British were taken prisoner at the south end of the Peloponnesus and I said the name of the place was Kalabakki. The name really is Kalamata.

Q. Where was your headquarters at the end of the Balkan campaign?

A. For a few days in Athens and then in a little place a few kilometers away from Athens called Kuphisia.

Q. Why didn't you remain in Athens?

A. Actually we weren't supposed to go into Athens at all because at that time Hitler wanted to reserve Athens for the Italians.

Q. What were your tasks at this time? That is, at the end of the Balkan campaign?

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A. At the end of the Balkan campaign, my main task was the security against attack, against unrest. In addition, supply for the transports, securing of communication services and transport system.

Q. And what was the situation at that time in Greece?

A. The situation in Greece was at that time completely peaceful.

Q. Which troops were at your command for the execution of the occupation?

A. At the beginning of the occupation, I still had those troops left over from the campaign. These troops were slowly drawn out and taken away from Greece and that part which finally I wouldn't say finally but for the next period were to remain in Greece.

Q. And what remained to you when the forces were withdrawn?

A. When the forces were withdrawn, the general command 18th Mountain Corps remained and the two Mountain Divisions, the 164th Division, Infantry Regiment 125, and at the beginning, parts of the 5th Panzer Division and then some security forces.

Q. I have here in this chart which we already submitted yesterday to the Tribunal for information, that is chart LI-150 which I will submit to you to look at. It is the second chart, your Honors.

Is this chart correct?

A. Yes, it is correct.

Q. And what does it portray?

A. It portrays the command at that time and the troops and the command authorities which were at that time subordinated to me.

Q. What do you mean by "at that time"?

A. By "that time" I mean the period after the end of the Balkan campaign when the occupation started. At the end of the fighting, after which the other general commanders had already been withdrawn from the Greek area.

Q. When, approximately, did this situation arise--only approximately?

A. Well, this happened during May.

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Q. The forces available at that time -- were they sufficient for the execution of the occupation?

A. These forces were sufficient at that time because, of course, as was natural for a campaign, one needs so many more forces as long as the enemy forces were still undefeated. When one saw that the enemy was peaceful at that time in Greece, then these forces were sufficient for the occupation, for the security and to maintain peace and order.

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Q. May I have the chart back?

Which order was issued at that time?

A. Then the order came, Order No. 29.

DR. LATERNSEER: Your Honors, this is Exhibit No. 9 in English Document Book No. 1, page 33 - 37, in the German Document Book 1, page 24.

THE PRESIDENT: Will you kindly repeat that again, Doctor?

DR. LATERNSEER: I am now referring to Exhibit No. 9. This is in English Document Book No. 1, pages 33 to 37. Might I point out, your Honors, that during the examination of Field Marshal List, I will refer frequently to Document Book I to V and No. XXIV.

BY DR. LATERNSEER:

Q. Field Marshal, have you looked at Exhibit No. 9?

A. Yes.

Q. According to this order, who was responsible for the security of the country?

A. According to this order, the security in the Greek zone was the responsibility of the Italians.

Q. What was the relation to the Italian offices?

A. The relation to the Italian offices was -- as it is usually between allies -- correct, with the Italian Commander in Chief at that time I had a rather loose but comradely relationship and the mutual meetings were relatively few.

Q. And was there relation of subordination between the German troops and the Italian officers?

A. No, not at all.

Q. Which area of Greece was occupied by the German troops?

A. The German troops occupied an area around Salonika, and around the port of Piraeus with its district and a few islands. Later on, Crete was added. At this time, this wasn't yet in the hands of the Germans.

Q. And which area was occupied by the Italians?

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A. The Italians occupied the rest of Greece.

Q. And who occupied Athens?

A. For troop billeting, Athens was not to be used by us.

Q. Field Marshal, I asked you who occupied Athens?

A. The Italians. Also for the German offices a German local command was set up there.

Q. Were no German troops in Athens?

A. No, no troops.

Q. What was in Athens?

A. There were a number of staffs in Athens and at that time they became more and more.

Q. What about the subordination of the Air Force, under your command.

A. The Air Force had to carry out the operational war, independently and according to the immediate orders they were direct orders of the Commander-in-chief of the Luftwaffe to whom they were subordinate.

Q. And what about the navy?

A. The navy was in a similar position and the coastal defenses, too, was to be a matter for the navy.

Q. Did AOK-12 have anything to do with the military administration?

A. No.

Q. To whom was this subordinate?

A. The Military Administration in the Greek zone was subordinate to the Italians, and the order went so far that I was instructed to refuse any mediation activities by the Greeks.

Q. When you speak about orders, do you mean Exhibit No. 9?

A. Yes, Exhibit No. 9.

Q. At that time what was your relation to the Commander of Serbia?

A. The Military Commander of Serbia was at that time quite independent and was subordinate directly to the Commander-in-Chief of the Army.

Q. Then you had no official connection with him?

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A. No.

Q. One last question with regard to Exhibit No. 9. Did this order which is contained in Exhibit 9 change anything in your position which you had during the Balkan campaign?

A. As Commander-in-Chief of the Army, no.

Q. And what about the island of Crete at that time?

A. The island of Crete was at that time not conquered.

Q. And when it was captured?

A. When it was captured, it remained first of all under the Air Force. The Air Force had to carry out independently the operation of capturing Crete.

Q. When, approximately, was the capture of Crete?

A. In the last day of May as far as I remember.

Q. Then it was like this at that period? You had neither Serbia nor southern Greece nor Crete -- these three places were not subordinate to you?

A. Yes.

Q. And how long did this situation remain so?

A. This situation remained like this until the next order from the fuehrer. This was fuehrer order No. 31 in which the Wehrmacht Commander Southeast was created.

DR. LATERNSEER: Your Honor, we will now refer to Exhibit No. 15. This is in English Document Book No. 1, page 55 to 59, and in the German document book I, page 38 to 43.

BY DR. LATERNSEER:

Q. Field Marshal, why were these titles mentioned here? What were you named in this order?

A. I was appointed Wehrmacht Commander Southeast.

Q. Did you remain Commander-in-Chief of the 12 Army.

MR. DENNEY: I believe what was asked was what was he named in this order, and I believe that the witness replied "Wehrmachts befehlshaber Suedost" and it was translated by the interpreter as Field Marshal Commander Southeast, which is not the proper translation.

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DR. LATERNSEER: May I ask how it was translated?

THE INTERPRETER: It was translated Wehrmacht Commander Southeast.

THE PRESIDENT: Does that clarify the situation?

DR. LATERNSE: I think so, yes.

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Q. Did you remain commander in chief of the 10th Army?

A. Yes.

Q. Which powers did you receive through this appointment as Wehrmacht commander Southeast, quite generally?

A. The chief powers --- the most important task was the unified defense of that part of Serbia occupied by the German troops and also that part of Greece occupied by the German troops, including the Greek island, against attacks and unrest. In addition, the security of supply and transport.

Q. Field Marshall intermediate question. Since this contained in the order, please only state quite briefly what the tasks were at that time because the text of the order is in front of the Tribunal.

A. The chief tasks I have already stated.

MR. DENNEY: If your Honors please, I think it is apparent that the witness is reading from the document. The document is in evidence. He is being asked what his duties were. There is no objection to his refreshing his recollection from the document, but I certainly object to his reading the document into the record.

DR. LATERNSE: Your Honor, before this objection was raised, I had already pointed this out to the witness for these simple matters usually knows by heart.

THE PRESIDENT: The objection will be overruled. The witness however should keep in mind the suggestion made by his counsel.

Q. (By Dr. Laternse) Field Marshal, I had asked you which were the chief tasks, generally speaking according to this order?

A. Shall I repeat?

Q. Quite briefly, yes.

MR DENNEY: As I understand the translation with reference to the question about military administration, first the interpreter said no and then said yes. I would like to have it clear in the record.

THE PRESIDENT: Counsel will kindly put the question again and the translation and interpreters will then give a further and in their judgment a correct interpretation.

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DR. LATERNSE: Yes Mr. President.

Q. (By Dr. Laternser) Through this order did you receive the supervision over the military administration?

A. Yes.

Q. Which authority did you receive in addition to that?

A. The executive power.

Q. And what does executive power mean?

A. The maintenance of peace and of security and order

Q. Which areas were subordinate to you in this respect?

A. With Fuehrer order number 31, in addition to those areas which were already under my command in Greece, I received new areas, the Serbian area and Crete.

Q. Did you execute the executive powers yourself?

A. They were transferred to other offices and these were the military commander and or commanders.

Q. Which offices do you mean by this?

A. By this I mean the commander of Serbia, commander of Salonika Aegean and the commander South Greece.

Q. What about Crete?

A. Crete was subordinate to its own commandant who had executive powers under orders from the commander South Greece.

Q. And who was commandant of Crete at that time?

A. This was General Andrae.

Q. Did you have anything to do with him?

A. Relatively little.

Q. When, for instance?

A. He came perhaps once or twice directly to me in order to tell me what was going on. On one of these occasions he also came with a teletype from Goering who demanded very strict measures against the population of Crete. After Goering was not actually empowered to intervene and there was no longer a necessity, this order was not carried out but at that time a general amnesty was made in Crete.

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Q. When was that approximately, only if you know?

A. That was end of August, beginning of September.

Q. 1941?

A. 1941.

Q. And to whom were you subordinate in your capacity as Wehrmacht commander Southeast?

A. Directly to Hitler.

Q. I will now show you another chart which I would ask you to look at. Your Honor, this is the third photostat, on which you can see on the right margin, Li-151. Is this correct?

A. Yes.

Q. Have you anything to add to these subordinations here, apart from what you have already told us?

A. Yes, According to order number 31, the commander in Serbia was directly subordinate to me and I had to carry out supervision of the administration. In this Fuehrer order this was stated. The general quartermaster of the OKH was of the opinion that the administration in Serbia should also continue to be directed by him. The Fuehrer order as such could not be altered. A certain appercation was therefore given in the executive provisions of the Fuehrer order.

Q. Field Marshal, I am coming to this later on. Does this chart show the relations of the offices correctly, as they were there at that time?

A. Yes.

Q. Which non offices existed in addition to yours on the Balkans?

A. The plenipotentiary of the Reich.

Q. And what was his job?

A. He had to deal with cultural, political and economic questions.

Q. And what about the Luftwaffe and the Navy at that time?

A. The Luftwaffe and the Navy were subordinate to me. The operational air war was also excepted here in this case. Both offices tried, how ever, to remain as independent as possible.

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Q. Through which office were the administration affairs supposed to be managed?

A. The direction of the administration affairs as supposed to be directed by the OKH, general quartermaster.

Q. In addition to this order were you given any other orders about this either written or oral?

A. After the Fuehrer order was already finished I was called to Berkin where Brauchitsch told me about the new instillation of the Wehrmacht commander. On this occasion I also spoke to the quartermaster general and he said that the administration also in the future must be directed by the quartermaster general and he added, "We will do that all right."

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Q. And what other offices were in the Balkans?

A. There were the Navy offices, the Air Force offices, the offices of the Four Year Plan and a large number of other staffs who were outside my control.

Q. From whom did these offices receive their orders?

A. From their superior Reich Offices.

Q. And at that time what was the relation of the commander of Serbia to the offices of the OKH and/or OKW?

A. The Commander of Serbia received, with regard to administrative affair, direct orders from the quartermaster general and in police matters through the Reichs Fuehrer SS Himmler, and in matters of Four Year Plan, through Goering.

Q. And how did the official channel work?

A. The official channel went directly from Berlin to Belgrade. This had to be so partly because of the difficult communication which existed between Athens and Belgrade.

Q. How should the official channel have gone at that time of which I am speaking?

A. If the Fuehrer order had been strickly kept to, them the official channels should have gone through me.

Q. And was it frequently not adhered to?

A. I didn't know. In matters, for instance, of the Reichsfuehrer SS certainly didn't know because I never had anything to do with the Reichsfuehrer SS.

Q. What is the explanation of the fact that the conditions could not be brought into line with order number 31?

A. This can be explained by the fact that the conditions had already existed which were set down by Fuehrer order number 29, and also through the desire of the quartermaster general to keep the administration of the occupied territories in his hands.

Q. What was the relation between your office and that of the German happenings General in Zagreb?

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A. Very loose. The General informed me about events, about individual happenings as a neighbor tells one about what happen in his hourse.

Q. Was the German General in Zabreb subordinate to you?

A. Not at all.

Q. At which time did Fuehrer order number 31 came into force, this order which is contained in exhibit number 16 and is dated the 9 of June, 1941?

A. This Fuehrer order was supplemented by the executive directions---just a moment.

Q. The executive provisions are contained on page 60 to 62 of the English document book 1 and bear the exhibit number 16. Please continue.

A. These executive regulations came into force on the 20th of June, arrived at the Wehrmacht commander Southeast on the 20 of June, and with them the Fuehrer order of the 6th September---of the 9th June. I myself arrived on the 23d of June, 1941, back from Berlin to Athens and on this day our authority from the Wehrmacht commander Southeast about the institution of Wehrmacht commander Southeast was issued.

Q. So that you, Field Marshal, if I can summarize, received territorial authority in the Balkans on the 23d of June, 1941?

A. Yes.

Q. We will now first turn to Greece. At the end of June, 1941 what was the situation in Greece?

A. The situation in Greece at the end of June, 1941 was quiet.

Q. What are the relations of the German troops toward the population?

A. The relations of the Germans troops towards the population was good. One could say friendly, and in some cases very friendly.

Q. Did you issue any orders about the relations of the troops towards the population?

A. I certainly issued orders of the day and in the order after the capitulation I pointed out to the troops that they should treat the Greek soldiers in accordance with their gallant behavior and furthermore pamphlets were distributed about the behavior toward the civilian population.

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Pamphlets were distributed regarding the respect due to this ancient culture.

Q. What was the feeling of the German soldiers towards the civilian population?

A. There was a wide feeling of sympathy.

Q. And how did this arise?

A. This arose from the fact of the preference of the German for this whole humanistic Greek civilization and there were also through many Greeks studying in Southern Germany close relations between them; especially the Southern Germans and the Bavarians had special sympathies. The first King of Greece was the son of the Bavarian King. The town of Athens shows many signs of a well known Bavarian architect and until the world war, young Greeks were brought up in the Bavarian cadet corps and received Bavarian nationality and became Bavarian officers.

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Q. Did you ever meet such an officer?

A. Yes, a close comrade of mine.

Q. And how can the good mutual relations be explained further?

A. It can be traced back to the fact that the Greek population was happy that the war was ended for them, and further they were grateful for the fact that the soldiers were released at once home.

Q. During the fighting were there damages caused in Greece?

A. No.

Q. What about Athens and Salonika for instance?

A. In Athens there was no damage at all in the town that could be seen from the films we saw. Damage occurred in the harbor area of place through attacks on British transports. Salonika received no damage at all in the entry. The town was captured without a fight and also before it was not bombarded.

Q. What other signs were there of good relations?

A. By the friendly way in which the troops were received in their billets.

Q. A witness has already testified to this here, but I don't want to put a leading question, what about the hanging out of flags?

A. The Greeks would have been very grateful for the fact that I said to the Greek Minister President after we had taken over the Government, I don't want the German flag to fly over the Government building and I gave him permission from the 4th of May onwards to fly the Greek flag over the castle. In addition for the grave of the unknown soldier which was in the main square of Athens immediately in front of the castle a permanent guard was posted consisting of a Mountain Rifleman and a Greek soldier with guns, together.

Q. Field Marshall, have you any confirmation for this good relation from the other side?

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A. When I was a prisoner of war I met a later finance minister.

Q. From which Government?

A. From the Greek Government, and as he told me he took up office with the consent of the exile government and he too confirmed to me that there was completely friendly agreement between the German soldiers and Greek population.

Q. When was he finance minister?

A. I don't remember the date exactly. He must have been Finance Minister in 1943/44. I don't want to state his name here. I know that it might harm him.

Q. Did you have any other confirmations?

A. Yes.

Q. From whom?

A. The Royal Hungarian Ambassador at the Government in Athens.

Q. Who was that?

A. Freiherr von Welisch. He wrote to me after I was already back home a letter in which he specially assured me that he had spoken to a number of Greeks and was speaking to a number of Greeks and that they had never criticized my behavior at all and that many, however, had spoken of me with respect, even reverence.

Q. Where is Welisch now?

A. Von Welisch - I don't know where he is now. When the Jewish laws were introduced into Hungary he went to Cairo. He was mentioned by the last witness who testified here.

BY JUDGE BURKE:

Q. I would like the balance of that translation.

DR. LABERNER: Should the answer be repeated?

A. Freiherr von Welisch went to Cairo at a time when in Hungary the Jewish laws were introduced.

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BY DR. LATERNSEER:

Q. Then you said something about a Greek witness?

A. The last Greek witness, a Professor who was here on the witness stand, named Freiherr von Welisch in a certain matter as source of information.

MR. DENNEY: Will the Interpreter pull the light when the answer is not finished. Dr. Laternser has no way of knowing. That is what the lights are for.

THE PRESIDENT: Will the suggestion made kindly be carried out. I believe it will be helpful to the Tribunal and all concerned. If there is any hesitancy on the part of the interpreters don't hesitate to put on the light. We are all human and we can't do the impossible and don't hesitate to stop the witness.

DR. LATERNSEER: Has everything now been translated?

THE INTERPRETOR: The last word was, "The Greek witness in the stand mentioned Freiherr von Welisch as a man who could be used as a source of information.

DR. LATERNSEER: The witness just said that the last Greek witness had named Freiherr von Welisch as a reliable source of information who could be used.

THE INTERPRETOR: Yes.

BY DR. LATERNSEER:

Q. When you talk about the last Greek witness, do you mean the professor of course.

A. Yes.

Q. At that time to whom else did you have connections?

A. With the Ambassador from the Holy See, Arch Bishop Roncelli.

Q. Did you often meet him?

A. He was my guest a few times. He also visited me while I was ill in the hospital and this was still in November 1941.

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Q. Did he complain about anything?

A. No, with my permission he visited hospitals in which British soldiers were and he reported to me about this visit in a very satisfactory manner.

Q. Did the Ambassador at the Holy See have an opportunity to complain to you about anything, in view of the relations between you?

A. Yes, he had this possibility.

Q. What was life like after the occupation, for instance in Salonika and Athens?

A. Shortly after the occupation life in Athens and in Salonika took on a normal course. The trams started up; the shops and cafes were opened; and in Athens and Salonika we issued the approval of free use of telephone communication; also throughout Greece and in the Islands, and there that wasn't possible, for this communication with the islands was made available at certain hours.

Q. Have you yourself a personal impression, for instance, about business life?

A. Yes, in going through the town a few times I made several individual purchases.

Q. For instance were the Jewish businesses open?

A. Yes.

Q. Were any measures taken against the Jewish population?

A. No, individual officers of my staff had connections with Jewish business people and a number of officers, especially in Salonika, lived with Jews.

Q. Later on did the relation between the Jews and Greek population change?

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A Relations changed by the fact that the Italians took over the occupation.

Q What is the explanation of the worsening of the relations?

A The Greeks understood that we occupied the country after the Greek Army had been beaten by us. In addition they offered capitulation to us and therefore they found it very painful that the larger part of

Greece was given over for occupation by the Italians. A Greek General once said that, "you Germans have conquered us; this is an honor for us; but the fact that you have let the Italians into the country, we will never forgive you this."

Q At that time was there a strong worsening of the relations between the German troops and the population?

A At the beginning, no. Gradually of course a certain stiffening came on.

Q Did you on your trips have any kind of protection in Greece?

A As long as I was in office I went around in my own car throughout Greece without protection.

Q What about the food situation when you were in Greece?

A The food situation during the course of the summer became more tense. In these months there couldn't be seen so very much because at this time Greece still had a large amount of fruit. In late summer, as far as I can remember, there was a shortage, especially of bread.

Q At that time could there be any talk of famine?

A No.

Q Who was responsible for the supply?

A The supply for the Greek area was the responsibility of the Italians.

Q And what did the Germans have to do?

A On the part of the Germans the Plenipotentiary of the Reich endeavoured to increase the food imports and I made the same requests through my official channels.

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Q Then what happened, what was the result?

A The result was that food deliveries, food transports, especially flour, arrived.

Q Where from?

A From Germany. It didn't come to the places where it should have gone because transport was so difficult.

Q And how did these difficulties arise?

A The difficulties lay in the fact of the destruction of the only railway line between Salonika and Athens, especially in the destruction of a very difficult viaduct.

Q Destruction by whom?

A Destruction by the British on their retreat.

Q Which viaduct was this?

A That was the so-called Pralo Bridge near Thermopylae. And there were also difficulties caused by the fact that the sea transports from Salonika to Athens was frequently interrupted by British submarines.

Q Were there any sinkings?

A. Yes. I remember myself two, one of these sinkings is mentioned in one of the documents here, the sinking of the ship "Gotial", in the first days of November, this ship having flour from Germany on board.

Q Can these difficulties be traced back alone to transport difficulties?

A No, Greece always had to rely on imports.

Q And what about the stocks.

A Stocks at that time, when we came to Greece, were very small.

Q How do you know that?

A During the first trial here in Nurnberg I read a memorandum from the Greek government which stated that the Germans upon their entry into Greece already found an exhausted country.

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Q Were there further sources set up for the improvement of the food situation?

A Yes, at that time we allowed fishing on a large scale.

Q Did this cause any complications?

A Yes, it caused complications because various offices objected to this, the enemy intelligence service having thus the possibility to aid people in their attempts to escape.

Q But nevertheless was it carried out?

A Yes, it was carried out.

Q Now about this food question, did military offices also provide food for the Greek population?

A From the Army directly, especially at the beginning food stocks were given up and meals were provided.

Q While you were in Greece what was done in the cultural sphere?

A In the staff had a lecturer whose job it was to insure that if now fortifications or airfields were set up ancient monuments were not destroyed or damaged.

Q Could you give an example for this?

A I can't exactly give an example for the protection of an old cultural monument but another example. By order of the Commander in Chief of the Air Force a new airfield had to be established near Athens. As the terrain was very mountainous, this was the only place that came into the question, but this would have meant that a settlement had to be partly evacuated and also had to be destroyed partly, therefore at

that time an objection was made to me and I personally found out what the situation was, and as there was no other possibility we decided to consider the interests of the Greek population as far as it was possible. We did this by avoiding i.e. getting around the security provisions of the Commander in Chief of the Luftwaffe. And so we disregarded security of the occupation in order to help the population.

Q. What was the result?

Page 3,198

A The result was that part of this settlement remained standing.

THE PRESIDENT: We will take our morning recess at this time.

(A recess was taken.)

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THE MARSHAL: The persons in the Courtroom will please find their seats.

The Tribunal is again in session.

THE PRESIDENT: You may proceed.

BY DR. LATERNER:

Q I have some further questions regarding Greece. Apart from Italians and Germans, were there any other troops in Greece?

A Bulgarians.

Q How did the Bulgarians behave towards the Greeks?

A In some places they treated them pretty roughly.

Q How did you get to know of that?

A By complaints on the part of the Greek government.

Q What did you do after receiving these complaints?

A I repeatedly asked the Bulgarian liaison officer to come to see me, General Chilkov, and I talked to him and told him very urgently that he should advise his officers to make the troops stop this kind of behavior.

Q Did these complaints to the Bulgarian authorities have any success?

A I must assume that because I did get no more complaints.

Q The prosecution has submitted Document 071-PS as Exhibit 4. Your Honors, it is on page 8 to 10 of Document Book I, the English Document Book I, and on page 6 to 10 of the German Document Book I. It is the disputed Rosenberg letter. Did you know Rosenberg personally?

A Yes.

Q When and where did you got to know him?

A I cannot recall the occasion in detail. I made his acquaintance on an official or public occasion. That was the only time that I met him and without my discussing anything with him. It may have been around about 1934.

Q And after that, you did not speak to him again?

Page 3,200

A I never met him again.

Q What is your opinion regarding this letter, namely Exhibit 4?

A Well, that is a letter, a private letter, from Rosenberg to Bormann. I had no influence on what he wrote. He gives his own opinion. If he talks of his agencies in Belgrade being active with my permission, that is not correct because at that time I had no authority to give any orders in Belgrade. Belgrade was not subordinate to me. He further states that his special task command could also be employed in Salonika.

Q In Exhibit 10, which is on page 38 and 39 of the English Document Book I and on page 27 of the German Document Book I, there is an order of the AOK 12, Ic, of the 19th of April, according to this order a special task command of Rosenberg's was to confiscate material which was directed against the German Reich. I am now asking you, did you know anything of this order?

A No.

Q As leader of the special task command, a Lieutenant von Ingram is being mentioned. Did you know this lieutenant?

A Lieutenant von Ingram means nothing to me today but I remember vaguely to have received a lieutenant in Salonika who had received the Knight's Cross during the western campaign. At that time, that was a very exceptional case and was either told over the telephone by the chief, i.e. by the Ia or by the Ic, that this lieutenant would report to me.

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Q. What did you tell him?

A. I received his report. He probably reported to me that he had an order to look up these archives. I pointed out to him that I expected that this would be done in the correct form and manner and that nothing would happen.

Q. Why did you tell him that?

A. Because I had a certain suspicion, certain distrust against everything coming from that side.

Q. But after all, he was a lieutenant, wasn't he?

A. He wore the uniform. He was an officer of the Reserve. I expect, but nevertheless he remained in this case of Rosenberg's employee.

Q. Was the special task commando Rosenberg subordinate to the Army?

A. No.

Q. What was its relationship to the Army?

A. As I now see from this document and from another document as well, it was provisioned and paid.

Q. What do you mean by being provisioned and paid?

A. That meant that he was entitled to get quarters and food in the area of the Army.

Q. Can a provisioned and paid command be given orders?

A. No.

Q. Did you know in detail what the extent of the activities of this command was?

A. No.

Q. From Exhibit 130 -- this is in the English document book 5 as a supplement after page 150 and in the German document book 5 on page 98--A.

THE PRESIDENT: Will you kindly repeat, Dr. Laternser?

DR. LATERNSE: It is in volume 5 of the English document book as a supplement after page 150, and it is exhibit 130.

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Q. (By Dr. Laternser cont'd) From this exhibit we see that the Rosenberg command would start the Jewish action in Salonika. Was this reported to you?

A. No.

Q. What is the date of the this report?

A. The report is of the 29th of July.

Q. Where were you on that date?

A. From the 21st of July onwards I was absent from the High Command. On the 29th of July I was on leave.

Q. Did you know whether, during your time of activity on the Balkans, offices of the Security Service were subordinate to you? No, I correct myself - whether at that time there were any offices of the Security Service in the Balkans at all?

A. No.

Q. Were any offices of the Security Service subordinate to you at that time?

A. No.

Q. We now turn to the Serbian area. At the end of June, 1941 the commander Serbia was subordinate to you as you told us. First of all, a preliminary question. How was Serbia occupied at that time?

A. In Serbia these were at that time Security divisions, divisions of the 15th wave.

Q. Apart from German troops were any others present?

A. The southern part of Bulgaria, south Macedonia, was occupied by Bulgarians.

Q. I don't know whether I understood you correctly. Did you say in the southern part of Serbia or the southern part of Bulgaria?

A. I mean the same thing. I am sorry, the southern part of Serbia, the southern part of Macedonia I wanted to say, was occupied by Bulgarians.

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Q. Now, what was the situation at the end of June of 1941 in Serbia?

A. With the start of the campaign in Russia we found that a lot of propaganda became noticeable, by wireless, posters, which both had their effect and which resulted in acts of sabotage especially as regards lines of communications and attacks on members of the armed forces.

Q. Who instigated these things at that time?

A. They were instigated first of all by Moscow through a liaison office, the Russian delegation in Sofia.

Q. How do you know that?

A. These reports came to us through the IC channel.

Q. What did you do when this situation became aggravated?

A. First of all we tried to explain things to the population by propaganda, and of course, we took severe steps against the sabotage acts over the local commanders.

Q. Did you ask for more troops?

A. As soon as I saw that this movement grew we appealed to the High Command of the Armed Forces to let us have troops in Serbia, especially more mobile and more effective troops than those we had at the spot.

Q. What were the disadvantages of the troops on the spot in Serbia?

A. The troops in Serbia were exclusively made up for the occupational tasks in a quiet and pacified country. The divisions only had two regiments, very little artillery, a very meagre state of training. The troops were older people, usually married. The officers were usually former officers who had not been retrained.

Q. How often approximately speaking did you ask for new troops?

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A. IT is very difficult to give you any numbers.

Q. Then please give us an estimate.

A. I took every opportunity that offered itself to me to ask the OK W for troops.

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Q Did your appeals meet with any success?

A No.

Q As an emergency measure were any troops being sent to Serbia?

A Temporarily we had an air force training school being transferred to the Serbian area.

Q You say temporarily; how long did it remain in the Serbian area?

A I cannot recall that in detail. As far as I remember, it can't have been more than a couple of weeks.

Q When did you receive a personal impression for the first time regarding the situation in Serbia?

A The first personal impression I got during a trip at the end of July, 1941.

Q What kind of trip was that?

AA trip which I took for the purpose of visiting troops and in order to visit the commanders there, especially the commanding general, and make their acquaintance and to meet the military commander Serbia.

Q Who was the military commander Serbia at that time?

A The commander Serbia at that time was general of the air force Schroeder.

Q Where was he at the time of your visit?

AAAt the time of my visit he was in the military hospital in Belgrade. I had intended to visit him earlier but I had to postpone my visit until the state of health of General Schroeder had become such that I could see him in Belgrade.

Q Where did you go first?

A First of all I traveled to Nish.

Q With whom did you talk there?

A In Nish I talked to one of the divisional commanders or with General Bader, the commanding general of the 65th corps, who at the same time was present there as deputy of the commander Serbia.

Q What did General Bader report to you regarding the situation in Serbia?

Page 3,206

A I cannot recall this in detail. The overall impression I had was that at different places insurgent movements became noticeable. Frequently sabotage acts took place and similar things.

Q What was the further course of your journey?

A The continuation of the trip from Nish to Belgrade which had been intended by railroad was not possible because the line, the tracks, had been cut by insurgents in the meantime. For that reason I had to fly from Nish to Belgrade.

Q On the occasion of your stay in Nish did you give any orders for the combatting of bandits?

A Individual orders I did not give. I very likely spoke to the commanders about these matters.

Q When was your inspection trip concluded?

A On the 23rd, of July, 1941.

Q And where did you go after the conclusion of this trip?

A I went to Vienna and Partenkirchen on leave.

Q When did you return from this leave?

A I returned on the 23rd of August.

Q So that from the 23rd of July to the 23rd of August, 1941, you were on leave?

A Yes.

Q As you know, the so-called terror order in which the OKW ordered the pacification of occupied countries by terror measures is dated from the 23d of July, 1941. It is exhibit number 25 and it is in the English document book 1 on page 86 and in the German document book on pages 62 to 66. Your Honor, I would like to use this opportunity to draw the attention of the Court to the following fact. The Tribunal will remember that at the time this exhibit was submitted I objected, but this objection on my part was overruled at that time and I referred without that I want now to touch the ruling of the Court now, I referred at that time to points 1 to 5 for justifying my objection and in the meantime I have found out the following, and I only want to draw the attention of the Court to this.

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In the German document book the whole order is given, consisting of six paragraphs, whereas in the English document book on page 86 only paragraph number 6 is given, in spite of the fact that in the paragraphs 1 to 5 it is shown quite decisively that this was an order which was and could only be valid for the east. And I only to this did I want to draw the Court's attention, i.e. the fact that in the English document book 5 essential points, points essential for the judgment regarding this order, have been left out and only this one point is given, which is kept in more general terms, but which can only be correctly understood in connection with the five preceding paragraphs. Therefore I shall take the liberty to submit the entire order to the Court in my document book.

As you know, Field Marshal, this order, exhibit 25, bears the date of the 23d of July, 1941. Where were you on that date?

A I was in Belgrade and on the same day I took the train from Belgrade to Vienna.

Q Do you remember whether this order was submitted to you after you returned from your leave?

A No.

Q Did you ever hear whether this order was distributed in the southeast?

A No.

Q Now we come to the time after you returned from your leave. That is the end of August, 1941. What was the partisan situation at that time?

A After my return I found that the situation had been considerably aggravated.

Q Where did you hear of that for the first time?

A I heard of this for the first time when I arrived in Belgrade on the 23rd of August, 1941.

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Q With whom did you discuss the situation?

A I then talked about the situation with General Danckelmann, General Bader, with the chiefs of staff of both these generals, and also probably with other officers whose names I cannot remember in detail.

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Q What was the result?

A I may add that General Danckelmann was the successor of General Schroeder. General Schroeder had suffered a relapse in his state of health and he died shortly afterwards.

Q General Danckelmann was the successor of General Schroeder in which capacity?

A He was successor of the Commander Serbia.

Q Now you were mentioning discussions. What was the result of these discussions and conferences?

A The result was that as regards essentials one tried to take from the existing forces people who could be formed into pursuit commands, that is to say, those men who had been trained in a better way were to be employed in more mobile formations in order to be sent speedily to those spots where they were required.

Q How did you yourself at that time view the situation in Serbia?

A I looked upon the situation as a very serious one.

Q At that time attempts were also made to bring the Serbian population to their senses?

A Yes.

Q By what means?

A By means of radio propaganda, and we also used for this purpose the Serbian government.

Q Who was the Chief of the Serbian Government at that time?

AA At that time I believe there was still a Provisional Government.

Q And a little bit later on?

AA short time afterwards we had the government of Nedic.

Q What did Nedic do?

A He issued a couple of decrees; he also personally made a speech on the wireless for the pacification and enlightenment of the population.

Q We have proceeded too quickly as to time. We are still at the end of august and I would like to ask you where was that area where the greatest amount of insurgent activity took place at that time?

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A Roughly speaking in the neighborhood southwest of Belgrade.

Q Could you define it a bit more accurately and perhaps give us some names of localities so that it may become a bit clearer to us.

A Krupanj and Valjevo.

Q What for instance had happened in Krupanj?

A In Krupanj a local guard post had been attacked by communists, one office post and a couple of men had been killed, and the rest of the guard post had been captured. Apart from that other companies had been encircled in Krupanj and partly they had been destroyed.

DR. LATERNSE: May I draw the attention of the court to the fact that this incident of Krupanj is mentioned in Exhibit 94 -- I beg your pardon -- it is exhibit 94 in the German Document Book III, page 43. I'm sorry, your Honor, I cannot give you the English numbers. I am very sorry but I will do this after the recess. I have omitted to ascertain these figures.

THE PRESIDENT: It is Exhibit 55 I am told. Exhibit 94?

DR. LATERNSE: Yes, it is Exhibit 94. I shall give the number of the page immediately after the noon recess.

THE PRESIDENT: Page 55.

DR. LATERNSE: Thank you very much your Honor. The Prosecution has now submitted the teletype of the 4th of September, Exhibit 41, which is in the English Document Book II, page 21 to 22, and which can be found in the German Document Book II on pages 19 to 20.

BY DR. LATERNSE:

Q For what reason did you at that time demand that a judgment was given on the general situation under figure 1?

A I had the impression that I was insufficiently informed by the Commander Serbia. Now here we had the formation of the government of Nedic and regarding the formation of this government I was not informed, neither about the actual happenings nor about the actual formation. I was only told a couple of days later about what had happened.

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At the same time the Serbian Gendarmerie was supplied with weapons and this fact I had learned from a newspaper.

Q Those were the reasons for making the request under figure 1 in this teletype?

A Yes.

Q The Prosecution charges you in regard to this teletype to have ordered most severe measures. What was meant by that?

A Up to then the troops were used to comparatively peaceful ideas with regard to the population and had frequently failed to grasp the seriousness of the situation. The troops had not yet recognized that they had to deal with a very insidious enemy. They had acceded to negotiations and had been made a fool of and in parts they had been captured and it was necessary for this reason to tell the troops that this enemy who now appeared could only be fought by really military actions.

Q What kind of severest measures did you mean by that?

A I meant by that the troops should use those weapons they had at their disposal.

Q Why in this teletype did you issue a prohibition to negotiate with the insurgents?

A These negotiations had led to a state of affairs where whole units had been rendered ineffective as far as fighting was concerned. That in good faith believing that negotiations were to be conducted -

THE PRESIDENT: Pardon me, witness. We will take our noon recess at this time.

(A recess was taken.)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours)

THE PRESIDENT: Dr. Laternser, before you continue your examination the Tribunal wishes to make a statement in connection with your comments which were made yesterday afternoon.

In reply to the inquiry of counsel for the defense concerning the procedure to be followed by them in adducing evidence in support of their case following the delay of the prosecution in procuring the documentary evidence required by the order of the Tribunal under date of August 14, 1947, the

prosecution having indicated its intention to comply with alternative (b) of said order, the Tribunal states:

(a) That defendants may adduce any and all evidence, documentary or oral in the order it deems advisable without being required to rest his or their case prior to the examination of said documentary evidence:

(b) That defendants after completion of their oral evidence may be withdrawn from the witness stand without being-cross-examined until opportunity to examine the documentary evidence referred to in the order of August 14, 1947 is afforded:

(c) That if such order of August 14, 1947, be not complied with at such a time as not to prejudice the rights of these defendants, the situation will be handled by a supplemental order of the Tribunal.

That is the statement that the Tribunal wishes to make in connection with the comments made by Dr. Laternser.

DR. SAUTER: (for defendants von Geitner and Lanz): Your Honor, since the presentation of evidence for the defense is now taking place, I would like to make a request about a point which is rather unclear to me. This is the question if after the presentation of evidence the defense is only to submit pleas, or if ever defense counsel should also submit a closing brief for his client. I am referring to this question, because the former practice has varied in previous trials. In the International Tribunal, for instance, it was the rule that we had to submit a plea - but not a closing brief.

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At that time, however, the Prosecution submitted closing briefs, but we didn't see them. We defense counsel, therefore, at that time limited ourselves to pleas which we submitted orally. In the next trial, the Doctors' trial, the Tribunal asked that we should submit a detailed closing brief which was not to be read, and that in addition to the closing brief we had to submit a plea which summarized the evidence. This plea had to be submitted during the proceedings. In these days now another trial is coming toward its end, the trial against Pohl and the SS, and in this trial the Tribunal took the opposite point of view. The Tribunal ruled a few days ago in this Pohl trial that the defense counsel were only to present pleas and not closing briefs. The President stated that the Tribunal doesn't want to have so much to read. That is exactly contrary to what happened in the Doctors' trial.

Now, I think it would be expedient if the defense counsel were told, by the Tribunal, as soon as possible, how this Tribunal will rule in this matter, because if we know that in addition to the plea we also have to submit a closing brief, then during the presentation of evidence for the defendants we can prepare ourselves for this, and if this Tribunal does not require a closing brief then we don't need to do this, and then we can direct our attention mainly to the plea. I think that it would be expedient if the Tribunal would clarify this question as soon as possible, so that we can conduct ourselves accordingly.

THE PRESIDENT: The Tribunal has not heretofore given consideration to the matter you have referred to, Dr. Sauter, but we shall discuss it in chambers and then advise you here at some session of

the Tribunal. You may be sure that this matter will be brought back to your attention as quickly as possible.

May I inquire, Dr. Sauter, as to whether or not you know what the wish of all the defense counsel are?

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DR. SAUTER: I am afraid I don't know. I have only spoken for myself, because I personally want to know the opinion of the Tribunal as soon as possible, because in our further work we must abide by this.

Your Honor, it would perhaps also be desirable if we could have clarity on another point as well, so that later on the proceedings will not be delayed. This is the question of whether the Tribunal intends at the end of the presentation for the defense to have a recess, so that the work of the defense for the pleas and the closing briefs can be prepared or not, because if such a recess is not intended then of course we must start our preparations for the pleas and the closing briefs and speed them up. Perhaps it would be expedient if the Tribunal would also clarify this question and would tell the defense counsel their attitude.

THE PRESIDENT: We will give consideration to that question, also, Dr. Sauter.

DR. SAUTER: Thank you.

DR. LATERNSE: Your Honor, with regard to this matter I would like to state in my capacity as defense counsel for Field Marshal List and von Reichs, and also in my capacity as spokesman for the defense, I would like to make a statement on this point before a decision is reached. After I have spoken with all the other defense counsel I would like to tell the Tribunal the attitude of the defense.

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THE PRESIDENT: You may do so, Dr. Laternse, at some later session of the Tribunal.

DR. LATERNSE: Thank you, Your Honor.

THE PRESIDENT: You may proceed with the examination.

WILHELM LIST - Resumed DIRECT EXAMINATION (continued) BY DR. LATERNSE:

Q. Herr Field Marshal, before the recess we were talking about Exhibit 41 contained in the English Document Book II, pages 21-22. I asked you, and I think you didn't quite finish the answer to this question, what most severe measures you meant under figure 2 of this order.

A. I meant by this the use of all means available within a permitted sphere.

Q. Then why did you issue the order that no negotiations were to be made with the insurgents?

A. I have already said that in these days several companies because of their good faith had entered into negotiations with the partisans. They thought that there would be negotiations. In reality these were abominable traps laid by the partisans, and during the negotiations they were raided, disarmed, and deported away, sometimes into the mountains, and sometimes somewhere else, as far as they had not already been killed beforehand.

Q. Why did you order unified command of the undertaking by a commander in this Exhibit 41?

A. I have already said that these divisions were badly equipped, that they were badly made up as regards to personnel and that above all the officers had no kind of training at all. They were young, and it was necessary to employ older officers who were able to take the necessary measures which were necessary by reason of the respective situation.

Q. And why should incapable officers be replaced and brought to account?

A. Officers who were not capable of carrying out this task would mean a great danger for the troops, as was shown by the preceding events.

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I would also like to state that no officer in such a position could act differently.

Q. What did you mean by reckless use of weapons?

A. The employment of all those weapons which were available, also of the heavy weapons, in order to smash the fighting power of the enemy.

Q. Are you still of the opinion that this teletype, Exhibit 41, was necessary?

A. Yes, I am still of that opinion today.

Q. At that time what was the insurgent movement like?

A. The movement had extended more and more. The attacks increased in number, and it became evident that these were no local, individual happenings, but that it was a general insurgent movement.

Q. And what in the main was the origin of these bands?

A. These bands had various origins. Part of them were exclusively communistic, another part was nationalistic. Those were the Mihajlovic people, and the third part was under Kosta Pecanac.

Q. Would you please spell the last name?

A. P-e-c-a-n-a-c. "C" like in Caesar.

Q. And who was in charge of the communistic band at that time?

A. A unified leadership of the communistic bands was not recognizable at that time.

Q. At that time were organized bands recognizable?

A. Properly organized bands were not recognizable.

Q. You mentioned just now the movement of Kosta Pecanac. What was his political leaning?

A. Kosta Pecanac was an old freedom fighter of the First World War. He was of the opinion that the communistic movement was a national danger for Serbia, and for this reason he was sharply against the communistic movement.

Q. And what was his attitude towards the Germans?

A. For this reason he went together with the Germans against the communists.

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Q. Did the bands fight each other?

A. Kosta Pecanac fought with his people against the communists. Later on Mihajlovic also fought against the communists.

Q. Did the bands have a common uniform?

A. No.

Q. Did they have common insignia?

A. No.

Q. Were the attacks frequent?

A. Yes.

Q. For example, could you give a number for August 1941?

A. Altogether several hundred. On many days alone, as far as I can remember, there were dozens.

Q. And what about the beginning of September?

A. The attacks increased at the beginning of September noticeably.

Q. And what were the methods of the bands? Give me a few examples which you know about.

A. In general, they used insidious methods. Cars were shot at from the cornfields; leave trains were forced to stop and they were shot at with machine guns; food transports were plundered.

Q. And how was the terrain in the Balkans suited for this kind of warfare?

A. It was partly favorable for the partisans. It was mountainous steep gulfs, forests with lots of wood undergrowth, and cornfields in which they could easily hide; the roads were difficult to control. Those were the main things.

Q. Was the OKW currently informed about the band situation?

A. Yes, of course.

Q. And did the OKW issue directives?

A. I don't remember individual directives at the moment, but I assume with certainty that there were some written orders, and also we kept on receiving orders and directions to take strict measures.

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Q. What kind of directives were those?

A. As I have already said, they told us to take strict measures. It was apparent from them that the OKW thought our measures insufficient; therefore they sent orders that the insurgents should be smashed as soon as possible with every means.

Q. At that time what was your opinion about the individual directives of the OKW?

A. Our point of view was that as we were always requesting more troops we would keep the insurgents down by the presence of larger numbers of troops so that insurrections could not flare up at all. In one case, because of a directive, of which I don't remember the details any longer, I made a written objection to the OKW.

Q. Why did you submit this?

A. Because I thought at that time that the measures were too strict and I had asked for more troops.

Q. Did you receive an answer to this objection?

A. No.

Q. And what did you do then?

A. When the then Colonel Foertsch went on leave, I asked him to go to the OKW as soon as possible and present our point of view once again.

Q. And what was the result of the discussion of General Foertsch with the OKW?

A. As far as I can remember, the result was very unsatisfactory. I don't remember the details of the answer.

Q. With whom did he speak?

A. He spoke with Keitel.

Q. What did Keitel say?

A. Keitel refused my objection and he said, I think, "Your commander-in-chief seems to be very upset about us. When you come back, you will find new orders. Tell your commander-in-chief that the responsibility lies with Hitler and the OKW. Your commander-in-chief has to carry out the orders."

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Q. How did you know this - what you have just told us?

A. Colonel Foertsch told me this at that time.

Q. And were troops also asked for at that time?

A. That was the main purpose of this discussion which Foertsch had with Keitel.

Q. Who else did Foertsch speak to on this matter?

A. He spoke briefly with Generaloberst Haider.

Q. Who was Halder?

A. Halder was chief of the Army General Staff.

Q. And what did Foertsch say to Halder and what answer did he get?

A. Well, in detail I don't know.

Q. Well, what did General Foertsch report to you?

A. He said to me that he found more understanding with Halder than he did with Keitel, but Halder also could not help us at the moment. He had no troops available because of the situation in the East.

Q. And what else was considered at that time?

MR. DENNEY: Your Honors please, Dr. Laternser is going pretty far in asking what Foertsch said to Keitel and Keitel said to Foertsch; what Foertsch said to Halder and Halder said to Foertsch. I think we are relating to hearsay. Foertsch is here and pretty soon we will have him going to Moscow.

DR. LATERNSE: The questions have already been answered, Your Honor. I have now put a question with which this objection is not concerned at all. I have now asked the question "What was considered at that time?", i.e. by the witness.

THE PRESIDENT: The witness was not present; he is not in a position to state as to the comments made. The objection which has been made, if timely made, would have been good. Perhaps the motion to strike would be in order, but the Tribunal is not in a position to direct the manner in which this case will be handled. I think you should use care, Dr. Laternser, and not seek to illicit hearsay testimony.

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The matter will not be ruled upon at this time.

BY DR. LATERNSE:

Q. And that brings us to the end of the Berlin visit of General Foertsch. I now want to know what else was considered at that time in order to master the bandit situation.

A. The Military Commander Serbia once suggested that troops of other allies should be brought into the Serbian area.

Q. What did they think about at that time?

A. They thought about the Italians and Bulgarians.

Q. And why was that not done?

A. Because I did not think it a good idea, having these men who were in opposition to each other together, with regard to the population.

Q. What was the danger at that time - that is, at the end of August or beginning of September - the danger for military purposes?

A. The main danger consisted in the interruption of the rear communications and the cutting off of the railway and shipping lines, i.e. an interruption of the oil supplies for Germany.

Q. The oil from where?

A. The oil from Rumania. And also an interruption of the whole supply for the occupation troops as such and also under certain circumstances a crippling of the whole occupation troops, apart from the individual attacks against the occupation troops which would have had the result of a smash-up.

Q. What was the importance of the Balkan theater of war for the whole war situation?

A. The Balkan territory of war covered the right flank of the Eastern army as long as the Balkans were occupied by German troops. If this occupation was not there, or collapsed, this would mean a danger for the whole Eastern front.

Q. What other dangers were connected with this theater of war?

A. There was also the danger that the whole Mediterranean area would have been affected, especially if a landing had taken place in Greece by British forces.

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Q. Field Marshal, then what did you do in order to find a solution for this situation?

A. In this situation, in order to get out of this situation, I issued the order of the 5th of September.

Q. Your Honor, this is Exhibit 42 and it is also presented the same way in Exhibit 43, Book 2 of the English documents, pages 23 to 26; in the German Document Book 2, pages 21 to 22. You issued the order of the 5th of September 1942 as you have just said. What was the contents of this order?

A. This order gave directives for the activities of the troops in the next period.

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Q You said directives; what does that mean?

A I stated in the order that the following points of view had to be followed.

Q What did that mean?

A This meant that the troops, if the necessity arose, would proceed according to the given directives.

Q What is the difference between an order and a directive?

A If I order, I say you must in a certain definite case do that and that definitely, but in a directive, I gave an indication of the possibilities which are available in a corresponding case.

Q And when should these possibilities be used?

A They should be used when it was necessary.

Q The prosecution maintains that in this order you intended punishment expeditions; is that correct?

A No, with these directives I gave the order for the insurgent movement to be smashed.

Q To whom was this document exhibit 42 distributed; please look at the distribution list?

A It was distributed to the Higher Command 65.

Q Who was the commanding general then of the 65th?

A General of the Artillery Bader. It went to the Commander Serbia.

Q Who was then commander in Serbia?

A The Commander in Serbia was General of the Air Force Dankelmann. It went to the commander in Saloniki

Q Who was that?

A It was Major General (Generalleutnant) Krenski.

Q Why did the order not go to the 18th Mountain Army Corps Headquarters?

A This was not necessary. The situation did not demand this.

Q Where was the 18th Mountain Army Corps at that time?

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A Near Athens.

Q Why did this order not go to the command in Southern Greece?

A The commander-Southern Greece had only the area round Piraeus in Southern Greece the Italians had the main responsibility.

Q Field Marshal, what were the main reasons for the issuing of these directives?

A The main reason was the tense situation which made it necessary to break the resistance as quickly as possible.

Q The prosecution maintains that the order.....

MR. DENNEY: Your Honors please, Dr. Laternser several times improperly phrases his questions by saying "the prosecution maintains." Now if the witness is going to testify to something different, he can ask him what he meant to do, but not to prepare him for his answer by saying the prosecution maintains this. I suggest to the Court that he refrain that type of questioning.

DR. LATERNSE: May I say something about this, Your Honor? The question, which I wanted to place, I have not yet finished so the prosecution does not know if this is an admissible or an inadmissible question. It is so that only certain questions can be objected to.

THE PRESIDENT: It is my understanding, Dr. Laternser, that Mr. Denney is objecting to the form of the question and the manner in which it is stated, attributing to the prosecuting your understanding of what the prosecution has endeavored to present in its evidence. Your interpretation of that may be one

thing and as to what the prosecution maintain is another. The object as to the form of the question will be sustained.

BY DR. LATERNSEER:

Q Field Marshal, does this order correspond to a plan, an existing plan for weakening and decimating the population? Did you ever hear anything about such a plan?

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MR. DENNEY: Your Honor, I object to the form of the question. The order speaks for itself. Dr. Laternser insists on leading him.

THE PRESIDENT: Sustained.

BY DR. LATERNSEER:

Q Which plans were in existence in the Balkans with regard to the population?

A Well, there were no kinds of plans there. I never spoke with anybody about any kind of plan.

Q You know that the prosecution maintains that there was a plan?

A I heard for the first time about such a plan in the indictment.

Q Do you know orders or regulations which were issued by the communist party in Serbia for the partisans?

A Yes, I know these regulations.

Q What was in it?

A Of course, I can't remember the details properly but I studied these regulations and my total impression was that these regulations contained the idea that all means were permissible with which to fight the Germans, even illegal action and actions against international law could be used or were recommended to be used.

Q Did these regulations play any part when you issued your order?

A These regulations were one of the main reasons, for issuing this order.

Q May I draw the attention of the Tribunal to the fact that those regulations of the communist party of Serbia for the band war are mentioned in Exhibit 56, Document Book 2? I am sorry I can't give the English page.

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DR. LATERNSEER: In this Exhibit 56, your Honors, as far as I can remember under figure 3, this regulation is mentioned. If I may further draw the attention of the Tribunal

THE PRESIDENT: What is the number of the exhibit?

DR. LATERNSEER: Exhibit 56, under figure 3 these directives are mentioned. Figure 7, I am sorry.

BY DR. LATERNER:

Q At the end of this document, it says "one enclosure" but it isn't here. Now with regard to the details of the order, why should the direction of an operation be carried out by older experienced officers?

A This was necessary because only the older and experienced officers could judge when the particular measures were to be used because they were the only people who, if new conditions suddenly arose, to take the right measures.

Q What does the word "destroy" mean if it occurs in an order, a military order?

A Destroy is the usual term in use which has the meaning that the fighting strength of the enemy should be eliminated.

Q And what is always the aim of an operation?

A Just this--to eliminate the fighting strength of the enemy, that is to destroy the enemy.

Q In figure 2 of this order, Exhibit 42, ruthless immediate measures are spoken about when should these be employed?

A They should be employed when over the necessity arose.

Q In figure 2-F in the brackets it states "hanging, burning down of villages involved, increased taking of hostages, and deportation of members of their families." What was this bracket supposed to signify to the subordinate officers?

A This was an indication of the possible action which could be taken if the necessity arose for this.

Q And what was the word "hanging" supposed to mean?

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A This word is supposed to mean the manner of carrying out death sentences.

Q And when should hanging take place?

A In especial cases.

Q And how were death sentences carried out in the following periods?

A Mainly by shooting.

Q Why did you set down the possibility that villages involved could be burned down?

A Because just in the fighting of the partisans, this could be militarily necessary, and because, in addition, it is quite in accordance with international law.

Q What do you understand by "villages involved"?

A From these villages or in their immediate neighborhood enemy activities were carried on against the occupation powers.

Q And why should more hostages be taken?

A This was necessary because the attacks increased in number and because the area of unrest extended.

Q And as a further possibility, the deportation of relatives into concentration camps is set down there. First of all a preliminary question. What did you understand at that time by the term "concentration camps?"

AA At that time, I understood a collective camp for partisans who could be dangerous for the occupation power.

Q And how far did relatives of partisans endanger the occupation power?

A By helping the partisans in various ways.

Q Well then, what kind of persons were to come into those camps?

A Those persons who helped the partisans.

Q Were you justified in ordering such camps?

MR. DENNEY: If your Honor please, I object to the question. It is what the Court is here to determine, whether or not he was justified.

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THE PRESIDENT: The objection will be overruled.

BY DR. LATERNSEER:

Q I also meant if you thought you were justified.

A Yes, I thought I was justified in giving this order.

Q And why?

A Because it is a military necessity that the Commander-in-Chief of an occupation army protects his troops against elements who could be a danger to this occupation army. As I have found now, this is also the same in the American army. This can be seen from the regulations issued by the American army.

Q Exhibit 71 in English Document Book No. 2, page 143 and in the German Document Book 2, page 110. In this document the Commander-in-Chief Serbia on the 6th of the 10th ordered the erection of a camp near Zazaniza. Did you know this order -- Exhibit No. 71?

A No.

Q Now to conclude the order of the 5th of the 9th, Exhibit 42, I would like to ask: Why did you set down these measures in 2-F; Why did you order them?

AA As I have already said, because I thought it was necessary in order to save lives to smash this insurgent movement as quickly as possible, because in this extraordinary situation, extraordinary measures had to be taken. It is a situation which can be compared in a small way to the employment of the atomic bomb.

At that time, objections had to be set aside because by the employment of this they wanted to save lives and bring the war to a speedy end.

MR. DENNEY: Please, I move that the witness's remarks with reference to the atom bomb be stricken out. It has nothing to do with the case.

THE PRESIDENT: It is the witness's interpretation and idea of this situation and the objection will be overruled.

BY DR. LATERNER:

Q And how long was this order to be valid?

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A This order was to be valid until the operations for the next period--that is, the smashing of the insurgents were concluded.

Q And the actual main purpose of this order was -

A The actual main purpose of this order was, if I remember rightly, set down the last figure.

Q You don't need to tell the number.

A The only task for the next period was the smashing of the insurgents in Serbia, and as quickly and completely as possible.

Q Your order is dated the 5th of September. At that time, did you have any connection with the OKW?

A There was a connection with the OKW. In the first place, this was done by teletype.

Q In those days did the OKW turn to you?

A On the 5th of September, the OKW had sent a warning request to me to inform them what had been ordered for smashing the insurgents.

Q And did such requests from above come often?

A Yes, they came frequently.

Q And then how did the total situation develop after you had issued this order?

A Then the situation was further aggravated; the insurgent movement grew.

Q Now I submit to you Exhibit 48 in English Document Book 2, page 41, and in the German Document Book 2, page 40. Do you know this teletype?

A Yes.

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Q In this teletype, you ask for the erection of a new office with the OKW?

A Yes.

Q And you suggest as leader of this office General Boehme?

A Yes.

Q I would like to ask you why did you suggest General Boehme?

A The staff of General Boehme could be released. The allocation of a new staff by the OKW could not be expected.

Q Why did you think General Boehme was suitable?

A I knew General Boehme was a reliable and quiet leader of a corps; in addition, he knew conditions in the Balkans from his activities in Austria and he could speak the language.

Q And was General Boehme known to be very strict?

A No, I didn't get that impression from him. And General Dietl said that he didn't think that he was sufficiently strict.

Q Why didn't you suggest Bader or Dankelmann who were in Serbia for this position?

A Bader and Dankelmann were rivals. In addition, the leadership by one these staffs owing to which one would have to be quite subordinate to the other, would not have been favorable. The staffs as such, especially for this new task were not so suitable as the staff of a mobile general commandant for at the same time as this order I asked for further reinforcements. Also for this reason it was necessary that under the leading general a general commando had to be available.

Q Which improvement in the situation did you think the creation of this new office would cause?

A I expected more secure, unified leadership, and with this also a better use of the forces available.

Q Was your application which you made with Exhibit 48 acceded to?

A Yes, it was agreed to.

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Q Now I would like to draw the attention of the Tribunal to Exhibit 49 in English Document Book 2, page 53, German Document Book I page 52.

Field Marshal, do you know this order of the OKW contained in Exhibit 49?

A Yes.

Q Which military commission did General Boehme receive through this order?

A He received the commission to smash the insurgent movement in Serbia, to secure communications and especially industrial installations.

Q Where was General Boehme at this time?

A At this time General Boehme was in Athens, in a suburb of Athens.

Q And where were you?

A I was in Kifisia near Athens.

Q Did General Boehme report to you before taking over this office?

A Yes.

Q When was that?

A That was on the 18th of September, 1941.

Q What commission did you give General Boehme orally on this occasion?

A I gave him the commission to carry out and lead military operations in Serbia.

Q And what kind of a commission was this?

A This was a commission to smash the insurgent movement.

Q And what else did you talk about on this occasion?

A He talked about the general idea, how he would use the forces against the main insurgent forces and on this occasion he also said that the evacuation of the villages on the edge of the insurgent territory, which was an idea I objected. Then Boehme, didn't go into this point any further and we didn't talk any more about this matter.

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Q Why did you object to this intended evacuation? For which reason?

A I didn't know how he could say that that was already necessary. As it wasn't necessary, I didn't see why it should be done.

Q Can you remember which villages were concerned?

A I can't say for certain but I think that it was probably Sabac.

Q On the occasion of this report by General Boehme to you, did you also talk about reprisal measures against the civilian population?

A No.

Q When did you talk for the last time to General Boehme?

A The last occasion was here in the prison.

Q Did he remember on this occasion this oral discussion about which we have just been talking?

MR. DENNEY: I object to the witness testifying about the memory of somebody in the past who isn't here.

THE PRESIDENT: Sustained.

BY DR. LATERNSEER:

Q Field Marshal, I asked you whether you – when you spoke for the last time with General Boehme?

A Here in the prison.

Q On this occasion in the prison, did you talk with General Boehme about this discussion in Athens?

A Yes.

Q What did he say to you?

MR. DENNEY: I object to what General Boehme said to him in the talk they had in the prison.

DR. LATERNSEER: Your Honor, this question is certainly admissible. This is a fact which the witness experienced, himself. Of course I can ask him about this and of course he can answer it.

THE PRESIDENT: The objection is overruled.

BY DR. LATERNSEER:

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Q What did he say to you about the contents of the discussion at that time?

A He confirmed to me what I just said. He had at that time a purely tactical commission from me.

Q I would now like you to look at Exhibit 50, English Document Book 2, page 57, and in German Document Book page 46. Do you know this radio message contained in Exhibit 50?

A Yes.

THE PRESIDENT: Dr. Laternseer, before you start into the discussion of this exhibit, we will have our recess – afternoon recess.

THE MARSHAL: The Court will be in recess until three-fifteen.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

BY DR. LATERNSEER:

Q Your Honor, we were just discussing Exhibit 50 which in the English Document Book II on page 57 and which is on page 46 of the German Document Book. Field Marshal, do you know this teletype?

A Yes.

Q Why was this teletype sent?

A It is usual that an order received from a superior office is transmitted to the subordinate office in one's own words. Apart from that I wanted to find out through General Boehme in particular the military operations and I have done this under figure 1, under No. 1 of this radio message.

Q Which order arrived from the OKW during the time General Boehme was appointed?

AA At this time the order from the OKW of the 16th of September was received which asked us to adopt the most severe measures and requested us at the same time to have a certain ratio of the shooting of hostages.

Q What is the date of this order?

A 16th of September.

Q Your Honor, this is Exhibit 53, Volume II, page 67 of the English text, and in the German text, Volume II, page 52. Did you at that time get to know of this order?

A Yes.

Q Do you know whether orders of the OKW were examined before they were sent out?

A That I don't know but I assumed it. In any case I considered orders and directives issued by the OKW to be legal.

Q What was your personal attitude to this order?

A I rejected this order from purely humane reasons.

Q Did you undertake to take any steps in regard to this order?

A In my preliminary examination I stated that during that time I protested very energetically to an order received from the OKW.

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I did this by protesting to the 1-A who was my deputy at that time. For a long time I did not know and could not explain to myself against which order I protested. Knowing the facts now I must assume with certainty that it must have been the order of the 16th of September because apparently no other order was received from the OKW during these days.

Q In what manner did you protest against this order.

A I think I protested to the deputy chief in a very clear manner and I ordered him to bring this, my opinion, to the notice of the OKW.

Q Who was deputy at that time?

A That was Colonel Kuechler at that time.

Q Did he do that?

A Yes, he did it.

Q What did he report to you about it?

A The protest in connection with this was rejected.

Q Why did you not resign from your office then?

A Resignation of an officer in wartime does not exist or did not exist; in fact Hitler had forbidden it and he had expressly said that it was he who decided when a General or an officer was to resign.

Q In what manner was this order received by your office?

A It was received in written form.

Q In several copies?

A It was received with subsidiary copies.

Q What do you mean by subsidiary copies.

A That means the superior office sends along to this office all the copies which are to be sent to all the subordinate offices.

Q What happened to these subsidiary copies?

A These subsidiary copies were passed on.

Q Was anything added to this order when it was passed on?

A No.

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Q Was the transmission signed?

A Yes.

Q By whom?

A By the deputy chief.

Q What would you say in what manner the command in the Southeast was designated by Hitler and OKW in general?

A It was repeatedly called weak.

Q This order Exhibit No. 53 of the 16th of September had been issued. What did you do?

A In the beginning of October I issued a teletype dated the 4th of October.

Q May I point out to the court that the teletype of the 4th of October is Exhibit 70 which in the English Document Book II is on page 141 and in the German Document Book it is on page 108. To whom did you address this teletype of the 4th of October?

A To the Plenipotentiary Commanding General in Serbia.

Q Who else did you address it to?

A No one else.

Q Why not to other officers?

A That wasn't necessary because the Plenipotentiary Commanding General was in Serbia and he alone was the person responsible in Serbia for the issuing of the orders for crushing of the Serbian movement, and he possessed executive power in those respects.

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Q. Did you assume that this office then informed all the other offices?

A. That was their task; they had to do that.

Q. Under point 2 of this order you ordered, and I quote: "Men in the insurgent territories who were not encountered in battle are to be examined, and b), if they are only suspected of having taken part in combat of having offered the bandits support of any sort or of having acted against the Wehrmacht in any way there are to be held in a collecting camp. They are to serve as hostages in the event that bandits appear or if anything against the Wehrmacht is undertaken in the territory of their home localities and in such cases they are to be shot." What is your present attitude to the order which I have just read?

A. I am of the opinion that under the conditions existing at that time it was militarily speaking necessary and that it was admissible under International law.

Q. Why didn't you order any ratios?

A. Because it seemed difficult to me to fix ratios; the retaliation measures or reprisal measures should generally adapt themselves to the facts of the case.

Q. Who may order reprisals?

A. Every commander from every divisional commander upwards.

Q. Where was that laid down?

A. In the ten commandments.

Q. Which ten commandments do you mean?

A. Those which every soldier had to carry or was supposed to carry.

Q. What were the contents quite briefly?

A. Essentially the provisions of the Hague Convention.

Q. And where were those ten commandments for the soldiers contained?

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A. In his pay-book.

Q. I shall submit this pamphlet or manual to the court as an exhibit. Now, I should like you to take a look at Exhibit 7 which is Volume I and is on page 20 of the English Document Book and on page 17 of the First Volume of German Document Book. In the first part of this exhibit your office asks on the 27th of June 1941 the Military Commander Serbia whether the Russian radio reports are correct; that for the killing of German soldiers 100 Serbs had been shot in Belgrade. Why was this inquiry made by you?

A. Since this was a radio report of Russian origin and I did not know anything of it yet I had to make sure regarding this message. Apart from that the number appeared rather conspicuous to me.

Q. What was the result of your inquiry?

A. The result was that this radio report was erroneous.

Q. We are reverting now to Exhibit 70 which in the English Document Book II is on page 141 and in the German Document Book II on page 108. In this teletype of the 4th of October and that is Exhibit 70, you talk about collection camps, whereas in the order of the 5th of September, Exhibit 42, you talked of concentration camps. What is the difference you intended?

A. There is no difference because I meant by concentration camps the same as by collection camps because in the army as such there were no concentration camps.

Q. What was the actual purpose of Exhibit 70, that is, of the teletype of the 4th of October.

A. The actual purpose was to create orderly conditions and at the same time to mitigate the decree of the OKW of the 16th of September and to bring about milder retaliatory measures.

Q. If you are just mentioning the OKW order of 16th September, do you mean Exhibit 53 which I submitted to you before?

A. Yes I do.

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Q. I should then like you to look at Exhibit 76. Exhibit 76 is in Volume II, page 156 of the English text and in the IIInd volume on page 120 of the German Document Book. This order was issued to General Boehme and in it he requested him to collaborate as far as possible in crushing the uprising. Was this order known to you?

A. No.

Q. In spite of your teletype of the 4th of October General Boehme --- this teletype we discussed previously as Exhibit 70 -General Boehme -- in spite of this order and in spite of his own order, issued the very severe order of the 10th of October, Exhibit 88, which in the English Document Book III is to be found on page 34 and in the German Document Book III on page 27. How do you explain to yourself and to us this fact?

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A This order of the 10 October of General Boehme was preceded-

THE PRESIDENT: Pardon me, please, Dr. Laternser, will you kindly repeat the last reference?

DR. LATERNSEER: That is English Document Book III, page 34, and in the German Volume III on page 27.

THE PRESIDENT: And the exhibit number?

DR. LATERNSEER: Exhibit 88.

A This order of General Boehme was preceded by the shooting of 22 soldiers of the Army Intelligence Regiment, which were mutilated and maimed. I recall, but not very strongly though, that the order relating to the ratio of one to 100 in retaliation was ordered by the OKW directly.

Q Which case are you referring to?

A The case of the shooting of the 22 soldiers of the Army Intelligence Regiment 521, and I could imagine that General Boehme on his part, on the basis of this OKW DIRECTIVE, and on the other hand by reason of these bestial murder of his soldiers arrived at his order. He probably said to himself that in view of such actions by members of the bandit groups.

MR. DENNEY: I think the witness is speculating about what Dr. Boehme said to himself. It is improper testimony, and I move that part should be stricken.

DR. LATERNSEER: Your Honor, I have noticed this myself, as I have noticed myself that this is a case of arguing, and not proper testifying and at the same moment I wanted to intervene myself.

THE PRESIDENT: In view of the statements made by Dr. Laternser apparently approving the motion of counsel for the prosecution, the motion to strike this will be sustained.

Q Field Marshal, when did you hear of this order of October 10, Exhibit 88, for the first time consciously?

A The first time consciously here in Nurnberg.

Q From the distribution, however, we see that this order was received by way of information by the Commander Southeast; can you remember having received it at that time?

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A No.

Q How do you explain this fact to yourself?

A This order was sent to me by way of information. That is to say from the sender as well as on the receiver it was probably not treated in a very expeditious manner. The mail from Belgrade to Athens and vice-versa took sometimes a long time and sometimes not so long. There is no receiving stamp on this document. I myself fell sick on the 15th. I was no longer in my office and I have to assume definitely that I did not receive this order.

Q When were you operated on?

A I was operated on the 17 October.

Q Exhibit 93 was submitted here, which is an order of the Plenipotentiary Commanding General in Serbia dated October 14 which is Contained in Volume III, page 53 of the English Book, and in Volume III, page 43 of the German book, - have you got this order in front of you?

A Yes.

Q Did you at that time receive knowledge of this order?

A No.

Q How do you explain this?

A This order did not even for information purposes go to the armed forces commander Southeast.

Q The order was issued by the Administrative Staff of the Plenipotentiary Commanding General; what kind of an office is that?

A The Commander in Serbia had two staffs, the command staff and the administrative staff.

Q Who was the chief of the Administrative Staff?

A The Chief of the administrative staff was Turner, T-u-r-n-e-r.

Q Who was Turner?

A He was an SS Obergruppenfuehrer, and also a Prussian State Councillor as well.

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Q What was his attitude?

A Turner was not a very straight forward personality, and was also a very difficult person. He certainly liked to show off, and in Belgrade and in Serbia he wanted to be the main figure.

Q Did you yourself gain this impression and did you experience this?

A Yes.

Q At what occasions?

A When the new Serbian Government was formed. I was neither informed regarding the forming of this Government nor was I informed in time that the formation of this Government had taken place, and I only heard this several days later.

Q Regarding the armament and weapons conceded to the new Serbian Government and to the Gendarmery, I found out only through a note in the newspapers.

Q After making these experiences with Turner what did you do?

A Because of these experiences which were aggravated by reports from my Chief, I asked the Chief of the Administrative staff for me to explain to him that he was actually bound to inform his commander about the most important happenings. Apart from that I sent Police Director Loos to Boehme in order that he should assist him directly.

Q who was Loos?

A Chief of the Secret Field police in the Staff in the Army command of the Army Southeast.

Q What was his attitude?

A Loos was a clever and adroit man and he was moderate.

Q When did you send him to Belgrade?

A He arrived at Belgrade on October 13. I must have ordered him to do so on the 12th, at the latest. My intention to do so was probably formed a couple of days prior to that.

Q What was Loos' actual task when you sent him to Belgrade?

AAs far as I can recall his assignment was to become police adviser to General Boehme to make up for Turner.

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Q What did Loos report later on?

A I no longer learned that.

Q Why not?

A Because at the time when Loos returned I was at the military hospital.

Q Who gave Turner directives and orders?

A He received directives and orders from his superior, the commander of Serbia, and he also received directives via the Quartermaster General. He received directives directly from the Reichsfuehrer SS Himmler in a police matters, and I am firmly convinced, but I cannot check this, that as State Councillor, he received orders and directives from Reichsmarshal Goering, who at the same time had the right to give direct orders to the plenipotentiary for the 4-year plan in Belgrade.

Q Before I go into the discussion of individual points I want by some preliminary questions to give a general picture to the Tribunal. How did you communicate with your subordinate offices?

A The telephone, the teletype and radio.

Q And what were your lines of communication to the OKW, that is, to your superior offices?

A The same, although we mainly used the radio, because of the great distance the telephone communications were usually disturbed.

Q The Prosecution submitted a number of reports from all kinds of offices; I wanted to ask you quite generally which of the reports and news do you know?

A I do not know of those reports which were not addressed to my office.

Q In other words, all of those were not directed to your office, and why are these reports not known to you?

A If they were not received by the Armed Forces Commander Southeast I could not know them.

Q Who received the messages for your office?

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A They were directed to the departments to which they were addressed. They were received by an orderly officer.

Q I would like to ask you, and will you give examples, please, which were the departments competent for each case?

A For messages of a technical nature, for the employment of the troops, Department 1-A. For messages concerning the enemy news, it was Department 1-C.

Q What was the competent department for the news regarding shootings or burning down of villages?

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A. That was the department 1-C. Later on this was taken over by Department 1-A, but at that time it was the Department 1-C.

Q. In what way was such a message received, what possibilities did exist?

A. They were received by telephone, by radio. They could also arrive as a teletype. That could come as a telephone messages immediately to the officer.

Q. One question, Field Marshall, what was the most frequent way in which a message was received?

A. The most frequent way was the teletype.

Q. To whom was this teletype submitted?

A. The teletype was submitted to the orderly officer of the department in question who was on duty.

Q. And to whom did he submit it?

A. This orderly officer submitted it to 1-A or to the 1-C.

Q. And what did the Chief of the department in question do, that is the 1-A or 1-C?

A. With the collected messages he went to see the chief and he reported to the chief about these news.

Q. In what manner were you informed about these things?

A. I was informed by the Chief of Staff.

Q. In which form?

A. The chief of staff reported to me about the messages received.

Q. To what did his report refer?

A. The report referred to everything that had happened, chiefly how the over-all situation had developed, where new centers of unrest had appeared.

Q. Now, what was the gist of this report and what had to be the gist of it?

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A. The total situation of the insurgent movement.

Q. During this report on the part of your chief of Staff, were the messages that had been received read to you?

A. In general a general report was given to me, but messages were also read to me. When I read such messages I initialed them as a matter of principle.

Q. Did you frequently deviate from this principle of initialing everything you had read?

A. No. I adhered to that habit. I initialed everything which I had in fact read.

Q. And what was now the more frequent form of the report, a summary of the general situation or the reading of the individual messages?

A. The main form was the summarized report.

Q. Which of the reports, so frequently submitted by the prosecution, which were addressed to armed forces commander Southeast, do you remember?

A. Individual messages I couldn't recall at all. I have a general impression of the situation at that time, but I couldn't say that I have seen or have not seen those messages. That is not possible here. On the strength of the messages which have been submitted to me I have refreshed my memory, as in the case of the second company of the Army Intelligence Regiment all came back to me, but only very calmly. It is impossible for me to say that I really read this message, because I got a lot of messages, and the totality of experiences which happened everyday. It is impossible after six years to say I have definitely read this, and such or such a newspaper is definitely known to me, and after all I, as I said before was chiefly interested in how the situation had developed, what development it had taken. The American Commander in Chief in this zone will not be able to know all the details which happen in the course of six years, well the area down there is far greater than Germany is today, and that has to be considered.

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Traffic conditions were far worse, the lines of communication were far worse. One was constantly under the pressure of what happened every day, and in the meanwhile I have experienced six very hard years, and among them 2-1/2 years imprisonment and 8 months in solitary confinement. These are conditions which are not suited to strengthen one's memory.

Q. Do you remember, Field Marshal, that at that time, conspicuous or rather conspicuously high shooting ratios were reported to you? Do you remember that?

A. I have not the impression, looking back at those years, that at that time a conspicuously high shooting ratio was reported to me at that time, that is figures exceeding the standard required by military necessity.

Q. Well, what was your mental attitude during the last two years regarding a trial?

A. My mental attitude was that if I was ever arraigned it could only be ascertained that nothing had happened which could form the basis of proceedings against me.

Q. Have you expressed this view of yours to other people?

A. Yes, in camps when these matters were discussed; I have repeatedly said that a trial against me would be welcomed by me in one respect, because it would have to be ascertained that I had done nothing in violation of international law.

Q. Field Marshal, we have deviated a bit from what we set out to do. We shall assume now that a company commits an excess which requires intervention. What way does a message, or news, regarding such an excess take?

A. When the company leader has noticed this excess himself, he will make a report regarding the facts of the case.

Q. An intermediate question; what do you mean by report regarding the facts of the case?

A. Report concerning the facts of the case means giving a report regarding the incident which points to a criminal act. Together with it the proceedings are opened or rather are requested against the culprit.

Q. Now, what way does this news take?

A. This message is posted from the company leader to the battalion leader.

Q. Now, supposing the battalion commander does not pass it on. What action must he expect if he does not pass it on?

A. Well, he makes himself punishable. That is a dereliction of duty, definitely.

Q. And what further way does the message take?

A. Then it reaches the regimental commander, and from the regimental commander to the divisional commander. The divisional commander is the judicial authority.

Q. Has the division commander got a court?

A. Yes.

Q. Supposing a message arrives at the Army High Command from which it is learned that a unit has committed an excess. At what time now does the highest military officer, that is, the commander in chief of the Army, interfere or intervene?

A. If he gets the impression that the subordinate officer, that is, the court, there is the judicial authorities have not interfered although they should have done so.

Q. Now, what can you presuppose in such cases as supreme commander of an army?

A. This report from below has gone through the judicial offices of the first instance and of the second instance, one has to assume that everything was in order, that nothing illegal has happened.

Q. You mean, in other words, a supreme commander cannot, unless he established something extraordinary, assume that all the subordinate instances have failed in the case and that an excess has been committed.

MR. DENNEY: Your Honor, I object to that as a leading question. Let the witness testify. We are dealing in vague hypotheses now anyway, but I think this goes too far. I object to the form.

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THE PRESIDENT: Sustained.

Q. (By Dr. Laternser) As supreme commander can you assume responsibility for all the excesses of your troops?

A. No. For the excesses of the troops which I don't know of, I can assume responsibility as little as the head of a state for the murder which has been committed in his country.

Q. Now, a few questions of a general nature before we come to the individual cases. To what extent did you at that time know the contents of that material which the prosecution has submitted here?

A. The contents of this material was known to me only to a very small, to a fractional extent.

Q. Now, a few questions in order to explain things. From when till when were you supreme commander of the 12th Army in the Balkans?

A. The supreme commanders of the 12th Army, I was from the beginning of the campaign there until I was appointed Armed forces commander.

Q. And from what date to what date were you armed forces commander Southeast?

A. I became armed forces commander Southeast with the Fuehrer directive number 31, and I exercised these powers from the 23rd of June, 1941 onwards.

Q. Until when?

A. Until the 15th of October 1941.

Q. In other words, from the 23rd of June, 1941 until 15th of October, 1941 you had territorial powers in the Balkan threaten of war; is that correct?

A. Yes.

Q. Now, did you exercise these powers yourself?

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A. These powers were exercised by the plenipotentiary offices or intermediate offices.

Q. Which were subordinate to you?

A. Which were subordinate to me.

Q. Did you have an area in which there was no intermediate authority, no intermediate office?

A. No.

THE PRESIDENT: Dr. Laternser, we will adjourn at this time until 9:30 tomorrow morning.

(The Tribunal adjourned until 18 September 1947 at 0930 hours).

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Official Transcript of Military Tribunal 3, case 7 in the matter of the United States of America against Wilhelm List et al, defendants, sitting at Nuernberg, Germany, on 18 September 1947, 0930 Judge Burke presiding.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, you will ascertain as to whether or not all defendants are present in the courtroom.

THE MARSHAL: May it please your Honor, all the defendants are present in the Courtroom.

THE PRESIDENT: Judge Burke will preside at this day's session.

JUDGE BURKE: You may proceed, Dr. Laternser.

Just a moment.

It is the thought of the Tribunal that since the discussion was had at the session yesterday with respect to the order of presentation of proof that upon information coming to the Tribunal from Dr. Laternser, as spokesman for all the defense counsel, save one, Dr. Sauter, that the tentative rules suggested by the Tribunal with respect to the temporary withdrawal of witnesses at the conclusion of the direct examination and the delay of cross-examination on the part of the Prosecution will be abrogated, and that the Prosecution will have the opportunity to proceed at the conclusion of the direct testimony with

such cross-examination as they may desire to make. This ruling on the part of the Tribunal is based upon the statement of Dr. Laternser, spokesman for the defendants.

As a matter of convenience for the Tribunal and for the orderly proceeding of the trial it is the wish of the Tribunal that at the earliest possible moment counsel will indicate the number of the defendants who will wish to testify, and the order in which they may be called.

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This in order to prevent any delay with respect to the 24-hour rule, or for any other cause.

You may proceed, Dr. Laternser.

MR. DENNEY: If Your Honor pleases, I might make a suggestion with reference to the other witnesses which the defense may at the present time plan to call. I think it would be helpful to the Tribunal, and while I am not trying to take any undue advantage of the defense and obtain a list of witnesses in advance, I would like to call defense counsel's attention to the fact that we have a list of a substantial number of persons whom they are going to bring here. If they could find it convenient to prepare a list of proposed witnesses and serve it as much in advance as possible, there is nothing binding upon them at a later time to produce those witnesses but that way the Tribunal and the Prosecution will have some idea as to the numbers of those who are going to be called or who it is presently planned to perhaps call.

JUDGE BURKE: The Tribunal can see no objection to the proposal made by counsel, for the prosecution, and while it may not necessarily be an arbitrary rule it would be helpful to the proceedings now before the Tribunal.

MR. DENNEY: I make that merely as a suggestion, and of course appreciate the Tribunal is not making a directive on it, and I thought it if was called to the attention of defense counsel it might help.

JUDGE BURKE: Do you find any objection to the proposal as made by Mr. Denney?

DR. LATERNSE: As far as my own personal view is concerned, I certainly intend to name those whom I propose to examine, without binding myself, because only after the witnesses have arrived here can I determine whether I want to examine them in the court or not.

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JUDGE BURKE: I think the justice of that position is apparent to the Tribunal, and I am certain that Mr. Denney's suggestion was made merely in the spirit of expediting the trial, and the Tribunal will cooperate with the efforts of both of you to that end.

It is the thought of the Tribunal that if convenient, before the morning recess we should be advised of the name of the witness to be called following the witness now on the stand. That would prevent any immediate possible delay, and the other matter referred to may be considered in proper time and the proper course of proceedings.

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DR. LATERNSEER: I may be able to do it right away.

Your Honor, I have inquired from my colleague, Dr. Menzel, and he has told me that after Field Marshal List has been examined General Kuntze will testify.

JUDGE BURKE: Very well. I am sure that information will be of some assistance to the Tribunal and also to counsel for the Prosecution.

You may proceed.

WILHELM LIST DIRECT EXAMINATION.

(Continued).

BY DR. LATERNSEER:

Q Field Marshall, we now want to come to a couple of individual cases; from Exhibit 19, which is in the English Document Book 1, on page 68, and in the German Document Book 1 is on page 49, we see that on the 18 July General Lomschar was attacked and in this connection I want to ask whether you ordered anything in regard to this matter?

A In this matters I gave no orders.

Q Do you know what the handwritten addition on Exhibit 19, the "Counter-measures", is supposed to mean?

A That is an inquiry of the Chief of Staff directed to the 1-C.

Q The prosecutor now says that this must be an inquiry addressed to you?

A No.

Q Why wouldn't it be that?

MR. DENNEY: Your Honor, I have to object to Dr. Laternser's interpretation of what we maintain. I don't recall that we ever said that. The witness has now identified that it is a communication of his then Chief of Staff Foertsch addressed to the 1-C, the Intelligence Officer, and I would suggest to Dr. Laternser that he refrain from leading the witness by telling him what he thinks we are contending.

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I think he is familiar with the method to be followed in asking questions.

DR. LATERNSEER: Your Honor, I remember quite distinctly that the Prosecution, when submitting this document, maintained that this inquiry was addressed to the defendant Field Marshall List. If the Prosecution maintains this then, I must be allowed to question the person concerned regarding this matter.

JUDGE BURKE: In the interest of brevity, Dr. Laternser, you may proceed.

A The Chief of Staff would not direct an inquiry in this form to his superior officer. He addressed his inquiry to the 1-C, as I have already said, in order to get some clarity about these matters.

Q In Exhibit 22, which is in English Document Book 1, page 76, and in the German Document Book 1, page 55, this is a report of the Chief of the Security Police of the Security Service, and this report says that 32 communists, jews and band members have been shot. Did this report ever come to your knowledge?

A This report is not known to me, because this is from the office of the Chief of Security Police in Berlin and was not received by my office.

Q From Exhibit 23 in the English Document Book 1, page 80 and the German Document Book 1, page 58, we see that 52 communists and no jews were shot, what do you know about this?

A I don't know this detail.

Q I am now turning to Exhibit 39 of the English Document book 2, on page 10, and in the German Document Book 2 on page 6 -- English Document Book 2, page 10 -- this exhibit 39 shows that Col.

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von Stockhausen on the 10th of August, because of an attack on German Police Forces ordered the shooting to death of 81 Serbs, from the neighborhood by Serbian gendarmes, according to this report, is supposed to have led to a ministerial crisis; did this case become known to you?

A The case would not have come to my knowledge at that time, because at that time, the 10th of August, I was absent. I was absent from 23 July to the 23 of August.

Q Was this incident reported to you after your return from leave?

A I could not say that now. Today, I cannot recall it.

Q I would like to draw the attention of the Tribunal to the fact that this case is further dealt with in Exhibit 40-A. In the English Document Book 2, page 20. Now, I turn to Exhibit 31, Exhibit 31 may be found in the English Document Book 1, page 111, and in the German Document Book 1, on page 86. From Exhibit 31 it follows that on the occasion of an incident the Zagreb, apart from 98, an additional 85, and another number which is not exactly known, of insurgents were shot. At that time who was commanding in Croatia?

A Croatia was an independent state. It was not subordinate to me.

Q Who possessed executive power in Croatia?

A The head of the State.

Q Why was this incident reported to the Wehrmacht commander southeast?

A On the part of the Plenipotentiary Commanding General in Agram, for information purposes.

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Q. We now come to exhibit 39 which may be found in the English document book 2 on page 8 and in the German document book 2 on pages 11 and 12. In this exhibit we see that after an attack near Skelan, officer and a sergeant major were found dead, and three other sergeant majors were missing; in the report follows the reprisals which were taken, and I should like to ask you, Field Marshal, did you have any knowledge of that case at that time?

A. No, that took place in the middle of my leave on the 14th of August.

Q. The witness Kiessel asserts in the document, which the prosecution has submitted under No. 100-B 27 that this action Skela took place on the orders or with the express consent of the Chief of Staff; could General Foertsch issue such an order?

A. No.

Q. Did your yourself issue an order in this matter?

A. I could not do that because I did not know of this incident.

Q. I should like to point out the Tribunal that the same case is dealt with cumulatively in the following exhibits, in exhibit 59 English document book 2, pages 91 and 92, the German document book 2, page 74, further in exhibit 127 of the English document book 5, wage 33, the German document book 5 page 37; exhibit 128 of the English document book 5, page 132, German document book 5, page 87 and in exhibit 527 of the English document book 24, page 11 and the German document book 24, page 8. The case appears altogether five times.

We will now turn to exhibit 40, which is on page 20 of the English document book 2 on page 18. From this exhibit 40 we see that on 2nd September 20 Communists were shot for three German.

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soldiers killed. Was this case reported to you; it is a case which took place near Rtanj, I will Spell it R-t-a-n-j?

A. I have only to repeat that it is no longer possible for me to tell you what were the individual reports which I received at that time. Today I cannot recall this incident, even though at that time I may have received it.

Q. I am now turning to exhibit 114-C. This is a supplement at the end of the 3rd document book in the English document book, and in volume 3 of the German edition on page 113. From this exhibit we see that on 19 September in Uzice that 154 band-members were shot there; during this case did you issue any orders?

A. No.

Q. What do you know about this case?

A. No details.

Q. I should like to draw the attention of the court of the fact that the same case is further dealt with in exhibit 45, English document book 2, page 42 and the German document book, 2, page 35. It is dealt with the third time in the English document book 24, page 28 and in the German document book 24 on page 21.

I will now turn to exhibit 61, which can be found in the English document book 2 on page 103, the German document book 2 on page 82. From exhibit 61 you see that the order of the plenipotentiary general Serbia of 23 September was sent to the Wehrmacht Commander Southeast for information purposes; do you know this order?

A. I don't know. If it had been sent to me for an acknowledgement I must have initialed it at that time.

Q. Let us assume that you received it; what could you have done then?

A. This is a teletype of the Plenipotentiary Commanding General addressed to the 342nd Division. This teletype was sent for information purposes to various offices.

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I must assume that it reached them in the written form since the action which was ordered for the 23rd was arranged for the 24th. If I had received this order I could not longer have intervened.

Q. Where was the Chief of Staff, General Foertsch at that time?

A. Foertsch was at that time on leave.

Q. Who was his deputy?

A. Colonel Kuebler.

Q. How were you informed about things at that time?

A. As I learned later, in an insufficient manner.

Q. With whom did you discuss this?

A. With my Chief of Staff after his return from Belgrade.

Q. From exhibit 115...I would like to be excused for a moment. I want to find out the English page numbers.

THE PRESIDENT. Very well.

BY DR. LATERNER:

Q. From page 115, volume 4, page 6, in the German, volume 4 on page 6, it follows, from a report from the 342nd Infantry division addressed to the Plenipotentiary Commanding General in Serbia, that in the course of a mopping up action 830 men were shot and 8,400 were arrested; were reports of such a nature known to you.

A. That is possible, even if I don't remember then today.

Q. Now, supposing that such a report was made known to you what would you think when you received such a message?

A. This was an extensive operation. I was also of the opinion that the losses took place during the actual fighting. I assume that the people were actually killed in combat or were franc tireurs who were shot by a summary court martial.

Q. Why shot by a summary court martial?

A. Just because they were franc tireurs or guerillas, had taken part in the fighting, or had been caught with a weapon in their hands.

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Q. What did the German regulations state regarding the treatment of guerillas?

A. After the Guerilla order of the year 1939, guerillas could be shot during the actual fighting, or if they had taken part in the fighting with weapons, or if they had been captured carrying weapons.

Q. You say by summary court martial; what does this mean - a summary court martial?

A. A summary court martial can be convened by the regimental commander and comprises one officer and two associate soldiers, enlisted men of any ranks.

Q. I now turn to exhibit 62 in the English document book 2, we find it on page 107, in the German book 2 on page 85. In this exhibit we see an order of the Plenipotentiary Commanding General of Serbia for an evacuation of the Save Bend; did this order come to your knowledge?

A. No.

Q. In connection with this evacuation of the Save Bend; did you issue any order?

A. No, General Boehme had the general order from me to conduct the action and was completely independent in this respect.

Q. We now come to the case of Crabovac. This incident is dealt with in Exhibit 107 of the English document book 3, pages 103 to 118 in the German document book 3, pages 76 to 78; can you recall this case?

A. Yes.

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Q. It follows from this exhibit that you ordered the investigation of this incident on the 6th of October; why did you issue such an order?

MR. DENNEY: I suggest that the witness testify and not Dr. Laternser. The witness was there, Dr. Laternser was not. He knows how to answer questions and tell us what he did, or didn't do.

JUDGE BURKE: The Tribunal will attempt to distinguish between the testimony of Dr. Laternser and the witness. You may proceed.

BY DR. LATERNER:

Q. Why did you issue the order for the investigation of this incident on the 6th of October?

A. A report by a sergeant major was submitted to me. It is unusual that such a report without giving the attitude and view of the intermediate officer, reaches the supreme commander. We will have to assume therefore that the senior signals officer had submitted his report to the chief of staff and that the chief of staff had passed it on to me. The senior signals officer had probably done that in order to justify himself regarding the frequent reproaches directed at him because of the failure of the lines of communication. At the same time he probably asked that the army should take care that more extensive security measures were taken.

Q. What was the importance of the telephone communications in the Balkans?

A. The importance is of a decisive nature as the area was very large and communications were bad. As such the troop units were separately disposed, had long lines of communication and in the case of a crisis they must have the possibility to support each other.

Q. When was a case of sabotage on telephonic communication lines especially effective?

A. Especially, of course, when there was tense situation and when unrest appeared here and there.

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Q. Why did you now direct that an investigation of this case should take place; why were you of the opinion that in the case in question wrong measures had been taken?

A. From the report it is clear that the troubles in communications were of a considerable nature. About 100 telegraph or telephone poles had been cut down or sawed down and a number of kilometers of wire had been cut off. In the Balkans this is, of course of great importance, because there was no subterranean cables there and because of the great distance and bad roads and then because of the small forces available the repair of such cuts took considerable time. From the report I gained the impression that in this case they had dealt with it only in a superficial manner and the person should be arrested for a time until a further clarification took place.

Q. Now General Boehme reported to you in his letter of the 13th of October that he ordered every fifth house to be burned down; did you receive this message?

A. I could no longer receive this message because it was only written on the 13th, it was sent by letter and because on the 15th I was no longer in office.

Q. And finally in the Crabovac case, General Boehme reported on the 20th of October that the village of Crabovac was burnt down and 73 residents were shot because the troops had been shot at from this village; did you receive this message or did you obtain any knowledge of its contents?

A. For the reasons already mentioned, I could not know of it.

Q. We now turn to Exhibit 78, that is the case Topola of the Signals regiment exhibit 78, which may be found in the English document book 3 on page 1 and also in German document book 3 on page 1.

Before I put a few questions regarding this case to the witness, I should like to draw the attention of the Court to the fact that this case is dealt with eleven times.

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I want briefly to give you the page numbers in the English document books. It appears again in exhibit 79, volume 3, page 3; in exhibit 80, volume 3, page 4, in exhibit 81, volume 3, page 11; in exhibit 82, volume 3, page 16; in exhibit 113, volume 3, the supplement at the end of the volume ; then in volume 4 on page 93 and exhibit 122; then exhibit 124; volume 4, page 153.

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MR. DENNEY: Can you give the page numbers and the volumes a little slower? We find it difficult to keep up with Dr. Laternser. I would appreciate it if he would give them a little slower.

PRESIDING JUDGE BURKE: I think that you --

DR. LATERNSER: Yes, of course.

PRESIDING JUDGE BURKE: I simplified the matter myself. I'm simply noting the exhibit numbers and will follow with the rest later.

DR. LATERNSER: Volume 4, page 93, Exhibit 122. Your Honor, only to mention the number of the exhibit would not suffice because they are usually a rather voluminous number of reports.

PRESIDING JUDGE BURKE: You may follow your own procedure.

DR. LATERNSER: Exhibit 124, volume 4, page 143 , Exhibit 127, volume 5, page 56; Exhibit 128, volume 5, page 117; and Exhibit 527, volume 24, page 38.

BY DR. LATERNSER:

Q. We see from Exhibit 78, volume 3, page 1 of both document books -- that on the second of October between Belgrade and Obrenovac, 21 soldiers, German soldiers, were murdered in a cruel manner by communist bands. When did you learn of this report?

A. The first report addressed to the Wehrmacht Commander Southeast is dated the 9th of October, 1941. On that day, I was in Crete and I returned on the 11th of October, and so the earliest I can have learned of this incident was on the 11th of October in the evening.

Q. What were the connections between the Army staff and yourself during your presence in Crete?

A. I had no connections with the staff during that time.

Q. How were you informed after you returned from official trips?

A. The chief of staff reported to me about everything that had happened in the meantime. During an absence of four days, that amounted of course to quite a number of things, so that the individual incident did not gain so much prominence as if it had been reported separately.

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Q. Do you remember to have learned of this case at that time?

A. I remember this case rather obscurely.

Q. In Exhibit 80, the prosecution -- that is Exhibit 80, volume 3 of the English text and pages 4 to 10 ; volume 3, pages 3 to 8 in the German text. The prosecution has submitted a report regarding the shooting by way of reprisal. Did you gain any knowledge of this report?

A. No, the report was received by the Army High Commander on the 15th of October, and it was addressed not to the Armed Forces Commander Southeast but to the Army High Command 12. And the sender was the second battallion of the Army Signals Regiment 521. That means that in this case it was directed to the office in the staff of Army High Command 12 to which the second battalio of the Army Signals Regiment 521 was subordinate. That was the army signals Officer. But even if the report had been immediately dispatched to me, I could not have received it, because from that day onwards, I was no longer acting in my official capacity.

Q. I have just been told that "Nachrichtenfuehrer" was translated as the "intelligence" -- that is not the correct translation. It is not the person who collects news but who is responsible for the technical transmission of news. That is, the person who is responsible for having telephonic communications established.

THE INTERPRETER: The correct translation for "Nachrichtenfuehrer" I see, is staff signal communication officer.

Q. Do you know whether, in this case, actually 2,000 persons were shot?

A. I do not know that. I can only draw the conclusion from this report and this report says that a number of slightly over 400 were shot. A conclusive report on the part of a unit I did not find here.

Q. We now turn to Exhibit 83. We find this in the English document book 3, page 18, in the German document book 3, page 15.

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That is the case of Kraljovo. What did you learn about this incident, at that time?

A. I did not learn anything about this incident.

Q. Why not?

A. These attacks took place between the 14th and 17th of October at a time during which I was no longer active in my official capacity.

Q. When were you operated on ?

A. October 17 .

Q. When did you go to bed?

A. On the 15th.

Q. Now regarding Exhibit 84 which contains the case of Valjovo, that is in the English document book 3, page 22, and German document book 3, page 19. What do you know about this incident?

A. I can only repeat what I said before, nothing. It took place even later than the other incident mentioned.

Q. Now as regards Exhibit 87, which we find on page 32 of the English document book 3 and the German book 3 on page 26, this is the case Cragujevac regarding which we had here a witness of the prosecution. Was this incident reported to you?

A. No, it couldn't be reported to me because it took place between the 19th and the 21st of October when I was absent.

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Q. Now a few individual cases concerning Greece. In Exhibit 111; English document book 3, page 142; German document book 3, page 97, in this exhibit an operation is mentioned against eight localities which I need not enumerate separately. Was this incident reported to you?

A. I can no longer tell whether this happened or not. If so, then this incident would not have been very conspicuous to me. Apparently this is a case of a fight with bandits.

Q. In the same exhibit on page 141 of the English document book and page 96 of the German, a mopping up operation in five localities is mentioned, during the course of which 27 Greeks were shot during resistance or in fighting. What do you know about this incident?

A. That incident too I cannot remember; according to the report it is beyond question a fight against bands.

Q. The next three incidents in the same exhibit I can summarize in one question I am sure. This is a case on page 90-- I correct myself -- on page 144 of the English document book against the villages Amokatokerzillio and on the 19th and 20th of October against further localities near Evangelistria and on the 23rd of October against two further localities, among others Celli. What is your attitude to these three incidents?

A. I can only say here that I could not gain any knowledge of those three incidents.

Q. The prosecution has submitted Exhibit 59, which we find on page 79 of the English document book 2 and in the German document book 2 on page 63. From this exhibit 59, we see that in connection with the finding of explosives, 10, Communists and 3 Jews were shot. Were you informed of this incident at that time?

A. I can't tell you today whether I received this message or not. If I received it, I had to assume that the sentence and the execution took place because of the attacks against the occupation power, after a summary court martial or as a reprisal, but not because of racial reasons.

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Q. In the same exhibit on page 79 of the German, and page—I am sorry I am not in a position to name the English pages. No, I correct myself -- on page 98 of the English. This contains a report to the Wehrmacht Commander Southeast from which it follows that parts of the male Jewish population in Belgrade were sent to a transit camp near Belgrade. Were you informed about these intentions before they took place?

A. No.

Q. Did you obtain knowledge of this report?

A. I cannot remember it.

Q. I am now returning to Exhibit 64 in English document book 2, page 117; in the German document book on page 91. This exhibit contains a report of the Plenipotentiary Commanding General Serbia addressed to the Wehrmacht Commander Southeast dated the 26th of September, and it follows from this report that in Smederovo and the neighborhood Jews were arrested and, as stated in the report, they were arrested as instigators of the revolt. Did you obtain knowledge of this report?

A. This too, I cannot say today whether I received it or not. If I had received it-- I would have to draw the conclusion from this report that the arrest took place exclusively because these were the instigators of the revolt.

Q. I now turn to Exhibit No. 127 in the English document book 5. We find it on page 27, and in the German document book 5 on page 34. According to this report, as a reprisal measure for a surprise attack against a German motor car on the 29th of July, a hundred Jews were to be shot. Do you know whether this shooting took place?

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A. I beg your pardon, I don't have this report before me.

Q. It is on page 33 of the German document book 5.

PRESIDING JUDGE BURKE: What page in the English document book?

DR. LATERNER: In the English document book on page 27. I am told that it is on page 39. I beg your pardon.

PRESIDING JUDGE BURKE: You have been correctly informed.

BY DR. LATERNER:

Q. What date does this report bear?

A. It bears the date of the 27th of July.

Q. Where were you on the 27th of July.

A. In Vienna.

Q. Do you know whether this shooting was carried out?

A. No.

Q. We find -- and now this finishes my concluding questions. I want to deal first with Exhibit 100-B 27. This is a supplement to the third English document book and we find it behind, after page 78 and in the German document book 3 as a supplement behind page 57. This Exhibit is a statement by Kiessel which was made on the 24th of March, 1947, in Belgrade.

MR. DENNEY: Your Honors, I believe that exhibit we put in a separate folder.

PRESIDING JUDGE BURKE: I don't find it in mine.

MR. DENNEY: Well, if your Honors recall, we put them -- we took the Yugoslav exhibit and put them in a separate folder and kept them separate from book 3 because I don't think they fit in that book. The Yugoslav report, pictures, the Kiessel affidavit, various newspaper clippings.

PRESIDING JUDGE BURKE: They referred to as 100-B-item 27?

MR. DENNEY: If Your Honors recall, there is 100-B, then 100B 1, etc. This part is 100-B 27.

PRESIDING JUDGE BURKE: Very well.

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PRESIDING JUDGE BURKE: If you'll pass that for the time being we'll request the messenger to secure a copy for Judge Wennerstrum and a copy from my office. I think Judge Carter has his. Judge Carter?

JUDGE CARTER: Yes.

DR. LATERNER: Your Honors, may I be allowed to suggest that this be completed during the recess, and then we can continue after the recess.

JUDGE BURKE : It is the thought of the Tribunal that we will continue until 11:30, and then adjourn until after the noon. Is it possible without interrupting the continuity of your examination to proceed with some other matters at this time until the document books are brought in by the messenger?

DR. LATERNER: Yes

PRESIDING JUDGE BURKE: If you'll pause at this moment, Dr. Laterner, because of the necessity of the adjustment -- not an error, but a readjustment because of the additional length of time to make the film continue until 11:30. So, if you will discontinue (Pause) until the Tribunal notifies you?

You may proceed, Dr. Laterner.

BY DR. LATERNER:

This Exhibit 100-B 27 is a statement by Kiessel, which he made in Belgrade. Who was Kiessel?

A. As far as I can see now from the documents he belonged to the staff of War Administrative Chief.

Q. In which capacity?

A. He worked on administrative matters -- police matters.

Q. What were his further functions subsequently?

A. From the press I learned later on that he was one of the chief prosecutors of the conspirators of the 29th of July.

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Q. Kiessel says on Page 21 that the Military Commander Serbia, a few days after the 29th of April, was subordinate to the AOK-12. Is that correct?

JUDGE WENNERSTRUM: Pardon me, which document is Page 21?

DR. LATERNER: That is the first page of Document 100 B-27. which is numbered 21 at the bottom of this document. I assume that the same page number is found in the English text.

JUDGE WENNERSTRUM: The first page is numbered 24.

MR. DENNEY: If Your Honors please, the reason for the difference in the pagination, the figure 21 appears at the bottom of Dr. Laterner's copy in the German and 24 at the top of the English. The document if Your Honors recall, originally was in Serbian -- Yugoslav, and when it was translated into the German and English the pagination was different. That's the reason for it.

BY DR. LATERNER:

Q. The matter to which I refer is on the first page of this extract from the record of the interrogation. I asked whether it was correct if Kiessel says that the Military Commander Serbia a few days after the 24th of April was subordinate to Army High Command 12.

A. No.

Q. Kiessel goes on to say on the next page that a police battalion was subordinate to the operational department instead of Thurner and was, therefore, misused. What do you know about that?

A. The Chief of Staff reported to me at that time that the Military Commander Serbia had telephoned whether this police battalion could be subordinated to the Command Staff by him, whereupon I answered him. that the Military Commander might act in the way he deemed suitable. It was quite convenient for us because in this manner this police battalion was not delivered into the hands of Thurner who had the intention of trying to build up a sort of body guard for himself.

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Q. Kiessel continues on the 4th page of the extract that it was typical of the conditions that you, during your first visit in Serbia, landed at Nish, and that you first asked for Bader and not for the Military Commander. How did that come about?

A. I did not land at Nish. I arrived by train in Nish, and the line from Salonika to Belgrade goes via Nish. It was, therefore, understandable that I first went to Nish. There I was received by General Bader

who was at the same time the deputy of the Commander Serbia. The Commander Serbia had been prevented by an air-craft accident to come to Nish. Otherwise he certainly would have been present.

Q. In the next paragraph Kiessel maintains this: Contrary to the report of Field Marshal List, dated 23rd of August 1941, in Belgrade, the OKH has, after Nedic was made Premier in September, 1941, sent General Bomehne with a staff, of one Mountain troops, which were in Greece, to Belgrade with the order to quell the rising. Is that correct in the way Kiessel represents it here?

A. No, it's quite impossible that on the 23rd of August I could have made such an utterance, because at that time I had just returned from my leave, and I found completely changed conditions in Belgrade. And the thought that Boehme could have been appointed Plenipotentiary General in Serbia was not considered at that time at all.

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Q. Kiessel further states that reprisal measures took place between the 28th of June and the 20th of July, 1941, because of an attack on a grandstand. He says that these reprisals which had been ordered had been ordered by General von Schroeder with your consent. What do you say to that?

A. I have never talked to Schroeder either by word of mouth or by telephone.

Q. Finally Kiessel says in his statement that the Chief of Staff Gravenhorst with the Commander Serbia maintained that he had the power and the authority to take ten reprisal hostages for one victim on the German side. What do you know about that?

A. I've never given such authority.

Q. You know that the prosecution also charges you with the responsibility for the Commissar Order which is in Exhibit 13 and Exhibit 14. We find it in the English Document Book I on page 49 and in the German document book on page 34.

JUDGE CARTER: Which document book?

DR. LATERNER: Document Book I, page 49.

BY DR. LATERNER:

Q. Did you receive this Commissar Order?

A. No.

Q. Do you know whether the Commissar Order was distributed in the Southeast?

A. No.

Q. Is one case known to you in which the Commissar Order was applied in the Southeast?

A. No.

Q. We now come to the concluding questions. When did you conclude your activities in the Balkans?

A. It was the 15th of October 1941.

Q. What was your illness then?

A. I had an appendicitis operation.

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Q. And when did you go into the hospital?

A. On the 16th of October.

Q. You said before that you were operated on on the 17th of October.

A. Yes.

Q. Who was your deputy for the initial period?

A. On the 18th of October the OKW appointed General Kunze as my deputy, but he only arrived on the 26th of October in Athens.

Q. When did he take over the duties of your office?

A. On the 27th of October.

Q. Who managed matters in the meantime?

A. What the arrangement was in detail is not known to me.

Q. During your sickness did you have any official connection with the Staff of the Army High Command 12, or the Armed Forces Commander Southeast?

A. I had no official connection.

Q. Was your illness so serious that you could not be bothered with official matters?

A. Yes. General Kunze, too, could not come to me at once because my state of health did not allow this at the time of his arrival.

Q. How long did you remain in the hospital?

A. Until the 6th of December 1941.

Q. And where were you in the hospital?

A.. In Sismanoglion, in the immediate neighborhood of Athens.

PRESIDING JUDGE BURKE: The Tribunal will stand adjourned until two o'clock this afternoon.

(The Tribunal adjourned until 1400 hours.)

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AFTERNOON SESSION (The Tribunal reconvened at 1400 hours)

THE MARSHAL: Persons in the courtroom will please find their seats.

The Tribunal is again in session.

PRESIDING JUDGE BURKE: You may proceed.

DR. LATERNSE: Your Honor, may I first of all announce that I, in my capacity as defense counsel of Field Marshal List, and my colleague Dr. Menzel, as defense counsel of the defendant Kuntze, after Field Marshal List has been examined as a witness, we will produce a witness, the former Lt. Colonel Wenning. I am announcing it in order that the 24-hour limit be kept to.

PRESIDING JUDGE BURKE: Have you any comment at this time, Mr. Denney.

MR. DENNEY: I would just like to know that if defense counsel are able to advise us who the man is and how he spells his name.

DR. LATERNSE: The witness is at the moment in Nuernberg. His name is spelled as follows: Dietloff von Wenning.

PRESIDING JUDGE BURKE: And at what time do you expect to produce him?

DR. LATERNSE: We shall produce him after concluding the examination of the witness who is on the witness stand now. That will be in the course of tomorrow.

PRESIDING JUDGE BURKE: Very well.

DR. LATERNSE: After the 24-hour limit has passed.

BY DR. LATERNSE:

Q. Shortly before the recess you had stated that on the 6th or the 8th of December 1941 you had left the hospital and that you had been in a military hospital in Sismanoglion.

A. Sismanoglion.

Q. Where did you go after you left the hospital?

A. After I left the hospital, I went to Vienna, and then to Partenkirchen.

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Q After you were discharged from the hospital, were you being medically treated?

A I was being treated for some time as an outside patient.

Q After you were completely recovered, did you again become Wehrmacht Commander Southeast?

A No.

Q Why not?

A Because, as Keitel told me, I had given the impression to Hitler that I had not crushed the insurgent movement in Serbia energetically enough.

Q After your recovery did you undertake steps to be employed again?

A No.

Q Why not?

A I had an opportunity during my stay at home to gain a better insight into the conditions at the time and into the activities of the Party.

Q Were you used again in an official capacity?

A Yes.

Q How did that come about?

A In the course of June I was asked to see Hitler at the Obersalzberg and he told me that he intended to use me in the East as Commander-in-Chief of an army group. This army group would be newly formed out of the Army Group von Bock, at a date and time when the offensive intended by him of a rather extensive nature had taken its start. I asked him at that time whether sufficient forces were available for such an extensive offensive, whereupon he told me yes, that would be his business and I shouldn't worry about it.

In reply to my further question about how the supply lines were secured in this rather difficult case, he answered quite briefly. I had the impression that he did not want to deal with all these things in detail.

Q When did you take up this command?

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A. During June and the end of June I went to Poltava and I got the command on the 17th of July, and the time previous to that Hitler had been in Poltava for discussion with Field Marshal von Bock. There it was expressly pointed out to him that I was present; I was not called to attend this discussion.

Q. What course did the operation then take?

A. I advanced with the army group in the general direction via Rostov towards the Black Sea and against the passes of the Caucasian range. After I had reached the shores of the Black Sea in the neighborhood of Novorossisk, and the peaks of the Caucasus, Hitler asked that I attack with the forces of approximately one mountain corps across the Caucasus down to the Black Sea.

Q. Did you execute this order with the partial forces at your command?

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A. I objected to this order because, though it probably would have been possible to carry it out, it would have brought the troops into a position for which I could not take the responsibility. Several times I asked by telephone to be allowed to report to Hitler personally about this, but I did not succeed in that. Therefore, I asked Jodl to come and see me. He arrived the next day by plane and agreed with me, and he promised, on the same afternoon, to bring me an answer from Hitler as I wished. This answer arrived after about one day and a half. This agreement of Jodls' with me had caused sharp controversy, as far as Hitler was concerned, which affected all the generals at the headquarters.

Q. Now, what was the end of this business?

A. After I had received the teletype, which in its essentials agreed with my views, Hitler did not insist on the attack. Field Marshal Keitel came to see me the next day and told me that the Fuehrer no longer had sufficient faith in me. For that reasons he asked me to resign my command of this Army Group. Keitel saw me between about 10 and 11 o'clock in the morning; at 12 o'clock I resigned.

Q. Where did you go then?

A. The next day I went by plane to Vienna.

PRESIDING JUDGE BURKE: What was that date, please?

DR. LATERNSE: Which date was that?

DEFENDANT LIST: That was on the 10th of September 1942.

BY DR. LATERNSE:

Q. And when did your discussion with Keitel take place?

A. On the 9th of September 1942.

Q. Well, how did it happen that you were allowed to resign from your post?

A. That was only possible because Hitler wished it. If I had not fulfilled this wish I would probably have received the order to do so.

Q. Were you personally injured or offended when you were asked to resign?

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A. For an higher officer, during war-time, it is not particularly pleasant if he has to resign from his post, but , on the other hand, in this case, I looked upon it as quite a comforting situation because I told myself that in this manner I evaded quite a number of conflicts which would have had to come.

Q. What did you do after you left the Service?

A. After a short stay in Vienna I went to Partenkirchen; as soon as my treatment was no longer necessary in Vienna.

Q. And what did you do chiefly in Partenkirchen?

A. I lived a purely family life, and I spent some time on history and the history of art, and as long as it was possible, I did a lot of work in my garden.

Q. With whom did you have social contact?

A. In Garmisch-Partenkirchen I was a friend of General von Adam, who had left the service in 1938; I was also friendly with the General of the Artillery, Kuehlenthal, who , before the war, had to leave the Service for racial reasons. And then there were some other people, who did not, however, become intimate friends of mine.

Q. You said General Kuehlenthal had to leave the Service for racial reasons. What was your attitude -- we have not discussed this yet, -- regarding the Jewish question?

A. My attitude to the Jewish question is quite obvious from my behavior during the Jewish Programs in the year 1938 in Vienna. Apart from that I had a number of acquaintances who were Jewish themselves or who were married to Jewesses.

Q. Even during the war?

A. Yes, even in Partenkirchen.

Q. Was it know to you during the war that the majority of the Jews had been taken to concentration camps?

A. In the course of the war, the first time about 1941 or 1942, I heard of individual incidents that Jews were put into concentration camps.

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To a greater extent about this I only learned after leaving the Service, and I learned of the total extent only after the end of the war.

Q. From then on that is from your resignation in 1942, what was your attitude to the Party circles in Partenkirchen?

A. I had no contact whatever with Party circles. I did not even know the Kreisleiter or the Ortsgruppenleiter of Partenkirchen.

Q. With whom did you have contact at that time, apart from those people mentioned.

A. I only had a very little contact outside Partenkirchen. There was an old friend from my university days. I also had contacts with the Infantry General of the Infantry Olbricht. He had been my former Chief of Staff in Dresden while I was Commanding General there.

Q. Did he often visit you?

A. He visited me about every two or three months.

Q. What did you talk about during these visits?

A. He always gave me a picture of the general situation and the military situation, and I had the impression that he was bothered by a lot of cares which he wanted to get rid of by talking to me.

Q. What was General Olbricht's fate?

A. General Olbricht was a leading conspirator during the 20th of July 1944, and he was shot in the Reich War Ministry.

Q. Were you informed about the plans leading to the attempt on Hitler's life in July of 1944?

A. No, I was not informed about these plans.

Q. Did you yourself suffer from the after-effects of the plot of July 20th?

A. Insofar as very early the next day a post office employee told me that my telephone communications were being tapped by the Gestapo, that is, they were being connected with the Gestapo line.

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And insofar as during the next weeks, which I could easily recognize I was shadowed by some SS men in civilian clothes who were quartered in a nearby SS hospital.

Q. How and where were you when the war came to an end?

A. I was in Garmisch-Partenkirchen when the war ended, and I was able to make a small contribution in an unofficial way, to have Garmisch-Partenkirchen declared an open city, because in Garmisch -- Partenkirchen seventeen military hospitals were situated. Therefore, no fighting occurred in Garmisch-Partenkirchen.

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Q I am now putting my last question. At the beginning of these proceedings you stated that you do not feel guilty.

A Yes.

Q Are you still of this opinion, after the Prosecution has submitted its evidence.

A Yes. During my forty four years of military service it had always been my principle to instruct my men, old officers and young officers, in the guiding principles of justice, humanity, and fairness; and I have followed these guiding principles all my life and have tried to apply them in every situation as energetically as possible. This guiding principle was valid for me. It was, of course, also valid for me for my activity in the Balkans. If, at first sight, some measures, in view of the very bad material available, look rather inhuman, these measures too have their origin. And I want to assure you of this; I want, your Honor, to know that they had their origin in military necessity, and they sprang from no other motives.

Q For the time being I have no further questions.

DR. RAUSCHENBACH: Dr. Rauschenbach for the Defendant Foertsch.

PRESIDING JUDGE BURKE: You may proceed.

BY DR. RAUSCHENBACH:

Q Field Marshal List, I have only a few questions regarding General Foertsch. When did General Foertsch become Chief of Staff with you?

A Foertsch became Chief of Staff during the first ten days of May, 1941.

Q Did you ask for this change in your Chiefs of Staff?

A No.

Q Was this change a surprise to you?

AA complete surprise.

Q Was this change desired by you?

A This change was like every change of this kind, one had agreed with the predecessor, it was highly undesirable.

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Q Did you know General Foertsch previously?

A I knew General Foertsch quite superficially from a few official meetings in the Reich War Ministry.

Q What was your opinion of him? From the personal papers of General Foertsch I have found no judgment concerning him from you.

A Foertsch has a clear intellect; he can talk well, and he can also write well. He was a very keen worker. He was adroit and showed himself so in intercourse with superiors, with equals, and with subordinates; in his social intercourse with our allies. The Staff had full faith in him. Summing up, I can only say that he was an excellent Chief of Staff.

Q Was he a so-called trouble maker?

A No; on the contrary, he supported me when I complained to the OKW, and we had, of course, no other aim than to occupy a pacified country. I mean we did not welcome the transfer of larger stretches of Greece and Croatia to the Italians and of further parts of occupied territories to the Bulgarians.

PRESIDING JUDGE BURKE: Just a moment, please.

BY DR. RAUSCHENBACH:

Q Did General Foertsch have any tendency towards transgressions in his office?

A I never experienced or saw him transgressing his powers.

Q Do you have the impression that he reported everything to you which required your decision as Commander in Chief and which you had to know?

A I had the very definite impression that he informed me regarding everything I had to know.

Q Did he ever transgress his powers as Chief of the General Staff?

A No case is know to me, and I never heard anything from subordinate officers that they complained about such actions.

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Q What was the relation to the commanders subordinate to you? Did you ever hear any complaints?

A No, I always had the impression that the ***** very pleasant and satisfactory one.

Q And what was his relationship with the OKW?

A His attitude was very critical. Some of the directives we received he could not understand because they had been issued without sufficient knowledge of our conditions.

Q And how did he represent his and your views to the OKW?

A I had the impression that he represented our view in a very adroit and firm way.

Q What is known to you regarding the views of General Foertsch at that time towards the Party?

A His attitude became more and more critical and negative in the course of time.

Q Now, a last question. Even before the 31st of August was the employment of the XVIIIth Mountain Corps considered for Serbia?

A Nobody thought of it at that time.

Q Thank you; I have no further questions.

PRESIDING JUDGE BURKE: Any further questions by members of the Defense Counsel Staff? Mr. Denney?

MR. DENNEY: Your Honor, in view of the statement which was made yesterday, I would appreciate it if I could have sometime to go over my notes. The could adjourn until tomorrow morning, because I understand that this witness is not to be cross-examined until a later time.

PRESIDING JUDGE BURKE: It is the view of the Tribunal that, in view of the quantitative suggestion of the Tribunal yesterday, with respect to the order of the testimony, your request is reasonable and will be granted. The Tribunal will adjourn until tomorrow morning at half past nine.

THE MARSHAL: The Court will be in recess until 9:30 tomorrow morning.

(Court adjourned at 1445 hours, until 0930 19 Sept 1947.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America, against Wilhelm List, et al, defendants, sitting at Nurnberg, Germany, on 19 September 1947, 0930-1630; Justice Wennerstrum, presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

May it please Your Honors, all defendants are present in the Court room.

The persons in the court room will be seated.

THE PRESIDENT: Dr. Sauter?

DR. SAUTER (for the defendant Lanz):

Your Honor, may I put a few short questions to the witness, please.

THE PRESIDENT: You may proceed.

BY DR. SAUTER:

Q. Witness, when you were directly examined you told us that in April 1941 when the two Greek Armies capitulated, that is, the Thracian Army, the Eastern Army, - that happened on the 9th of April 1941, if I am correct, and the Epirus Army, that was the Western Army, and if I recollect properly that happened either on the 21st or 23rd of April? That is correct; isn't it?

A. Yes, that is correct.

Q. All right, in connection with that I am interested in the following. In view of this fact does that mean the whole Greek Army capitulated or were there any larger units of the Greek Armed Forces excepted from this surrender?

A. The capitulation of the Thracian Army and the Epirus Army meant that the entire Greek Land Army capitulated.

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Q. If I understand you correctly you had no doubt that through this surrender its existence was discontinued?

A. There could be no doubt whatsoever about that.

Q. Did you know as the responsible German Army leader, and I repeat, did you know as responsible German Army leader, at that time, consider in any way the possibility that the fight on the part of the Greek troops would later be continued by any other organization?

MR. DENNEY: Your Honor I object to Dr. Sauter leading the witness; he can ask him what he knew, but he is putting the answer to the question.

DR. SAUTER: It was not a leading question because everybody in the court room could and must hear from the answer to the previous question what I again asked the witness in order to exclude any doubt.

THE PRESIDENT: You may proceed; the objection is overruled and I doubt the necessity of repeating the question.

BY DR. SAUTER:

Q. Witness, in connection with your previous answer I had put to you the question: Did you, as the responsible German Army leader in the Greek area, consider the possibility or the likelihood that after the surrender of the whole Greek Army the fight would be taken up again by any other kind of organization? Did you count on this possibility or likelihood?

A. I did not count on this possibility. Otherwise I would not have immediately, after the capitulation, released all Greek soldiers. Any other units did not exist in Greece.

Q. Witness, just one last question. The Greek witnesses which have been examined here described the situation as if so to speak the Greek Army had never capitulated and that the Greek Partisans were a kind of legitimate successor of the Greek Army. Do you share this opinion or is this opinion, according to your personal knowledge; incorrect?

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A. That the Greek Army ceased to exist and that the surrender extended over the whole Greek land army is a fact. That can be seen from the fact that as of that day; that is the 9th of April; concerning the Thracian Army; and as of the 21st of April concerning the Epirus Army; no further fighting took place. All Greek troops as a consequence of the surrender ceased hostilities not only against us but also against the Italians and the Epirus Army surrender was carried out without any necessity of applying force on the part of the German troops or anything like that.

DR SAUTER: Your Honor; I have no further questions to put to the witness.

THE PRESIDENT: Is there any further examination on behalf of any of the other German counsel? If not; you may proceed with the cross-examination; Mr. Denney.

CROSS EXAMINATION BY MR. DENNEY:

Q. You told us about the Munich Putsch attempt in 1923. Just what was your connection with that event?

A. With my battalion that was stationed in Kempten and in Lindau I was alerted during the night; transported by rail to Munich during the night and there I was employed for the maintenance of security.

Q. For whom were you acting in that affair?

A. For the Kahr Government of that day in Munich.

Q. And who were you opposing?

A. Hitler and the National Socialist party.

Q. Do you know what they were trying to do?

A. Who?

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Q. Hitler and his National Socialists.

A. They had tried to overthrow the Kahr government.

Q. Then were you successful in your efforts?

A. Yes.

Q. Some time later I believe you told us you had to flee because of what happened there.

A. That must be an error.

Q. Perhaps you can straighten it out for me then. What happened after that?

A. May I explain that the fleeing may be connected with the statement that I said on the occasion of the Raete Putsch and the establishment of the Spartacist rule I had to flee from Munich; that was in the year 1918.

Q. I see; thank you. Then you were on duty at the Infantry School about 1930. Is that right?

A. Spring 1930.

Q. And there you noticed some attempts on the part of the National Socialists to influence the young officers?

A. The influencing of the young officers had taken place already prior to that in various and individual troop units.

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I was given the instructions and the task to prevent that such attempts would be carried out in the Infantry School.

Q. And you did everything you could to prevent the ideas of National Socialism from being conveyed to the young officers of the Infantry School?

A. I could not prevent that these ideas were communicated to these young people because they were very free with their connections on the outside but in any case I tried to prevent that it had any effect in the school itself and also on the thoughts and ideas of these young officers.

Q. You wanted to be sure so far as the instruction went that the school was restricted purely to military matters and didn't get involved in the Party ideology?

A. Yes, one can express it like that.

Q. And you were successful in your efforts?

A. Yes.

Q. And when the Hitler government came to power because, you have stated, that they were duly elected, you saw no reason to discontinue your position in the Army?

A. No, I saw no cause to do that.

Q. Then, you recall that early in 1940 I believe it was you had a talk with Brauchitsch with reference to the possibility of further military action in the West?

A. Yes.

Q. Who was Brauchitsch?

A. Brauchitsch was the Commander in Chief of the Army.

Q. And he at that time was a Field Marshall?

A. He was at that time a full General, (Generaloberst).

Q. And what was your rank then?

A. I was also a full general (Generaloberst.)

Q. And you made a memorandum as a result of your talk with Brauchitsch which you forwarded to Hitler?

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A. May I put that right?

Q. Certainly.

A. I had written out a memorandum purely for my own personal use that was very brief ideas of mine which I put down just for my own personal use. Then Brauchitsch came on a visit to see me and he talked to me about these operations which were in consideration and asked me about my own opinion. And on this occasion I told him I had put them down in a brief form and I informed him about the main contents of this memorandum. Then he said I should put these very same ideas to Hitler if at any time I had the opportunity to do that.

Q. Did you ever have the opportunity?

A. No, I never had that opportunity.

Q. Then you went to a meeting in 1939, November. Was that at the Reich Chancellory in Berlin?

A. I cannot recollect where that discussion took place, in what particular room.

Q. Well, I am not interested in the room; do you know where it was?

A. In Berlin.

Q. And Hitler was there and he had the ranking Generals there?

A. Yes.

Q. And you were there?

A. It was a very large meeting where the Commanders in Chief and all Commanding Generals and I don't know whether there were divisional commanders too but all those present ; I can't tell you the exact number of those present now but if I picture now the room where the meeting took place I think there were at least a hundred people or even more.

Q. And it was there that you and some of the other older Generals were accused by Hitler as being timid?

A. He had probably heard that ideas had been expressed against the war amongs the older Generals and that such thoughts existed and for that reason he reproached just us older Generals with our timidity.

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Q. And when you were in the Southeast were you again accused of not being aggressive enough.

A. Keitel made a remark of that kind to me and he made this remark the reason that after my recovery I was not sent again to the Southeast.

Q. When was that that Keitel said that, if you can recall.

A. That was in March or April 1942.

Q. Where were you at that time?

A. In Partenkirchen.

Q. Now, you have said that you have always held yourself above the Party considerations, that you tried to do your duty as a soldier and kept away from political things?

A, Yes

Q. Now, to your rank of Field Marshall, you were promoted Field Marshall when?

A. That was after the campaign against France July 1940.

Q. And to retrace for a moment, you have spoken of Keitel.

Will you tell the Tribunal who Keitel was.

A. He was Field Marshall Keitel and he was a Chief of the High Command of the Armed Forces.

Q. And how long did he hold that position, roughly. You don't have to give the exact date. Until approximately the end of the war?

A. I don't know when he started on this position but he occupied it until the end of the war.

Q. In 1940 when you were promoted Field Marshall in July following the campaign in France how many Field Marshalls were there in the Wehrmacht?

A. I cannot give the figure here now. I believe in the Army there were either nine or twelve Field Marshalls, but I can be mistaken in this figure and maybe included those people who were later promoted. I can't say for sure at the moment.

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Q Well, then, do you knew what your position was in the rank list when you were promoted Field Marshal?

A I believe I was on the place after General von Bock.

Q Well, do you know numerically where you were or where von Bock was?

A It was the fifth or the sixth place.

Q So that in 1940 you were the fifth or sixth ranking Field Marshal in the army and did your position at any time between the time you were appointed Field Marshal in July, 1940, and the time when you retired from active duty in early September of 1942?

A No.

Q Roughly, from an area standpoint, how big was the territory under your command in the southeast?

AAAt the time when I was Wehrmacht Commander Southeast, it was an area of about the size of Germany at that time.

Q Well, perhaps you can be a little more specific. The boundaries of Germany were changing somewhat in 1941.

A It is very difficult to say that. The distance from Belgrade to Grete would probably correspond with the distance from Aachen (Aix la Chapelle) to Minsk.

Q It certainly was an area which was substantially larger than the Third Reich as it was constituted prior to 1 September 1939.

A Yes, it was larger. That is right.

Q When you commenced operations in the Southeast sometime early in April, 1941, how many troops did you have under your command?

A You mean the divisions, numerically? How many divisions?

Q Well, you were commander of an army.

Q And how many corps were in the army?

A The army had five corps.

Q You had an army which was composed of five corps and approximately how many divisions in total?

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A It was somewhere between 10 and 15 divisions.

Q Well now, taking an army with ten to fifteen divisions, five corps, the necessary corps troops, and an army troops and army rear area troops, roughly how many men would you say that you had under your command?

AAbout 200,000.

Q And then after things got somewhat more stable in the Southeast and the second army under Field Marshal von Weichs had withdrawn, what troops did you have down there as of the date of approximately June, 1941?

A Do you mean at the time when I was already armed forces commander or at the time when I was only in Greece?

Q Well, let's take both of them. Let's take first when you just had Greece and then later when you were armed forces commander?

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A In Greece I had, additionally, one corps and about four-and-a-half divisions and a few forces for security reasons, security battalions.

Q How many men would that make approximately?

THE PRESIDENT: May I make inquiry as to whether there is some mechanical trouble or something that this can be avoided.

MR. DENNEY: I know this isn't intentional, your Honor. I don't know -

THE PRESIDENT: Marshal, if you will try to ascertain the trouble.

Mr. Denney, the difficulty caused by this squeaking is apparently mechanical. They are calling a man up from the office. If it isn't to objectionable, if you can proceed until he gets here and if he comes and it is necessary, of course, to take a short recess, why we will do that, Mr. Marshal. If its gets too bad, we will stop until it is cleared up.

BY MR. DENNEY:

Q Just before we had the mechanical interruption, I had asked you how many men you had in Greece in these four-and-a-half divisions and the security battalions. Will you tell us, please?

A I cannot say that from memory. I can hardly say that or I can just say it very approximately. Roughly about 60,000 men.

Q And then when you became forces commander Southeast, what was the approximate strength of the troops under your command?

A That is even more difficult to estimate because I cannot recollect now how many security battalions and how many infantry battalions were present in Serbia which also have to be taken into account apart from and besides the four divisions which were in any case stationed in Serbia. I can really not name a figure here because that would be too vague. If one counts the four divisions and the infantry battalions, that could have been also approximately somewhere between 50 and 60 thousand, but that is the best I can say.

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Q Those were the troops in Serbia excluding the security battalions which you are unable to recall?

A I didn't understand the question.

Q And those four divisions and additional infantry regiments of which you spoke, 50 to 60 thousand men, are the troops in Serbia, not including the security battalions?

A This figure constitutes the troops in Serbia, divisions and security troops.

Q And those were in addition to the troops in Greece?

A Yes.

Q You have spoken about the chief of staff, various chiefs of staff which you had and the general staff. Will you tell the Tribunal what the duties of the chief of staff were, particularly with reference to the period when you were armed forces commander Southeast?

A The chief of Staff had charge of all affairs within the staff. He had to inform his commander in chief about the important matters and to make sure that the various department chiefs reported to him and that he in turn made this report. The current affairs of a not fundamental and basic nature. He was in a position to deal with himself, inasmuch as they concerned orders and instructions to lower echelons, he had to submit those to the commander in chief for signature and execution. The chief of staff is not concerned, with any matters of judicial activities.

Q Now, you say that he had charge of all the staff duties, Who were the members of a staff, what you call a generalstab?

A That would be department Ia. That is the department in charge of operations, troop movements, etc. Then department Ic, that is the intelligence service, and the quartermaster department. That deals with supplies, food rations, etc., and then there are the departments for personnel matters and the medical service and the veterinary service and the administration.

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The administration dealt with food supplies, clothing, etc.

THE PRESIDENT: Pardon me please. If we recess without leaving our positions, I think perhaps the mechanical difficulties can be taken care of.

(A recess was taken.)

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AFTERNOON SESSION (The hearing reconvened at 1330 hours, 19 September 1947). WILHELM LIST - Resumed CROSS EXAMINATION (Continued)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: You may proceed, Mr. Prosecutor.

BY MR. DENNEY:

Q Witness, just before we suspended you were detailing the composition of a general staff. You spoke of the duties of the chief of staff, stating that he had charge of all of the duties that were performed by the

various staff members; that the chief of staff had to . . inform the commander – in your case that would be the commanding general or the commanding field marshal – on all important matters; that the chief of staff had to be sure that all of the departmental chiefs reported to him as chief of staff about the various matters that occurred within their departments and that he in turn passed this information on to you. Do you recall that?

A Yes.

Q And then you indicated the positions of some of the staff members, the Ia who is the operations officer, and that I believe is similar to the G3 in a general staff in the United States Army. Are you familiar with the American terminology?

A No.

Q Thank you. And the Ic who was in charge of intelligence, the quartermaster and various other general staff officers, including those in charge of personnel, medical matters, veterinary matters and administrative matters.

Now, what was the rank of your chief of staff when you were Armed Forces Commander South-East?

A. Foertsch was at that time a Colonel.

Q Now, what was the rank of his subordinates in the staff, that is, the Ia, Ic, quartermaster, and so forth?

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A They were at that time, as far as I can remember, lieutenant colonels. Whether Kuebler was at that time already a full colonel I don't know.

Q But in any event the chief of staff or the members of the staff did not have general officer rank?

A Later on, yes; not at that time.

Q Yes; but then?

AAAt that time, no.

Q Any orders that they issued were issued in your name?

A When I had given instructions, then, yes. As far as I know I didn't sign them in my own hand. Most of the orders which I issued, I signed myself.

Q Were any of them authorized to issue orders on your behalf?

A That is very difficult to say. Generally speaking, as far as I remember, the signature would read: "On behalf of" even if the order did not originate with me, but with the High Command of the Army; but when I had given the instruction, then the department chief concerned or the chief of staff would act on his own responsibility.

Q Well, if an order came down from the OKW it would be addressed to you as Armed Forces Commander South-East, would it not?

A Yes, it would be addressed to the office of the Wehrmacht Commander South-East.

Q And it was not addressed to one of your staff members?

A No, but on principle it was addressed to the official office of the Armed Forces Commander. It would not be addressed to me personally or to my particular department. It was just addressed to the Armed Forces Commander South-East as the responsible office, that is, not concerning the person of the Armed Forces Commander, but his official capacity and then within his office the orders would be passed on to the various departments which were responsible for their carrying out.

Q Well now, these departments, when they passed the orders on, were acting for you, were they not?

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A. I don't think we are getting this quite clear. The departments worked for the official office of the Wehrmacht Commander South-East and within this office there was a large machinery of offices working and the Question was now whether the document concerned had to be submitted to the Armed Forces Commander South-East personally or whether it would be dealt with within the various departments.

I believe one has to make a difference between the person of the Armed Forces Commander South-East and his office irrespective of person. It was customary in the Army to say the "Armed Forces Commander" or "Commander in Chief" meaning only his office. In this case it was the Armed Forces Commander South-East. So if some enlisted men needed uniforms and this request was addressed to the Armed Forces Commander South-East, the request would be dealt with by the office and not by the Armed Forces Commander in person. One has to make a difference between the concept of his official office and his person.

Q. Well, let's take as an example, suppose the Quartermaster general in the OKW staff decided that all of the troops in your area should wear hob--nail boots and the appropriate order was sent down? That order could be passed on without referring it to you by the Quartermaster of your staff. Isn't that so?

A. In this case that would have been possible. Of course, he would inform me if it were a matter which concerned the troops generally.

Q. And when he passed the order on he would pass it on in your name, but being done by him as the Quartermaster officer?

A. Yes.

Q. Now, at this same time you also held a position as commanding general of the 12th-Army. Is that so?

A. As Commander in Chief of the 12th Army. I think in the American Army the corresponding position would be that of Commanding General.

Q. Yes, commander in chief, excuse me. And did you have a staff on the 12th Army, a general staff?

A. No. It was exactly the same staff. There was only one staff.

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Q Now, did the 12th Army have any troops down there?

A Yes.

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Q How many troops did the 12th Army have?

AAAs I said this morning, there were at the beginning of the occupation period about four and a half divisions and a general command.

Q And the same staff functioned as your general staff for you both in your positions as commander in chief of the 12th Army and as Armed Forces Commander -- South-East?

A Yes.

Q Now, did your staff officers, including the chief of staff, have any authority to issue orders without your consent?

A I have already stated that they had that possibility; that the example which you gave, for instance, that would have been possible; such an order could have been issued and passed on without my consent or at least without me being informed previously or without my consent being obtained previously. Later I would have been informed.

Q Yes, but disregarding those types of administrative orders, letting those aside, did they have the authority to issue other orders of their own volition?

A That is very difficult to say here and it is difficult to comprehend for people who have not grown up within the German Armed Forces and know all the conditions prevailing there. They had the right in case an order was extremely urgent. For instance, orders to a commanding general, if the order was to the effect that the respective commanding general had to carry it out, execute it and pass it on in that case they did not have any authority. But when matters were concerned which the commanding general would not have to carry out in person but again a subordinate office of his then they had the possibility.

Q Let's at the moment disregard orders that came down from either OKW or OKH. Did your chief of staff or any of the members of your general staff, either in the 12th Army or in the Supreme South-East, have any authority to initiate on their own and pass on those orders to lower troop units without consulting you?

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A I previously stated to which extent it was possible for them. I was not concerned in my statement whether they were orders from the OKH or OKW. They might also be forders from the Supreme

Command South-East, that is, orders for which the commanding general was not the person who executed them.

Q And at a later time would any such orders that they initiated and passed on to lower troops be made known to you?

A That depended on what matters were concerned. If not very important matters were concerned then perhaps I was not informed. Generally speaking, I would have been informed but there was a multitude of things which were carried out by departments Ia, IIa, Ic, et cetera. I was not informed, as matter of course, if the department chief concerned was of the opinion that it wasn't necessary that the commanding chief was informed. It was a general custom in the whole German army.

Q Did they give tactical orders without your knowledge?

A Tactical orders of a larger extent, no.

Q Well, how big an operational order could they give without consulting you?

A I cannot state that here in theory. That is quite impossible. It depended on the actual situation in how far the chief or the Ia believed to be able to act independently and just told the Army Corps Commands it had to be done in such and such manner.

Q And if he did that you would later find out about it?

A Yes, I believe that later on I would have obtained information about these things. It couldn't be any different.

Q And if an improper order had been given, one with which you disagreed, you would, when you heard about it, take steps to correct it?

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A That again is difficult to say theoretically what I would have done. Again it would depend on the individual case in which manner I would have to intervene.

Q And one last question on the staff. You said; as I recall it; the duties of the chief involed the coordination of all the staff information that came and the presentation to you of that information?

A Yes. It was his task to be responsible for a uniform carrying cut of all the work within the staff.

Q And sometimes he would do that by showing you reports and other times by giving you an oral summary?

A No; that is not the correct concept of the activities of such a staff. There was such a multitude of departments in such a staff and in general the chief of staff was in charge of things and he would say to the department chief concerned; "Go and tell this to the commander in chief," and on other occasions he would submit it himself. On other occasions again he would just summarize and give the report in summary.

Q Do you recall telling Dr. Laternser on Wednesday that the main form of giving you information was a summarized report?

A I did say that to Dr. Laternser but in answer to a very specific question; that is; the question of the reports that had come in; but now I have been asked by the Prosecution about the summary of the activities of the various department with the supreme command and that is something different. The chief could not; for instance; report matters of Department IV-a; that is; supplies and so forth. Of course he could not give detailed reports on that.

Q But he could give you general reports about it?

A Even that he did not do concerning these departments --- the department chiefs themselves came to report to me. He might maybe say, "A certain thing has happened in a certain department and the chief concerned will come and report to you," or "The army doctor will come and report to you, but the report in detail was then given by the army physician.

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Q Do you recall Exhibit 15 which is the Hitler Order of 9 June 1941 which details you as the Wehrmacht Commander South-East?

A Yes.

Q And that superseded a prior order known as Hitler Order 29, did it not?

A No.

Q And that is Exhibit 9, the Hitler Order No. 29. Incidentally, the Hitler Order No. 29 is dated 17 May 1941. I think maybe we can pass to the Order of 9 June 1941, Exhibit 13. Now, that order subordinated to you the Commander Serbia?

A Yes. That was the Hitler order 31. That is correct.

Q And do you recall a provision in that order which stated that with the exception of the conduct of offensive air warfare, the Wehrmacht Commander South-East is to bring together in a unified control all military questions of the Wehrmacht which arise from the occupation, security, supply, transport and communication affairs of the occupied south-East area? This is to be done for all throe Wehrmacht branches. Do you recall that provision in the order?

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A. Yes.

Q. Then, the order further provides, "And he is to make decisions in terms of the overall responsibility which falls to the Wehrmacht in the Southeast area."

A. Yes.

Q. Then, it provides that the "leadership will be simplified in the branches of the Wehrmacht, and the high Command of the Wehrmacht m;ill be relieved of many individual questions and differences of

opinion which are the inevitable result of having all Wehrmacht branches working side by side in the same area."

A. Yes.

Q. And then it lists in some detail the duties which are you responsible for. First, the safeguarding of a unified defense, Do you recall that?

A. Yes indeed.

Q. And the sentence listed "directions for the ocean-transport movement in the near future".

A. Yes.

Q. And "the control of supply on land and on sea for all Wehrmacht branches in the Balkans."

A. Yes.

Q. "Supervision over the military administration to be exercised by the command occupied by the German troops."

A. Yes, that's right.

Q. And then do you recall the supplement to that order which went along with it, which stated that the Wehrmacht Commander South case has to support the Reich Plenipotentiary in every respect and to confer with him in the measures he prepares for Greece?

A. Yes.

Q. And then it provided that "the Plenipotentiary in Greece was to keep you informed on political questions?

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A. Yes.

Q. And that "control of propaganda in Greece is the duty of the foreign office which is to cooperate with the High Command of the Wehrmacht in this matter?"

A. Yes.

Q. And then do you recall that on 15 June a regulation or the execution of the Hitler Order no. 31, signed by Keitel, was sent down?

A. Yes.

Q. And that provides in part that the Wehrmacht Commander Southeast is the sole command authority of the Wehrmacht in the Balkans concerning all those duties for which he is responsible pursuant to Directive 31?

A. Yes.

THE PRESIDENT: Mr. Denney, pardon me. Did you refer to this last regulation as an exhibit?

MR. DENNEY: I beg your pardon, Your Honor. This is Exhibit 16. The one to which I was referring previously was Exhibit 15, Exhibit 15, at the bottom of Page 55 of Document Book I. And Exhibit 16 begins at Page 60 of Document Book I.

THE PRESIDENT: Thank you.

BY MR. DENNEY:

Q. And still referring to Exhibit 16, the regulation for the execution of Directive 31, administrative offices had been put at the disposal of the Wehrmacht Commander Southeast by OKW--OKH; I beg your pardon.

A. Yes.

Q. And then over on page 1, the second page of the communication in Document Book I, still Exhibit 16, "The Wehrmacht Commander will be informed by the respective offices of the OKW concerning current military political and economic directives and events."

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A. Yes.

Q. Do you recall that it also provided that Wehrmacht units would regulate the delivery of gazettes?

A. I can't recall that. I can't recall the contents at the moment.

Q. Well, do you recall that at the end of the order it said that daily reports would be submitted to OKW and OKH?

A. Yes.

Q. And monthly reports to OKH concerning the problems or military administration?

A. I cannot recall that at the moment, but it is correct. I have read this Directive 31, but not so thoroughly that I know it by heart, although I have heard it here several times. I only can recall the general contents.

Q. I don't want to take advantage of you at all. I'm very sorry. I thought perhaps you'd read it. If you wish I'd be glad to give you a copy of it so you can read it. If Your honors please, He is being submitted a German copy of the document which I've just been reacting.

Have you had an opportunity to look at the order?

A. Yes indeed; thank you.

Q. You're welcome. And you find in there air those provisions which I read?

A. Yes indeed.

Q. Do you recall Dr. Laternser's asking you about an Exhibit No. 88 which was an order of General Boehme? This document, if Your Honors please, is on Page 34 of the English Document Book III, and

Page 27 of the German Document Book III, that being an order of General Boehme of 10 October 1941. And if I remember correctly, you stated that the first time you knew about this order was here in Nurnberg?

A. Yes, that's right.

Q. And you had nothing to indicate to you at that time that this order was going to come out?

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A. I don't understand the question.

Q. Well, perhaps I can rephrase it for you. You did not know on 10 October or at any time that General Boehme was going to issue such an order?

A. No.

Q. And as far as you know, there was no way of your knowing about that?

A. No.

Q. And you told Dr. Laternser that you believed that OKW had issued this order to him directly?

A. No; I have never maintained that.

Q. I'd like to have the witness handed Exhibit 88 in the German. That's on Page 34; Your Honors; of Document Book III.

Do you note at the top of that Exhibit; that is; General Boehme's order; is the note "an information copy"?

A. Yes.

Q. Excuse me. "An information copy was directed to the office of the Wehrmacht Commander Southeast; but you never saw it?

A. I have said that the order had been issued on the 10th of October by General Boehme; and merely an information copy was sent to the Armed Forces Commander Southeast. Since I cannot remember ever to have seen or known that order; since the order came as an information copy; it's quite possible that it took a longer time because it did not actually affect the Armed Forces Command Southeast; and since on the morning of the 13th of October I was not an service any longer. I can be sure that I did not receive the order. Those were my statements to Dr. Laternser; and I added that if I had received the order it would have had to be initialed by me.

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Q. And you were taken sick on the 15th of October and operated on in a hospital in Athens on the 17th, and you never received this order and you had no way of knowing that the order was going to be given out?

A. No.

Q. And until you got here to Nurnberg you never did know that the order was given out?

A. No.

MR. DENNEY: Will you please hand the witness Exhibit 53, Document Book 2, which appears at page 67 of that book?

If Your Honors please, it is Exhibit 53, Document Book II, page 67 in the English, and I am sorry I don't have the German page. Perhaps Dr. Laternser can help me.

DR. LATERNSE: Page 52 of the German, page 67 of the English.

MR. DENNEY: Page 67 of the Document Book II, Your Honor, Exhibit 53, and wage 34 of Document Book 3, Exhibit 88.

Q. Do you recall testifying with reference to Exhibit 53, the Neitel order of 16 September 1941, that you received the order from Keitel, that you wore opposed to it, but that you passed it on?

A. Yes.

Q. I now direct your attention to the order number of the order of 16 September 1941, Exhibit 53; you will note that the OKW file number of the order is 002060/41; that is the order which you -
(interrupted)

A. Just a moment, please.

Q. You will find it on page 32 of the Document Book which you have.

A. Yes, it is right.

Q. That is the OKW order number, is it not, 002060/41?

A. Yes.

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Q. And that is the order that you passed on?

A. This order arrived with copies for the offices to which it was to be passed on by us, that is the order arrived already complete with copies which we had to pass on,-- that cannot be seen from that particular copy here, but from the photostat.

Q. Yes, and now I direct your attention to the Boehme Order of 10 October, about which you have told us you know nothing, under subject -- please note the reference, the reference is to "Chief of OKW, 002060/41, Top Secret, 16 September 1941." That is Exhibit 88.

A. May I see the document again?

Q. You will find that at page 27 in the German Document Book III; it is Exhibit 88, Boehme Order 10 October 1941.

A. Yes.

Q. So the Boehme Order of 10 October 1941 was based on the Keitel Order of 16 September 1941, which you passed down, was it not?

A. Yes.

Q. And it was in this Boehme Order of 10 October 1941 that he ordered that for each killed or murdered German soldier or Volksdautschen, men women or children, 100 prisoners or hostages were to be shot and that for each wounded German soldier or Volksdeutschen 50 prisoners or hostages were to be shot?

A. Yes.

Q. Do you recall now that perhaps the Boehme Order was based on the Keitel Order which you had passed down?

A. That it was based on the Keitel Order was always clear to me.

If I may say so, I think there is an error here. In my statement to Dr. Laternser I have never said that for the issuance of this order of 10 October Boehme had received an immediate order by the OKW. I had never made a remark to that effect, instead when I was going to say "I could assume"....the prosecutor intervened and said I was not entitled to make an argument.

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I could not assume anything what Boehme might have thought. I was going to say something quite different. If I am now being reproached with having said that the Boehme Order could be traced to an immediate order by OKW, and that it was not based on this order of 16 September, but instead of that on a second order, that is erroneous. All I wanted to do was to give my grounds for this assumption, and in that I was interrupted by the Prosecution. I think Dr. Laternser will be able to affirm that.

Q. I am very sorry if I interrupted you. Turning now to the question of task forces Rosenberg -- excuse me, I don't think you need those books any more. Do you remember Dr. Laternser questioning you about the letter from Rosenberg to Borman, which was Exhibit 4, which appears at page 11 of the English text, and page 11 of the German text in Book I -- I beg your pardon, it is page 8 of the English text and page 6 of the German text, Your Honor., in which Rosenberg mentions to Borman that you are cooperating with him with reference to certain cultural researches that were being carried on in the southeast?

A. Rosenberg maintains that.

Q. And you said that that wasn't so, what he said?

A. Rosenberg has written a private letter and I cannot prevent him writing private letters. He wrote that I had contact with him, and that is not correct, because I have never had contact with Rosenberg. I have stated that I only met Rosenberg once on the occasion of a party, and I did not talk with him, and later on I did not have any contact with him. The letter of Rosenberg contains a private opinion of Rosenberg's, and this is erroneous because he states what I had given him permission to look at archives

in Belgrade. No further writes that I would possibly allow the same for Salonika. I have later stated that I recall that Lt. von Ingram had visited me, and I received him first of all because he had got the Knights Cross in the Eastern Campaign, and for that reason I received him and he told me that he had permission to look at archives, and on this occasion he mentioned material which might be directed against the Reich, and I told him that I expected everything to go in order, and that no special events would occur.

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And that was the extent of our cooperation, if you can call it cooperation, in the cultural sphere. Rosenberg further states that I had told him, or rather his representatives, that the confiscation of this material would be carried out by the SD, the Security Service. I can only say that the SD was an unknown quantity to me at that time.

Q. For whom did Lt. von Ingram work?

A. For Rosenberg.

Q. And as such you had the power or authority to give him any orders?

A. No.

Q. And referring you now to Exhibit 10, which is page 38 of the English Document Book I, and on page 27 of the German Document Book I, Dr. Latenser, I believe, directed your attention to that yesterday, wherein the commandant of the Army rear area stated that in compliance with orders of the 12th Army of April 19, 1941, Department I-c, Order Humber Secret, areas in operation in the area of the 12th Army, Special Detachment, Reichsleiter Rosenberg, which has the task of examining states libraries, archives, Offices of High Church Authorities, Free Mason lodges, and Jewish organizations for political incidents directed against the Reich and of having the material in question confiscated; you don't recall any such order given by the 12th Army on 19th April 1941?

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A. No. I may add that the prosecutor asked me an hour ago about the activities of the Staff; this here is a case where without doubt the department I-c issued an order without previously informing the commander in chief, because they were obviously of the opinion that a department of the Reich was concerned. Material was to be sorted and evaluated and obviously Lt. von Ingram approached this Department I-c, and consequently Department I-c issued this order, in the opinion and correct assumption that it was not necessary to inform the commander in chief. It must be considered that the period during which this happened was a period of very tense operational actions. If I remember correctly this Rosenberg letter was written during the April days of that year, around about the 20th.

Q. Yes, I believe it was written on the 23rd. Just a moment, yes, it was written on April 23. By the 23rd of April you were already undergoing the second capitulation in Greece, weren't you, and had not the Thracian Army surrendered on the 9th and had not the Epirus Army surrendered on the 21st?

A The Epirus Army surrendered on the 21st, and one can assume that it took a certain amount of time until Rosenberg received an answer from the person whom he sent to Greece, therefore this discussion could have only been at a previous time. Besides the order of the Department I-c, I think you just read it, is dated 19 April -- that is then it was right in the middle of the severest actions, just before the Army capitulated; at that time the Commander in Chief had different things to do than to be concerned with a lieutenant sent by Rosenberg who wants to look at a few archives.

Q In view of that no one bothered to tell you that this task force Rosenberg was carrying on its activities in this area?

A I learned about that through the report by Lt. von Ingram, otherwise I might not even have heard about it, and most likely I wouldn't have heard about it.

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Q When did Lt. von Ingram come to see you, do you recall?

A I cannot say that for certain. It must have been, as far as I recollect, in Saloniki, and according to this letter of Rosenberg it must have been before 23 April, unless this letter of Rosenberg's is based on a discussion with the Department I-c. In any case it was before 26 April, because on the 27th of April I went to Athens. In this connection may I point out something else -- in the rear area of the Army it says in an order, which was also only made known to me here, that confiscation of material is to be carried out by the secret field police. This shows clearly that it was not to be done by the SD, but by the secret field police, because no SD was subordinate to the commander of the rear area of the Army.

Q They were SD people, weren't they, these Rosenberg people?

A I don't know.

Q In any event you couldn't give them any orders?

A No.

Q Will you please hand the witness Document Book II; referring now to Exhibit 68, which appears at page 137 of Document Book 2, in English - I am sorry I don't have the German page, Your Honor - it is just a one page exhibit.

Q What kind of a document is it, please? It doesn't give the exhibit number here, what is the document number? 105? All right, I have got it.

Q You will note that is dated 2 October 1941, and comes from your I-c, and is addressed to the Detachment Rosenberg, and says, "Effective 1 October 1941, Detachment Rosenberg is assigned for rations, quarters and for discipline to Commander South Greece. Lt. Ritter von Ingram, the leader of the Detachment, is to make contact immediately with the Staff of the Commander Southern Greece." "For Wehrmacht Commander Southeast, The Chief of the General Staff, Colonel General Staff Corps."

A Yes, that is right.

Q Did they ever tell you about this, that they were in charge of this SD unit for matters in addition to rations and quarters, including discipline, and that they were ordering them to report to the commander Southern Greece?

A I have no knowledge of this subordination, because the Chief did not think it necessary to report to me because a small staff which was only looking at archives was there. There is something I would like to point out, you said that these people were members of the SD, the command Rosenberg had nothing to do with the SD, they weren't SD people. The command Rosenberg was a command which consisted of some personalities of the Staff Rosenberg which had the task to investigate certain ideological documents or documents directed against the Reich which were contained in these archives. I take it thus from the exhibit which you just showed me before, but Rosenberg had nothing to do with the SD, on the contrary Rosenberg had had a fight with Bormann because Bormann didn't want Rosenberg to intervene in these matters. All I can say is that Rosenberg was possibly under the control of the SD to a certain extent. In this sense I have to understand Rosenberg's letter, Rosenberg had had differences of opinion with Bormann, because Bormann didn't want Rosenberg to deal with these matters in the Southeast. Obviously Bormann meant to give these orders on his own initiative. The SD had nothing to do with Rosenberg as far as I can recollect, and as far as I am informed. Rosenberg only wanted the SD to help him.

Q Who was the Chief of Staff at the time that the order -

A That was the then Col. Foertsch.

Q If I may finish my question. - At the time that Exhibit 68 was issued your Chief of Staff was the Defendant Foertsch?

A The order of the 2nd of October?

Q Yes.

A Yes, that is right.

Q. Thank you. Now, at that time who was the commander of Southern Greece?

AAAs far as I know it was Felmy.

Q Now, you recall that, perhaps you could take us over some of these dates when you were in and out; maybe we can start from the end and work back. It was on the 17 October 1941 that you were operated on in the hospital at Athens, Greece, for appendicitis, is that right?

A Yes.

Q And just for a moment to go beyond that, you stayed in the hospital until sometime early in December of that year?

A Yes.

Q Could you help me with the date in December?

A I beg your pardon.

Q Could you help me with the date in December when you left the hospital.

A I beg your pardon, I did not understand the question. On the 6th of December, it might have been the 8th of December - December 8.

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Q And when you left your command, in October to go to the hospital it was on the 15th, was it not?

A Yes, on the 15th of October; I beg your pardon, it might have been on the 16th of October. At least on the 15th I had to stay in bed.

Q You either left on the 15th or you were in bed on the 15th; in any event you were operated on on the 17th.

A Yes, on the 15th I was obliged to go to bed. On the 17th I was operated on. I don't know for sure whether it was the 15th or 16th that I was brought from my quarters to the hospital.

Q Now shortly before that you had been in Crete. Can you help me with those dates.

A I was on Crete during the time of the 8th up to the 11th of October.

Q Do you remember when you came back on the 11th?

A During the course of the afternoon.

Q And then prior to the 8th of October were you in Athens all the time after you got back from leave sometime late in August?

A That was on the 24th of August; then I was in Athens.

Q And you were there all the time until the 8th when you went to Crete?

A Yes.

Q When did you go on leave?

A On the 23rd of July I left Belgrade.

Q And you went to Vienna and then you went down to the suburb of Garnisch and stayed there?

A Yes.

Q You were in Serbia and Yugoslavia for several days prior to the 23rd of July 1941, were you not?

A Yes.

Q Do you recall how long you were there?

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A From the 21st until the 23rd I was there, that is July.

Q Now during your absence on leave who was acting on your behalf as Armed Forces Commander Southeast and Commanding General of the 12th Army?

A I believe that was General Felmy.

Q And when you were in Serbia did you hear anything about General Lontschar. Did you know General Lontschar?

A No.

Q Never heard of him?

A I have now heard about him from these documents.

Q The first time that you ever heard that in Serbia on the 18th of July, three days before you were there, that a General in an Army's car had been shot at, and someone else in the car had been wounded, was here in the Courthouse?

A I do not recollect in any case at that time I have learned of this in Nish or Belgrade.

Q When you were in Belgrade prior to your departure on leave you said that you may have given some oral orders. Do you recall that?

A I did at that time talk to General Bader and I talked to a number of Divisional Commanders and it can be assumed that we discussed what they could do against this Parting of an uprising but I cannot remember details. For that purpose there did not seem to be any cause at that time.

Q Was not there among the Divisional Commanders some general talk about the uprising in Serbia? You don't have any recollection of what took place at that time?

A There had been uprisings in Serbia, sabotage acts. I myself could not go from Nish to Belgrade on the 21st which I intended to do, but all of a sudden I had to go by plane because there were interruptions of the railway line between Nish and Belgrade and in Belgrade itself there was reason for great caution against surprise attacks.

We passed through town very quickly and I was quite heavily guarded because surprise attacks and surprise murders occurred everywhere. Of course I was told about it, but the suppression of this had already been started and was in the process of being carried out.

Q The situation at that time then was critical in Serbia?

A Yes, it was critical; that's right.

Q And you were very concerned about it?

A Yes, I was concerned. Any uprising in an occupied country..... if, for instance, here in Germany there would be about twenty surprise attacks every day, the bridges of the Autobahn would be dynamited, if soldiers of the American Army were ambushed, then the American authorities would be concerned too. If I may say so, I would not have gone on leave if it hadn't been very necessary because I had a stomach ailment which I had acquired in Crete.

Q Now, during your leave did you get any reports in Partenkirchen as to what was happening in the Southeastern area?

A I can't say that today anymore to what extent I was informed. I did see a couple of reports but my knowledge at the moment does not tell me to what extent I was informed. Of course I was not kept posted, about everything that went on.

Q How were you posted of whatever knowledge you did acquire about the operations in your command in your absence?

A I have just said I can't recollect any more to what extent I was informed, and what exact knowledge I had.

Q Did anyone speak to you by phone?

A I got mail by courier. There was no telephonic communication.

Q Did you get any mail from your acting deputy, General Felmy?

A No.

Q Did you get any mail from your Chief of Staff, Colonel Foertsch?

A Yes, certainly; I think I did.

Q But you don't recall what he advised you about?

A No.

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MR. DENNEY: Would this be a convenient place to interrupt, Your Honor.

THE PRESIDENT: You wish to recess at this time?

MR. DENNEY: If we could. I am about to go into a new subject and I would appreciate it if Your Honor would take a recess.

THE PRESIDENT: We will take a recess at this time.

(A recess was taken.)

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THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

BY MR. DENNEY:

Q May it please your Honors, do you recall being asked by withdrawn. Will you please hand the witness Document Book 1 in German? I am referring now to Document 22 which is at page 76 of the English and page 55 of the German Book 1. This is a report from the Chief of the Security Police of the SD, 22 July 1941. It says that in reprisal for the attempted attack on the life of the German general, 52 Communist Jews and families of band members in the villages of Vzice, Valjevo and Cacac were shot to death on the 20th. Did you ever hear of that incident?

A I don't know any longer whether I heard about it or not. I cannot recollect it. It didn't remain in my memory.

Q Then if you will turn over to the next exhibit which is Exhibit 23, this is extracts from the activity report of the 704th Division which was under the 65th Corps at this time, that is July 1941, and the 65th Corps was under the 12th Army. Is that correct?

A Yes, it is correct.

Q And you will note in that under the date of 20 July 1941, Valjevo, it is on about the third page or perhaps the second, the second page of the original, the same incident is recited. Did you ever have any knowledge of it through this source? Through the 65th Corps by reports which might have been sent up to you?

A This activity report I didn't know for sure. This activity report originates from the 704th Division. I never had a possibility to look at it. The same applies to the previous document which is the report from the chief of the Security Police in Berlin to the Reichsfuehrer SS.

Q And you don't recall anybody calling your attention to the fact that these 52 people were executed because of this attack and/or at any later time?

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A All I say is I cannot remember whether I was informed or not. I don't know.

Q It is page 54 of the German. This is Exhibit 555, and Book 24, which is at page 85 of the English and page 54 of the German copy of that document book. It is dated 8 September 1941 and recites that 50 guilty Communists were executed as reprisal for an attack on a soldier at the station of Belgrad-Fopicer. Do you ever recall having that come to your attention?

A Concerning this report, as well as all others, I cannot recollect today whether details were reported to me or whether I was only generally informed, I cannot recollect that today.

I have already said it this morning or yesterday that it is impossible for me to say now after six years that I have been informed or not been informed of individual matters. I have just a very general impression of the uprising but whether any particular messages were given to me and whether any particular events were reported to me I cannot say anymore.

On a large scale, I have certainly been informed but to name individual cases it is impossible. The same applies when I recollect the campaign against France. I remember the campaign as a whole but I cannot recollect individual messages that were submitted to me at that time. It is simply impossible.

Q Do you have any present recollection of having been informed at that time - say July, August and early September of 1941- that people were being executed at the ratio of 50 to 1 for woundings?

A That the reports were made to me on the basis of the Keitel order and that these occurrences came to my knowledge on the basis of the reports, that may well be so.

Q I am now directing your attention to these dates specifically in July, August and September, which were prior to the Keitel order.

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Do you remember having been advised of executions at the rate mentioned during that period?

A I can only say the same, Mr. Prosecutor, as I have just said before. Today I can't say any more that I did know a specific report. All I can say, it is possible that I knew about it, and today I do not know for sure whether I did or not.

Q Will you hand him Book 2, please? It is exhibit 59 at page 95 in the English Book 2, it is about the 16th page in the Exhibit-it is the report of 4/9/1941 for September.

A Page 63 of the German.

Q Do you recall having been advised of that, that in reprisal for the killing of a soldier in Belgrade on the 3rd of September, 50 people were executed?

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MR. DENNEY: It is page 95 of the English document book 2, your Honor, of Exhibit 59.

FIELD MARSHAL LIST: I beg your pardon, on which page in the German is it?

MR. DENNEY: I thought you told me.

BY MR. DENNEY

Q. Do you recall having been advised of that in this report which is directed to your office?

A. I can only say the same as I have said before, that I cannot recollect it now anymore but that it is quite possible that the report was submitted to me. Generally speaking, I was informed about events and therefore it is possible, even likely, that I was informed of this occurrence but today I cannot recollect it any longer.

Q. Thank you. Will you hand him book 2 again, Exhibit 43, Exhibit 42, I am sorry. This is on page 23 of the English copy of book 2, your Honor, and I will tell you it is page 21 of the German.

I am directing your attention to -- do you recall this order which was sent out on 5 September 1941?

A. Yes.

Q. When, to your knowledge, was the first time that you ordered hostages to be taken?

A. Yes.

Q. No, I say when did you first order hostages to be taken? You don't have to look at the order now. I am not talking about that.

A. The first order for the taking of hostages...that is, an order to that effect had not been issued by me before.

Q. This is the first time you gave such an order?

A. Yes. Orders from the OKH must have been in existence before that.

Q. Well, do you recall what orders you got from the OK--excuse me. Who gave you the orders---OKW or OKH?

A. They must have been in existence from the OKH in Serbia in my opinion, and I am sure that orders came during my time from the OKW.

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Whether they concerned the taking of hostages or other matters I cannot recollect, but my objection which I raised with the OKW, can be retraced to the fact that orders must have come in from the OKW. In detail, I do not remember these orders.

Q. Well, do you recall whether they were written orders or oral orders?

A. They couldn't have been oral orders because they must have come by teletype or by radio transmission.

Q. And this order of September 5th, you feel, was sent out based on orders that you got prior to that date from OKW or OKH?

A. On the basis of current orders to proceed vigorously against the insurgents, Several Teletypes had come in to that effect, and on the 5th, on the same day, a telephone call came from the OKW asking what had been done in order to combat the insurrection. In view of this uprising and the crisis which we faced at that time, this order was given, also in view of the activities of the partisans and the cunning manner in which they proceeded. And then there had been orders issued by the Communist party that permitted the bands to use all means. On the basis of all these facts combined the order was given.

One must all the time picture the situation of the Balkans and the enormous effects of the insurrection not only on the occupational forces but on the whole situation.

Q. I am talking about a telephone call that you got from OKW on the 15th, the 15th of September I take it, that is.

A. On the 5th.

Q. On the 5th? On the 5th of September, I beg your pardon.

A. I beg your pardon, I meant on the 5th.

Q. Now if you will notice that paragraph f of this order, Exhibit 42, You speak of the seizure of more hostages.

A. Yes.

Q. Now what did you mean by that?

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A. At the end of August, beginning of September, the insurgent movement had assumed an essentially greater proportions. After I returned from my leave, I found a completely changed situation. The insurgent movement had extended to considerably larger areas. Attacks became more frequent and in their whole manner they were somehow stronger. On the basis of these facts it had become necessary to carry out the taking of more hostages. The intensity of the insurgent movement and the extension of the movement to larger areas caused this.

Q. Where did you get your information as to what had happened during your leave from the 23rd of July to the 24 of August?

A. On my return journey, I stopped in Belgrade and there I think I gained the first impression through a discussion with the Military Commander Serbai--that was General Danckelmann--and the Military Commander of the Higher Command 65, General Bader, and then I was informed after my return to Athens in my headquarters.

Q. Who gave you the information in your headquarters at Athens?

A. I assume it was the chief of staff. Probably the Ia was present too. It might have been the Ic also. I cannot recollect that today.

Q. Did you talk to General Felmy about it when you got back?

A. I assume that I talked to General Felmy about it.

Q. And your chief at that time was Colonel Foertsch, was he not?

A. That is correct.

Q. We have already discussed the Keitel order of 16 September 1941 with reference to 50 to 1, and 100 to 1. That bears the same date, does it not? That Keitel order is Exhibit 53. That bears the same date as Exhibit 49, which is the Hitler order of the same date, 16 September 1941, which appears at page 53 of the English copy of Book 2 and page 52.

A. That is Exhibit 50, is it?

Q. Exhibit 49, I believe.

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Q. That's the Hitler order to you of 16 September 1941 with reference to General Boehme.

A. To General Boehme?

Q. We're still referring to General Boehme.

A. You said Bader.

Q. Boehme.

A. You mean Boehme?

Q. Yes. Now, on the bottom of page 1 of that order it states:

"The latter," referring to Lt. General of Infantry Boehme, "exercises executive power in the insurgent area itself, pursuant to directives of Wehrmacht Commander Southeast. Insofar, all military and civilian offices must follow his instructions and regulations for a more accurate definition of his authority. The interests of the Four Year Plan are to be taken into consideration as a matter of principle."

Do you recall receiving that order from the OKW?

A. Yes.

Q. And that order was sent to you from OKW in response to your request to them of the 14th of September, which is Exhibit 48, the exhibit before, which is at page 51 of the English document book and page 42 of the German document book?

A. Yes.

Q. And in your letter to the OKW of 14 September you mentioned, at the top of the second page, a fact that it was fully understood that with the appointment of General Boehme for duty in Serbia that the interests of the Four Year Plan will be taken into consideration in this case.

A. Yes.

Q. And the OKW replied to you -- there is the notation that the interests of the Four Year Plan are to be taken into consideration as a matter of principle. What was the Four Year Plan?

A. The Four Year Plan was a plan which Goering had established and Goering had a special plenipotentiary of the Four Year Plan in Belgrade who, I think, had the task, first of all, to reactivate the mines and/or to keep them going.

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I am not informed in detail of the tasks of the plenipotentiary of the Four Year Plan. The addition which I made in my request that the interests of the Four Year Plan should be taken into consideration was made for the reason to support my request concerning the employment of Boehme, i.e. to achieve this at all with Hitler, or rather with the OKW. I knew that Goering considered the southeast area, so to speak, as his own reservation and that he wanted to institute in Serbia a general of the Air Force, in

order to thus exercise more influence in Serbia. And for that reason I added that supplement to my request.

Q. In Exhibit 50, which is your order to the Commander in Serbia, which is dated the 19th of September 1941, appointing General Boehme - this is at page 57 in the English document book, Your Honors, and page 46 in the German - you stated there that General Boehme was the "only possessor of executive power in accordance with the Fuehrer order binding instructions to all military and civilian offices".

A. Yes.

Q. And you stated further that "instructions for the carrying-out of operations for the necessary protective measures will be given by me only to General Boehme, who is responsible for their being carried out".

A. Yes.

Q. Now, if you'll turn to Exhibit 79 in Document Book II, which is at page 3, page 2 of the German. Your Honors, it is page 3 of the English document book, Exhibit 79. Sorry, that was the wrong book (witness handed the wrong book). That's the report from General Boehme of 9 October dealing with the execution of approximately two thousand communists and Jews in reprisal for twenty-two murdered of a signal battalion.

Do you recall having seen that at that time?

A. I have already stated that on the 9th of October I was in Crete and that I did not receive, therefore, this report until the 11th of October at the earliest, after my return from Crete.

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And I have further stated that this is the only case which I can specifically recollect, and that is the murder - the murder and beastly mutilation of these soldiers of the Signal Corps.

Q. Did you make any inquiries about the source of the people who were killed in retaliation for these killings of German troops?

A. As far as I remember, no.

Q. You didn't think that ratio of approximately 100 to 1 is unusual?

A. I have already said that I recollect that the order to the 1 to 100 ratio in this case came directly from the OKW. That is what I had said and which explains the mix-up with the order of Bohme of the 10th of October. The ratio of 1 to 100 seemed high to me in any case.

Q. But you had passed down that 100 to 1 order which you received from Keitel on the 16th of September, did you not?

A. Yes, I passed it on after my objection with the OKW had been in vain. The Keitel order mentions 1 to 50, up to 1 to 100, and as far as I can recollect, it was additionally expressly ordered 1 to 100. Besides

the people who had been actually shot on the 9th and 11th of October - I think there were 442 - I could not have recalled them back to life, and a larger figure than 442 people had actually been shot cannot be seen from any report contained in this documents here - I think altogether twelve times. One cannot see that a larger number than that mentioned was ever killed.

Q. So far as you know, you never made any inquiry based on the figure of two thousand to twenty-two hundred?

A. No.

Q. Did I understand you correctly to say that OKW may have ordered Boehme directly, without going through you, to carry out this particular reprisal measure?

A. I do recollect that the OKN issued orders in this case directly.

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Q. You do recollect that?

A. May I add that not only in this case but quite frequently, in view of the very much better communications and connections between East Prussia and Belgrade, directives arrived at Belgrade earlier, and not via the Military Commander Southeast, and we were informed later on.

Q. And who informed you later, OKW or the Plenipotentiary Commanding General in Serbia?

A. I cannot say that any more today. I don't know.

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Q Now, when did you first begin to have differences of opinion with Hitler?

A Differences of opinion with Hitler, I had only one occasion, and that was when I resigned. Previously I had never been in the position to have differences of opinion with him because I had never been able to submit a report to him alone. I had never been called or admitted to such a report.

Q Well, you said that in November, 1939 you were at a meeting where it was indicated that you had not been withdrawn.

You said that you were at a meeting in Berlin where the older generals were accused of being timid and that you were not reappointed to the Southeast Command because it was felt that you hadn't done all that you might -- that is, from Hitler's standpoint. When did you first feel that you didn't enjoy Hitler's complete confidence?

A I may clarify this in order not to leave anything unclear. The conference in Berlin in November 1939 was not a conference or a discussion, but it was a clear utterance of Hitler's wills and wishes, which he expressed in an address to the generals. None of the generals had the possibility in this so-called meeting to say one single word. The fact that I did not return to the Southeast, I did not consider a difference of opinion with Hitler. That was an opinion which Hitler had formed about me, without there ever having been any exchange of opinions between us.

Q Yet in April, 1942, Keitel indicated that you enjoyed Hitler's complete confidence on your Service Record. Do you recall that?

A I have read that now here in the documents.

MR. DENNEY: If your Honors please, Mr. Fenstermacher has some questions which he would like to put to the witness.

THE PRESIDENT: May I make the inquiry, Mr. Denney, as to what the practice has been relative to the use of two counsel for the Prosecution in cross-examination?

MR. DENNEY: Well, as I understand it, your Honor, that has been done before, and before the Commissions we did it.

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THE PRESIDENT: According to the practices of which I have any personal knowledge, it is not permitted. Are there any rules or regulations in connection with the set up here?

MR. DENNEY: There are no rules with which I am familiar, your Honor.

THE PRESIDENT: Are there any objections on the part of defense counsel?

DR. LATERNSEER: Your Honor, may I have a short pause of possibly three minutes so that I can talk to my colleagues; and then we can tell our attitude to the Tribunal.

THE PRESIDENT: Very well.

DR. LATERNSEER: Your Honor, without wanting to establish a precedent for further cases, especially since it was also the practice before the International Military Tribunal only one member of every individual delegation could put questions in cross-examination, we, in this case, agree that two prosecutors may put questions.

THE PRESIDENT: Very well.

Mr. Fenstermacher, before you commence your further examination I trust it is not necessary to caution you not to cover any matters which have already been covered in the examination by Mr. Denney.

MR. FENSTERMACHER: Yes, your Honor.

BY MR. FENSTERMACHER:

Q Field Marshal, I believe you stated under direct examination that there were three main groups of insurgents operating in Yugoslavia when you were Armed forces Commander Southeast. Is that correct?

A Yes. it's correct.

Q You enumerated them as communist insurgents, Cetniks under Draja Mihailovic, and another group under Kosta Petanac. Is that Correct?

A Yes.

Q Did the communist insurgents wear any identifying insignia?

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A No.

Q Did the Cetniks under Draja Mihailovic wear any identifying insignia?

A I don't remember.

Q And did the Kosta Petanac units--did they have any insignia?

A I don't know that either.

Q Did the Kosta Petanac insurgents and the Mihailovic insurgents ever collaborate with your troops in your fight against the Communists?

A Yes.

Q Would you say that they collaborated with your troops frequently or infrequently during the period you were in the Southeast?

AAAs far as I can remember Kosta Petanac frequently collaborated; as to Draja Mihailovic he only occasionally collaborated with us during the last period.

Q You mean then that you permitted certain units of yours to collaborate with troops who might not have worn insignia?

A The collaboration was not thus that those troops were attached to our troops. They just fought in the same area. There was no uniform leadership under which they might have fought. I do not recollect anything like that. Instead when they had any occasion--the Kosta Petanacs--to spot a Communist group somewhere, then they started hostilities against this Communist group, but, of course, not under German leadership, as far as I remember; those were individual fights. One must imagine there was an insurgent movement about to start, and here and there scattered groups were caught sometimes by the Communists, sometimes by Draja Mihailovic; but in the main, by German troops. The picture is that the insurgent movement was about to begin and then became stronger. It was no so that no could say from the very beginning, "These are Communists and there are Draja Mihailovics and those are Kosta Petanacs there was no clear picture at that time. And one could not get a clear idea of what was going on, as one can now see on the basis of all these documents, when one has worked through them.

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In those days I did by no means have the insight as I have gained it now from the documentary material. At that time it was a completely new situation which had to be coped with, and if a man like Petanac said he would help you, one willingly accepted that help and said, "if you find a Communist band fight it."

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Q: Do you remember whether or not the Cetnik units were a tall black cap called the Cetnik Cockade?

A: I have never seen such a cap and never seen such a cockade, and I don't recollect anything like that. I may add here that the Commander in Chief of an area such as the Balkans was, could not possibly concern himself with the members of a band that had murdered his people wearing a certain star on their cap or such and such a cap. They were illegal fighters, and had to be treated as such, if the Balkans were not to collapse altogether. We were in a terrible situation, and one could not concern oneself with the fact whether a bandit had a certain form of cap or a soviet star. Nor would the American commander in chief do so if certain people would appear here wearing a certain type of cap or cockade, maybe the insignia of the former Stahlhelm. Certainly he could not recognize those people as a national uprising. He would say those are illegal bands and they have to be treated as such. As it was all the Balkans were on fire.

Q: You mean then, Field marshall, that it was not important to you whether or not the bands wore any insignia?

A: I don't want to say that, but these people did not wear insignia in the sense that they would have been regarded in any way as military formations. They were just bands, i.e. they had to be characterized as such.

Q: Would you have fought these insurgent bands any differently if they had been wearing any insignia?

A: If the bands had been uniformed and had adhered to the war regulations they would have been treated differently. Then these bands would not have attacked people from cornfields and ambushed people passing by in motor vehicles. They then would not have stopped trains with troops going on leave and they would not have shot at them from the next hill with machine guns and then these people would not have robbed supply columns, and would not have committed atrocities in the most bestial manner which I cannot remember in detail right now, but which I think can be testified to by witnesses.

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I just remember vaguely one or two of the events, but unfortunately only vaguely, as I have unfortunately, also forgotten details in other respects. All these things could not have occurred if these band members had been a national insurgent army, and adhered to the rules.

Q: What kind of attacks did the insurgent bands made on your troops, did they attack your supply lines, and communication lines?

A: They caused considerable disturbances.

Q: Did you consider attacks of that kind irregular, invalid or unpermissible methods of waging war?

A: When a country is in a peaceful state, as Serbia was, and in spite of that such events happen, then the people who cause these events must be called franc-tireurs, and it is illegal, irregular and forbidden. Those were very obviously attacks on the vital spots of the occupying army. One must realize that only one railroad line ran into Belgrade, and if it was interrupted and for three weeks on end the shipping on the Danube was halted, that meant that the oil supply from Roumania to Germany was throttled. That could also have meant that the occupation power in the Balkans might have collapsed, that even the

Greek Government and the Greek population could no longer dispose over the necessary food supplies and with the collapse of the occupational forces the allies would have had the opportunity to land in Greece, and to establish airfields there, thus endangering the whole Southern Flank of the German Army in the Balkans.

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I am only printing out what could have happened, if it had been so. In that case I would have been perfectly right to have myself and my officers shot at once for neglect of the most elementary duties of an officer towards his Fatherland.

Q: Let us suppose for a minute that you faced a regular belligerent army. Would the attacks on your communication lines then have been considered by you as a normal or an abnormal method of warfare?

A: If we find myself in a state of war the interruption of communication lines is of course permitted. There was no state of war, however, an armistice had been signed and this was a peaceful and occupied country.

Q: Did the warfare in the southeast that you faced ever reach the stage of becoming real war?

A: You mean after the conclusion of the belligerent actions? To begin with we fought a war against Greece, and Yugoslavia, and you mean whether at a later time it ever reached that state, that is open hostilities and a state of war?

I did not quite get the question.

Q: Well, supposing the campaign against Greece and Yugoslavia ended, take the months of July, August and September 1941, can you then speak of military victories by one side and real tactical and operational warfare?

A: One can't talk of military victories, but there were larger operations which Boehme had to carry out, and they were of a military character and they were tactical and military operations.

Q: Were the insurgents you faced in the southeast openly armed?

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That is to say did they carry their arms openly?

A: No.

Q: Were they organized along military lines?

A: Not in my time. I may add, of course, when a band was actually fighting then they carried their weapons openly, because they were shooting during the fighting, but when they realized a conclusion was near they endeavored to get rid of their weapons and threw them in a river or ditch or hid them somewhere and then just loitered around as peaceful peasants, and pretended not to know of anything.

Q: You say then during your time in the southeast it is improper to speak of real war between the German occupation troops and the insurgent forces?

A: A real state of war did not exist. There were only individual fights.

Q: Will you look at Exhibit 53, Document Book 2, this is on page 71 of the English, Your Honor, and I believe page 55 of the German. Field Marshall, this is an order of the Commander in Serbia dated Belgrade, 16 September 1941, the original document bears the receipt stamp of the 718th Infantry Division for four days later, 20 September 1941. You will note that the subject of the order is "Insurgent Movement." The first paragraph states, "With regard to the insurgent movement which increased daily and which increased because of temporary military victories of the insurgents." Do you disagree with the author of the report that you can speak of military victories by the insurgents in the month of September 1941?

A: If I may say something in this connection, Mr. Fenstermacher, these orders were not written with the idea that they were to be taken under the lense of an American Military Court in Nurnberg, but they were written with the idea of giving the troops the necessary initiative for their actions, and to describe matters to the troops as was deemed necessary.

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As it says here "Temporary military successes of the insurgents", this can be interpreted in various manners. I don't know what Boehme referred to but I would assume that he refers to the fact that the insurgents succeeded in trapping a number of German batallions and in disarming them, and that they succeeded in shooting a number of people in this action. Maybe it was so, I do not know, and I cannot recollect it, Mr. Fenstermacher. Is it thus that in various places military units suffered losses and reverses as consequences of the actions of the insurgents, and that Boehme describes this as a military success of the insurgents. He only means to say that the insurgents gained a success over us, but he does not consider this military operation.

THE PRESIDENT: Mr. Fenstermacher, we will adjourn at this time until Monday, September 22, at 9:30 in the morning.

(thereupon a recess was taken until 9:30 a.m.

September 22, 1947) OFFICIAL TRANSCRIPT OF MILITARY TRIBUNAL V, CASE VII, IN THE MATTER OF THE UNITED STATES OF AMERICA AGAINST WILHELM LIST ET AL, DEFENDANTS, SITTING AT NUREMBERG, GERMANY, ON 22 SEPTEMBER 1947, 0930, JUSTICE CARTER PRESIDING.

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THE MARSHAL: Persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V.

Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, will you ascertain if all the defendants are present in the Courtroom?

THE MARSHAL: May it please your Honor, all the defendants are present in the Courtroom.

THE PRESIDENT: Judge Carter will preside at this day's session.

PRESIDING JUDGE GARTER: You may proceed, Mr. Fenstermacher.

CROSS EXAMINATION (Continued) BY MR. FENSTERMACHER:

Q. If your Honors please, Field Marshal, did you consider the war against Yugoslavia unjust or an aggressive war on Germany's part?

A. I am of the opinion that the war against Yugoslavia was caused by the change which had taken place in Yugoslavia, and therefore by Yugoslavia herself. And thus by the mobilization which had already started in January or February of that year. It was an emergency situation in which the Reich found itself at that time.

Q. Isn't it true that after the revolution occurred in Yugoslavia the new Government offered loyalty declarations to Germany?

A. I am not informed about anything of that kind.

Q. But you were informed that mobilization of the Yugoslavian army had taken place?

A. I was informed about that and about the fact that an increased number of troops had been mobilized and drafted.

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Q. Had those troops been mobilized by the government of Yugoslavia prior to the revolution?

A. That must have been the case because otherwise it wouldn't have been possible that immediately after the revolution our reconnaissance units informed us that my troops faced 15 divisions.

Q. Did you anticipate that the Yugoslavian people would be friendly to the German troops after they marched into Yugoslavia?

A. I had no reason to assume that after armistice had been concluded, any kind of uprising would take place.

Q. Did you believe that these people in Yugoslavia would welcome your troops in their country?

A. The opinions were various on that subject. Part of them might have welcomed the German troops others not.

Q. In any event, shortly after your troops occupied Yugoslavia, many attacks took place upon your supply and communication lines, upon your troops. Is what correct?

A. Shortly after the occupation, it is not known to me. Besides I was not in Serbia at that time. My activities merely started on the 23rd of June.

Q. And had attacks on your troops in Serbia by the 23rd of June taken place?

A. Yes, that is certain, in any case.

Q. As I recall your testimony of last week, Field Marshal, you said that many of these attacks on your troops came from ambush from people who were hiding in the maize fields in Serbia. Is that your testimony?

A. Yes, indeed.

Q. Did you consider an attack from ambush an irregular method of fighting war?

A. Yes, certainly, in that case, because there was no longer a state of war. An armistice had been concluded and the land was completely pacified and peaceful.

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If, for instance. Today in Germany on the autobahn from the woods bordering the autobahn, shots were being fired on American soldiers, that would doubtlessly be regarded as an irregular action.

Q. Would those types of attacks be considered illegal attacks if the attackers were clothed in uniform, or wore insignia?

A. Even in that case, yes.

Q. How many years have you been an officer in the German army, Field Marshal?

A. Forty-three.

Q. Did you get training in the rules of war, particularly in the provisions of the Hague rules of land warfare?

A. Yes, on the war academy.

Q. Are you familiar with Chapter 1 of the Annex to the Hague Convention of 1907 which relates to the qualifications of belligerents?

A. Of course I don't know the article in its detail any more, but on a large scale I am conscious of it, yes.

Q. I should like to read to you from Chapter 1 of the Hague rules of land warfare, Article 1, to refresh your recollection on the provisions with respect to the qualifications of belligerents.

"The rules, rights and duties of war apply not only to armies but also to militia and volunteer corps fulfilling the following conditions:

"1. To be commanded by a person responsible for his subordinates.

"2. To have a fixed distinctive emblem recognizable at a distance.

"3. To carry arms openly.

"4. To conduct their operations in accordance with the laws and customs of war."

Does that refresh your recollection with respect to the qualifications prerequisite to belligerent status?

A. I didn't quite get the question.

Q. How that I have read to you the section from the Hague rules of land warfare with respect to the qualifications of belligerents, does it refresh your recollection with respect to the prerequisites for belligerent status?

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A. These provisions were known to me, but considering the bands which opposed us, I cannot regard them as belligerents. All prerequisites were missing for this fact and all prerequisites also that were laid down in the Hague conventions. They were not belligerents but they were quite plainly franc-tireurs and bands. Not one of the four prerequisites laid down here applied, actually, at the time when I was in command in the Balkans.

Q. You say the insurgent forces that opposed your troops in Yugoslavia did not carry their arms openly?

A. Yes.

Q. Marshal, will you look at Exhibit 56 which is in Document Book 2, page 71, of the English and 55 of the German.

DR. LATERNSEER: Your Honor, I would like to point out that if anything from laws is submitted, the whole paragraph has to be submitted to the witness because this partial paragraph which has been submitted to the witness may easily cause a wrong picture in his mind.

BY MR. FENSTERMACHER:

Q. I think, if your Honors please, I neglected to read the final sentence of Article 1 of the Chapter 1 of the Hague rules of land warfare, and I should like to read it now.

"In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination 'army'".

Field Marshal, Exhibit 56 is an order of the Military Commander of Serbia, dated Belgrade, 16 September 1941. Will you turn to paragraph 3 of that order? It is on page 72 of the English and I believe 56 of the German. The second sentence in that paragraph begins -

A. May I ask, please, that I may also look at the other pages of this document before I deal with this?

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Q. Yes, of course.

A. Yes, I am ready.

Q. The second sentence of paragraph 3. "The fights near Losnica and Krupanj, as well as single enemy operations west of Uzice and near Mitrowica, have proved clearly that these bands are at one with the communists and face us armed and openly as enemies."

Did you ever receive information from the Military Commander of Serbia to that effect?

A. To this effect I did not receive any information from the Military Commander Serbia but may I deal with this sentence for a moment and compare it with the second paragraph of the previous page?

It reads there: "The district area headquarters Nish has permitted the followers of Kosta Petjanec to carry arms. However, the arms must be carried openly."

I emphasize this last part -- "However, the arms have to be carried openly."

Under paragraph 3 it reads that these bands go together with the communists and oppose us openly with arms in hand as enemies.

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I think there is a basic difference here. It is a difference whether a band carried arms openly i.e. permanently, whether they, so to speak, confess to their carrying of arms openly, that is, whether they confess to being a militia as laid down in the Hague conventions. That carrying arms openly as described in the Hague conventions is, in my opinion, to be understood to the effect that these militia feel actually to be militia, that in this sense they are a uniform unit, a united unit, and that they confess to carrying arms. That is even when the actual fighting is over, they don't hide their weapons and that they don't start a fight with hidden weapons then throw their arms away after the fighting is over and hide them, but instead that they act as military unit, as a militia unit and that carry their weapons all the time. In a similar sense, for instance, a company may deposit its weapons uniformly or may store its munitions some place, but not secretly in individual little houses or in churches or on church staples as it happened, because that does not correspond to the idea of a militia.

Q Field Marshal, you don't believe that the bands referred to in paragraph 3 of this order refer to the Kosta Petanac bands, do you?

A No. In paragraph 3? No.

Q Which bands were meant in paragraph 3?

A It reads here: "Bands that party also call themselves Cetniks which, however, are not subordinate either to Kosta Petjanec or to the government, but what in detail the Commander of Serbia thought when he laid this down, I cannot say. Besides, I didn't know this order.

Q Were the insurgent forces which your troops faced in Serbia led by officers, Field Marshal?

A Inasmuch as the reports show it, that was partly the case.

Q And did those officers wear insignia of rank?

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A I can't say that any more now.

Q Will you look at Exhibit 23 which is in Document Book 1, at page 84 of the English and page 57 of the German? The portion which I am particularly concerned with, Field Marshal, is the very last page of

that exhibit which is perhaps not on page 57 but several pages later. These are excerpts from the War Diary of the 704th Infantry Division and if you will turn to the entry on the 25th of September, 1941, in that War Diary, the last paragraph of the entry reads: "On a Serbia First Lieutenant killed in action, they were found to be members of a band, mostly from Valjevo."

Did you receive any formation that the bands were led by officers and that it was known they were led by officers, because they wore the insignia of lieutenants and captains and colonels etc.?

A The other day I have already testified that at present I cannot reconstruct any more reports in detail I received and what I knew at the time, but I am very sure that in the course of time it was reported to me that the bands were partly led by officers. However, may I add that according to my conception a band does not become a militia just because it is led by an officer. If today in Germany, for instance, parts of an SA and SS formation together under the leadership of a lieutenant of the former Wehrmacht, started to fight somewhere and to appear somewhere, making surprise attacks, etc., the American commander will surely not recognize these formations as militia and he will be justified in not doing that and in exactly the same position we were in those days in the Balkans.

Q Were the insurgents units well organized, Field Marshal?

A I believe I expressed that once in an order. Apparently they were partly well organized, but even that doesn't prove anything against the concept that they were bands. I think in the history of the world there are ganster bands and criminal bands which were excellently organized and against which the police found itself in great difficulties and the best criminalogists were not in a position to cope with them.

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But thought such criminals bands were so excellently organized they didn't become legal because of this. And the very same applied to the situation we faced at that time.

Q Do you remember ever having received reports to the effect that the so-called bands wore soviet stars as their insignia?

A I don't recollect anything from those days but I know it now from these proceedings here. But regarding these insignia, I may say, that if the communists bands a sheep skin cap which they frequently did - a cap also referred to here as "tall hat" if they wore a soviet star in it somewhere, that does not constitute, in my opinion, an insignia which can be recognized in the meaning of the Hague convention because the insignia would have to be visible in a modern fighting. That is 800 to a thousand meters. Besides, this soviet star in the cap, as far as I can take here from these documents, was not carried by all of them but only by individuals.

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Q Field Marshal, isn't it true that in modern war where camouflage is used to a large extent, it is quite possible that uniforms of regular armies are not visible for a distance of 800 meters?

A It is, of course, possible, that the uniforms are not recognizable, because they are camouflaged, but the situation here was completely different. Here fronts were clearly defined, were the two opponents faced each other, and the general situation shows clearly to the troop leader whether it is the enemy or their own troops which are concerned, – that is, the formation of fronts belongs to a certain extent to the concept and to the definition which the Hague Convention laid down about militia troops; there was a basic difference at least in these initial stages between those insurgents who appeared here, or let's say the large units of volunteers and militia of the war 1870–71, which after the collapse of the whole Northern front, and the collapse of Paris were called together by the French. In that case there was a uniform leadership; there were complete units, and they were at least loosely connected with parts of the old army which was still fighting.

Therefore it was clear that these were militia troops and that they were volunteers, and it is just as clear here, in that case of the Balkans, that these people were franc-tireurs.

Q Then if these people that you faced in Yugoslavia wore fully uniforms and all insignia, you would not have recognized them as a militia, and would therefore, not have treated them as regular belligerents. Is that your position?

A It is difficult to say that I would have done six years ago, in case a certain event had occurred. If these franc-tireurs did not adhere to the rules of warfare, though they wore uniforms, they still would not have become militia instead of being franc-tireurs, because if after the conclusion of an armistice, i.e. after a government has decided that its army will not fight any longer – a soldier on his own initiative or on orders of any officer, be it a Major or Lieutenant or a Colonel, – if such a soldier joints up with such officers, and they decide to fight on their own initiative, they are to be regarded as franc-tireurs even if they wear uniforms.

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Q Were the insurgents that you faced in Yugoslavia disciplined?

A I cannot say that anymore. I do not assume that they were particularly disciplined because they themselves did not know what they wanted, at least partly, and the organization Mihailovic was not completely organized. It was also true that part of the Mihailovic people fought against us, part of the Mihailovic people fought against the Communists, and another part of the Mihailovic people again said, "The time has not come yet; we are not going to fight yet" and they did not fight, and this alone shows that neither uniform leadership existed nor that these troops were really disciplined. That is what one generally understands by discipline.

Q If you will look at Exhibit 44, which is in Document Book 2, page 33 of the English, and 28 of the German, I believe, –

A What is the document number, please?

[QNOKW 1214.](#)

THE PRESIDENT: Exhibit No. what?

MR. FENSTERMACHER: 44, you Honor, page 31 of the English, page 27 of the German.

This is a report from the 378th Infantry Regiment, to the 718th Infantry Division, dated 9 September, 1941, -- will you turn to the last paragraph of that report, paragraph: "The fights around Koviljaca have shown that the Serbian Insurgent movement already has at its disposal perfectly well organized and disciplined units under good leadership".

Did you receive information to that effect?

A I do not know this report of the 718th Infantry Division. It was not addressed to me. To what extent I was informed about such an event in detail, I do not recall any more today. I have already made a general statement to this effect.

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Besides, the 718th Division just gained this impression, that is at a locally defined, -- in a locally defined area, and concerning one particular band.

Besides, we must take into consideration that all of these reports, of course, take into account a psychological factor. The troops were probably wanting to show what they had achieved.

Q Field Marshal, were these insurgents recognizing the rules of war when they fought against your troops?

A They did not observe them because frequently atrocities were reported as having been committed by these insurgents.

Q How did they treat their prisoners?

A Partly these prisoners, so far as I recollect, were killed; partly these prisoners were treated as prisoners of war.

Q Will you turn to Exhibit 101 which is in Document Book II, page 81 of the English, and page 58 of the German, -- this is a report of the Commanding General Plenipotentiary in Serbia, dated, Belgrade, 22 October, 1941? Will you turn to the last page of that report, the third from the last paragraph on that page, you will note there the second sentence of the first full paragraph on the last page of the document reading:

"Band leaders were mostly former Yugoslav officers. These were for the most part wearing old Yugoslav uniforms."

And then the report continues:

"It is reported for the first time that the German soldiers were not deprived of their uniforms. The soldiers also left in possession of their property. Colonel Mihailovic had been pointed out personally as the leader of the units in this area to the two non-commissioned officers. He was surrounded by many uniformed officers. The insurgents in this territory designated themselves as the National Free Serbian Army, whose sole and only aim was to drive the Germans from the country.

They considered themselves soldiers and consequently recognized as valid the laws of war, hence probably the strikingly good treatment of the prisoners."

Did any of the reports which you saw as Armed Forces Commander Southeast, emphasize information of that nature?

A I can only say that I did not get knowledge of this report any more. It is dated the 22nd of October. Besides, this report here shows clearly that the respective unit was led by Colonel Mihailovic personally; therefore, these were probably the very best people which Colonel Mihailovic had, and with whom he surrounded himself. He, for his own part, might well have looked after it that nothing occurred which he did not want to occur.

In this connection may I point out the sentence which precedes what had been read by the prosecutor, and that reads:

"The statements of both non-commissioned officers confirmed the rumors that the entire population participated in the insurrection, since all of them from the child to man were armed and supported the roving bands."

Q Do you make exceptions in your treatment of those persons whom you captured, for those who were led by people like Colonel Mihailovic, and therefore fought correctly; did you treat them better than the insurgents whom you captured, who did not fight correctly?

A No.

Q Field Marshal, were these bands organized along regular military lines, according to the information which you received?

A I must admit that I am being asked a lot of details here which result from a study of the complete files and material available regarding the Southeastern area; I, for my own person, was at that time, -had at that time to rely on the reports I received from the troop units, and I have repeatedly testified here that I had the very definite impression that the people concerned here were franc-tireurs, and not for a minute did I doubt, nor did any of my officers have for one moment the concept that they were militia troops in those days, If individual bands were well organized and others were badly organized, I might have got to know that.

I might have known it. I might have pointed out to the troops that they had to take that into account, but I cannot draw any other conclusions from those facts than the one which I have already drawn, and I cannot now recollect details any more, how one or the other bands might have looked.

Q I agree with you, Field Marshal, we cannot expect you to remember specific details after six years, but I am interested in your general recollection.

Will you turn to Exhibit 56, which is in Document Book 2, page 73 of the English, and page 55 of the German; this is an order of the Commander Serbia which we had looked at earlier.

I should like now to direct your attention to paragraph 4, I beg your pardon, paragraph 5:

"The Communist and Serbian bands camouflaged as nationals, who are hostile to us in the insurgent district, have recently organized themselves in such a fashion that one can already speak of enemy organizations. Their military structure is composed of companies and battalions which are frequently under the responsible leadership of former Serbian officers. The armament is distributed in such a manner that each company disposes over an equal amount of weapons."

Is your general recollection of September 1941 to the effect that you were fighting a real war against an enemy organized to the last degree from a military standpoint?

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A The question is very pointedly put. I did not regard it in this sense. I knew that well organized bands existed, that had been reported to me, and that the troops had to take care regarding these bands; I knew that on the other hand other organizations existed too. But this military organization of a band does not necessarily mean this band has to be recognized as militia. Bands might well be militarily organized, and be organized according to military norms; it might well take a military form because it might assume that it thus can exist better and can achieve better results, but that does not mean it was actually militia.

Q Field Marshal, I believe you were asked by Dr. Latenser on direct examination whether you had seen any regulations of the Communist party of Serbia regarding the methods they were to use in fighting your troops. Do you recall that?

A Yes.

Q I think paragraph 7 of this very same order was pointed out to you. 'By reason of the order dated 13 September, instructions of the communist party of Serbia for guerilla warfare' distributed to all offices and troop units within the jurisdiction of the Commander of Serbia, as well as its supplement by additional available orders for service.

THE INTERPRETER: Where are you reading.

MR. FENSTERMACHER: Paragraph 7. Page 73 of the English.

BY MR. FENSTERMACHER:

Q --"distributed to all offices and troop units within the jurisdiction of the Commander of Serbia, as well as its supplement by additional available orders for service within the companies and battalions, one has to reckon with the fact that in the insurgent district especially we are facing an enemy who is well organized to the last details."

Are you quite sure that the instructions of the communist party of Serbia for guerilla warfare related only to the organization of the insurgent units, and not to the methods of warfare they were to employ?

Page 3,354

A No, I recollect the methods, not the organization.

Q Did you ever hear, Field Marshal, that your troops, after they were captured by the insurgents, were treated very well by them and that in some cases wounded German soldiers were given excellent treatment in insurgent hospitals?

A I do not recollect that. I will not say that it has not been reported to me, that is possible.

Q I will show you a report and see whether you can have your memory refreshed. Will you look at Exhibit 127, which is in Document Book 5, page 27 of the English, and page 34 of the German. In this exhibit, I am particularly concerned with a report which was sent to you from the Plenipotentiary Commanding General in Serbia. The particular report is on page 45 of the English, – it should be around page 50 in the German. It is document [NOKW 123](#), and the report is a radio message to the Wehrmacht Commander Southeast, 12th Army. This particular report does not seem to have a date, but it precedes a report for the 26 of September, 1941. It is on page 51 of the German, I am told. Will you look at paragraph 6 of that report to you, as Wehrmacht Commander Southeast:

"8 wounded captured German soldiers before Sabac returned to own unit. 27 heavily wounded German soldiers are in a hospital in Losnica belonging to insurgents."

Did you ever have any information to that effect? I do not mean specific information, but just generally?

A No. With the best memory in the world, I cannot say to what extent I received such information. I have said that so often here. I would very much like to say, "yes, I did receive them all"; say that I did receive particular ones, but I cannot merely in order to give an appearance of credibility here, say that I did receive them. I do not know it any more.

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Q Field Marshal, we cannot expect you to have detailed knowledge of these things after 6 years. Do you recall whether the insurgents ever demanded recognition as a regular belligerent?

A No.

Q Will you look at Exhibit 123, in Document Book 4, on page 129 of the English, and beginning on page 73 of the German. These are excerpts from the War Diary of the 18th Army Corps, and I am particularly interested in the entry for the 8th of October, which should be on about page 80 of the German, I believe, the entry:

"Kraljevo, 6 October, --" it is page 78 of the German. This entry reads:

"65th Corps Command: The Peoples' Liberation Group of Jeva Kursula on 7 October demands the following of the local Kraljevo Garrison Commander."

and will you look at the 5th demand:

"Recognition of all rights as a unit engaged in warfare Nonfulfillment will bring about the shooting to death of 8 captured German soldiers:

Were any of these demands for recognition ever brought to your attention?

A Of course, I do not this activity report of the Army Corps Commander 18: I have already stated that I do not recollect such a demand, and I do not believe that the 18th Corps regarded this demand because this was only one group which was limited as to area and the group called itself Jeva Kursulov that was one individual band leader, who demanded the status of a belligerent, and I can well imagine that the Army Command, - 18th Corps Command, - said, "That is quite impossible; we cannot ascribe such a concession to such a small individual band in view of the fact that the whole rest of the insurgent movement has been and is being regarded as an insurgent movement?"

Q Now, Field Marshal, how did you treat these insurgents when you captured them?

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A The insurgents were to be treated as franc-tireurs, that means there existed the possibility that they would be killed in battle i.e. shot in battle, and on the other hand, the possibility that after the fight if they were found with a weapon in their hands, they were shot, after a summary court martial.

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Q. How long did the average Summary Court Martial take?

A. I can't say that. That was relatively quick. A Summary Court Martial is a relatively fast court.

Q. Was the accused permitted to bring witnesses on his own behalf?

A. No, that would not have been permitted to him. The Summary Court Martial passed sentence when the facts were obvious and when the two associates could confirm the facts. But I personally never participated in such a Summary Court Martial, but the possibility, in any case, existed.

Q. Was the accused permitted to testify on his own behalf?

A. Yes, certainly. I'm sure he was permitted to do that. I must assume that as absolutely certain.

Q. What was the lowest rank.....

A. But I emphasize again that I myself never participated in a Summary Court Martial or in any proceedings of a Summary Court Martial.

Q. Yes, but surely you as Armed Forces Commander Southeast and as an officer with forty odd years knows how these Summary Court Martials are handled. What was the lowest rank of an officer who was permitted to convene a Summary Court Martial?

A. That was a regimental commander or the independent battalion commander.

Q. And what would his rank usually be?

A. In war-time that was different; it varied. A regimental commander could be a lieutenant colonel or a full colonel, and a battalion commander would be a major or a captain. The independent battalion commander would have been a major or a lieutenant colonel.

Q. Was there any appeal regarding the verdict of the Summary Court Martial?

A. Appeal? No, that possibility did not exist.

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Q. Field Marshal, is there a difference between a franc-tireur and a spy, in your opinion?

A. Yes, I would think so. There is a difference between a franc-tireur and a spy.

Q. What is the difference?

A. A franc-tireur is a person who is a member of a certain band and fights with a band, and a spy is a person merely concerned with intelligence and information matters. But I'm not in a position to define that from a legal point of view.

Q. A spy generally does not wear a uniform or insignia, does he?

A. Generally speaking, I don't think he would wear a uniform or insignia.

Q. Field Marshal, I would like again to go back to the Rules of Land Warfare of the Hague Convention of 1907. Article 30 reads: "A spy taken in the act shall not be punished without previous trial." Did you ever consider any of these people spies rather than franc tireurs?

A. No.

Q. Field Marshal, I have noticed in the reports, from the subordinates to you as Armed Forces Commander Southeast, references to certain numbers of insurgents fallen in combat and to other numbers of insurgents shot dead. I wonder if you can clarify for us what the two references meant?

A. Generally speaking, it would have been like this: the person fallen in action would have been designated as "fallen in action," and the person who was caught, sentenced by a Summary Court Martial and then shot would have been designated as "shot to death."

Q. Will you look at Exhibit 67 in Document Book II? This is an Page 124 of the English and Page 96 of the German. This is a report of the 704th Infantry Division, dated 22 September 1941. Will you look at the last line of the report? "Communists are being caught daily and shot to death immediately. For instance, twelve in one day."

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Is it your understanding that even though it is stated that they were shot to death immediately, they had previously been given a Summary Court Martial trial?

A. I have to assume that, although I do not know this report of the 704th Division.

Q. Suppose, Field Marshal, that you captured someone who were no insignia and who did not have a weapon in his hand? How was it possible for you to determine whether or not he was an insurgent?

A. That depended entirely on the circumstances under which the person concerned would be captured. I, as Commander in Chief, did not find it possible to judge these individual cases. I would have to

assume that the troop would do, in each individual case, what was proper to do. If I am located in Athens I cannot, for instance, judge events that occur in Serbia.

Q. Wasn't it your job to know what was going on in Serbia, even though you were stationed in Athens?

A. It was my task to know it on a large scale, but, on the other hand, I simply had to rely on my commanders as intermediaries--the commanding general, the divisional commander, the regimental commander, and, the battalion commander. And when these reports had gone through all these channels and reached me, I then had to assume that they had been investigated and that everything was in order.

Q. Field Marshal, will you look at Exhibit 115, which is in Document Book IV, the first document in that book. And will you turn to Page 5 in the German and Page 5 in the English. This is a report from the 342nd Infantry Division to the Headquarters of the XVIIIth Corps, and it is the Daily Report of the 29th to the 30th of September 1941. Will you look under the section of the report which concerns itself with prisoners and booty, the second paragraph: "Of the prisoners 190 men could be selected by interrogation as forming a Communist group in the village of Usveco. These men will be shot today." Does that mean that the people were condemned only after the interrogation and not after a Summary Court Martial trial?

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A. No, after Summary Court Martial proceedings.

Q. Field Marshal, suppose some of these insurgents laid down their arms and offered to surrender to your troops. Would that make any difference as to the manner in which they were treated?

A. That , again, would have to depend on the individual case.

Q. I don't quite understand. Could you give us an example of what you mean?

A. It's difficult to say. When these people had fought previously and the Summary Court Martial judged that it was too late when they delivered up their arms--then the possibility existed that the Summary Court Martial gained the conviction that they were fighters and that they were caught while carrying arms, and then they would be shot in accordance with the very strict regulations which existed.

Q. In the case of the regular belligerent, when is it too late to surrender your arms? Are you allowed to fight up until the last minute and then surrender or must it be at a given interval before? I'm speaking now in the case of a regular belligerent.

A. The situation there is completely different. That is why specific regulations exist and why there is a specific difference between a regular belligerent and an insurgent.

Q. That is to say, in the case of a regular belligerent you must always accept his surrender?

A. Yes, of course.

Q. You have in mind, I take it, in saying that Article 23 of the Hague Regulations--Article 23 reads: "In addition to the prohibition provided by special conventions, it is especially forbidden"-- and then subparagraph "c" reads: "The killed or wounded enemy who, having laid down his arms and having no

longer means of defense has surrendered at discretion." And it is your understanding that that provision relates only to regular belligerent forces?

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Is that correct?

A. Yes.

Q. Now, Field Marshal, as I understand the Laws of war, they're based, in part, upon the principle of chivalry. Is that correct?

A. Yes

Q. You didn't feel that that principle applied in the case of franc-tireurs who offered to surrender to you?

A. In the manner in which we were fought, and considering the situation in which we found ourselves, we had to act rigorously. We could not act any differently. I believe that we proved to be chivalrous in the campaign against Yugoslavia and against Greece and that we could not be more so than we proved to be--but on the other hand this insurrection touched vital spots of the occupational forces, of the German Army and of the German population. For this reason we had to act rigorously, hoping that by acting this way we would avoid further heavy losses on both sides. May I emphasize here that I had not the slightest idea of hate against the Serbian population any more than I had against the Greek population. Why would a Serbian peasant not be just as acceptable to me as a Greek one? This was merely and solely a case of emergency defense; and, if I may say this here, it happens to be the way that war demands severe measures, and soldiers, therefore, are not in favor of war. It is an erroneous concept to think that the German officer is fond of war. When one has already anticipated personally in the First World War and suffered the consequences, one knows quite well what war means. And our endeavor has always been to, as much as possible, diminish the severeness of war and the losses of war. But this here was to burn out a festering wound applying even severe measures, and that was the basic idea behind all of this.

Q. In other words, Field Marshal, the measures "which you took to pacify Yugoslavia and Greece were taken by you only to save lives rather than to destroy them? Is that what you mean?

A. If you want to put it that way, yes--solely and merely in order to achieve peaceful conditions as far as possible.

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Q. You say, Field Marshal, that you had no hate for the Yugoslavian people and the Greek people. Were you surprised that they had some hate for you, as shown by the attacks on your troops? Could you understand that feeling of theirs?

A. As long as I stayed in Greece there were no considerable attacks. I could understand the feelings of the Greeks, in as much as Hitler let the Italians into Greece, and that through this fact the Greeks were upset about us. I can also understand that a nation like the Yugoslavians was not kindly disposed

towards us. This insurrection which we noticed here did not originate so much from the Yugoslavian peasants, but it was incited by Moscow and by the Russian legation in Sofia. Only when the Russian campaign started did this insurrection become what it appeared to be later on.

Q. Field Marshal, with that in mind, will you turn to Exhibit 42, which is in Document Book II. I beg your pardon--Exhibit 48 in Document Book II, which is on Page 31 of the English, Page 42 of the German. This is a communication from you to OKW, and you will note from the first paragraph you say, and this is at the beginning of the fourth sentence: "Association between the insurgents, in my opinion, not aptly described as Communists by the Commander in Serbia, with the Cetniks has been confirmed." Was this movement inspired by Moscow or was it not? Were these people Communists or not?

A. They actually were Communists.

Q. But on the

A. But it happens to be the case that the judgment of this situation was different at different times. That is, we didn't always know for sure where the insurrection originated to begin with, Later on it was quite clear that it was of Communist origin. In this particular case, maybe, on the basis of reports which I had just received, I wasn't sure whether this actually was the case, but I never doubted the Communist insurrection as such.

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Q. When did you first believe that it was a Communistic insurrection? Can you give the approximate date?

A. No, I can't say that--not even an approximate date.

Q. But on the

A. If I may say this, it reads here: "Association between the insurgents with Cetniks has been confirmed," and in brackets it reads: "In my opinion not aptly described as Communists by the Commander in Serbia." That is to say, that it was not only purely Communism, but that insurgents were concerned as insurgents. That is, emphasis was laid on the word "insurgents," but that these insurgents were also Communistically influenced and influenced by Moscow is not refuted here.

Q. Field Marshal, do you recall that you said earlier that the Cetniks often fought against the Communists and here you indicate that the insurgents are collaborating with the Cetniks.

A. Yes, indeed.

Q. Did the situation change?

A. The situation did not change. That was continuously the case. Obviously here I mean by Cetniks the people around Mihajlovic and these people did partly fight with the Communists against us.

Q. Now, in any event the situation became very serious in August, September, and October of 1941. What measures did you take to put down the insurrection?

A. With this communication of the 15th September I made an application for uniform leadership in Serbia and for further forces.

Q. Did you tell your troops to take hostages?

A. Yes, that is contained in an order of the 5th of September.

Q. Did you tell your troops to put hostages on the railroad lines and if any attacks were made on the railroad lines which the hostages were to watch that the troops would then execute the hostages?

A. No.

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Q. Field Marshal, will you look at Exhibit 67, which is in Document Book II, at Page 124 of the English, Page 96 of the German? I'm particularly concerned with the third page from the end of that exhibit, which is on Page 134 of the English and should be on about Page 106 of the German. This is the third page of the report from the LXVth Corps to the Commanding General Plenipotentiary in Serbia, dated 10 October 1941. Will you look at the paragraph which begins on Page 17 of the original document? It begins: "However, I told him that I could not understand his considerations regarding the taking along of hostages. If obstructions would have to be removed during the march hostages would have been the obvious labor forces. These forces would have been a means of sparing the strength of his own men. Furthermore, according to general opinion, the taking along of a greater number of male hostages who were distributed through the march columns would have represented the best protection against attacks, and so I could not see any valid reason for his failure to carry out the order." Did information of that nature ever reach you?

A. No.

THE PRESIDENT: We'll take our morning recess at this time. We will recess until 11:20.

(The Court recessed at 1100).

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THE MARSHAL: All persons in the courtroom will please find their seats.

The Tribunal is again in session.

BY MR. FENSTERMACHER:

Q Field Marshal, before recess I asked you what measures you took to put down the insurgents' uprising in Yugoslavia and to pacify the country.

A I had given an order of the 5th of September and on the 13th of September demanded from the OKW that a uniform leadership may be installed in Serbia and for this purpose I demanded reinforcements.

Q Did you also tell your troops to take measures against the relatives of those people who were fighting against your troops?

A Yes.

Q Why was that done?

A To the extent that these relatives were at the same time helpers of the partisans -- this was done for the security of the troops. These people were supposed to be interned; in the same manner as it has been ordered by the Control Council Law that all people who are endangering the occupation forces be interned, in the same manner this order is to be understood.

Q Did you also expect to get some information from the relatives as to where their people were fighting, with what units and where those units were located?

A No, these members of the families which were to be interned here I did not expect to give information about the troop units. Besides we cannot talk about troop units but only about insurgent bands.

Q Did you never try to coerce the population into giving information about the whereabouts of the insurgent units?

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A The troops might have tried that.

Q Will you turn to Exhibit 125 in Document Book V? It is the first document in the document book. This is a report of Councillor of State, Dr. Turner, and I am particularly interested in the last page of that report. It is on page 6 of the English, and, perhaps 5 or 6 of the German. The last paragraph of the report above the signature of State Councillor Turner. Do you have it?

That paragraph reads: "Last but not least, a proclamation would be released in the Belgrade area allowing a deadline of a very few hours in which it is requested that all arms and ammunition and explosives, etc be surrendered. Belgrade should be cut off during this period and a warning be published that if arms and such were found, not only the one in possession of arms but also the proprietor of the house will be shot without legal proceedings. Thus the proprietors themselves would be impelled to give information against others in order not to become liable for this punishment."

Did information of that nature ever reach you.

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A. No, that is the report of State Councillor Thurner. It is shown from the text that it is addressed to the Plenipotentiary Commanding General in Serbia, who then submitted this memorandum to me.

Q. You don't really having any knowledge about the execution of proprietors of certain houses without legal proceedings in order to coerce the proprietors to give information against others?

A. No.

Q. Field Marshall, do you know whether your troops ever punished civilians in Yugoslavia for not warning the German troops beforehand that the insurgents were about to attack?

A. From a report which I have read here amongst these documents I can take this as a fact.

Q. Did you agree with such procedure?

A. To what extent the circumstances justified a summary court martial procedure, I cannot now judge. That can only be judge taking into consideration all the events that occurred at that time.

Q. Will you turn to Exhibit 32, Document Book I; this is on page 113 of the English and page 87 of the German; do you have it?

A. Yes.

Q. This is a report from a Battalion Commander to the 704th Infantry Division. The first two paragraphs read: "On August 16 1941 the Commander in Serbia made known by radio that a village in which a car of the Wehrmacht had been shot at, had been levelled to the ground, and that the inhabitants had been shot to death and hanged.

"The inhabitants had seen the preparations for the attack and had omitted to notify the police post situated nearby or to warn the occupants of the car. Therefore, they became accessories to the crime."

DR. LATERNER: Your Honor, I don't know whether at the time I already pointed out the error in translation. I have made a note here and I am asking to have the last part of the first paragraph translated again by the interpreters.

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JUDGE CARTER: I think it is true that some changes in the translation have already been made.

DR. LATERNER: Yes, do I recollect correctly that it was changed to "inhabitants had been shot to death and hanged," and not "the inhabitants had been shot to death and hanged."

JUDGE CARTER: That is right.

Q. (continue Did you ever receive information regarding this particular incident, Field Marshal?

A. I have already stated I cannot recollect individual occurrences. The report was made by the 704th Infantry Division and I don't remember now whether I received it or not.

Q. Do you remember generally whether the inhabitants had been considered accessories to crimes simply because they did not reveal that an attack was about to take place on your troops?

A. I have already testified that on the basis of these documents I gained this knowledge.

Q. The first time you had any information in that respect was when you came to Nurnberg?

A. No, I did not express it that way. I said I do not recollect whether or not I received such reports, details at least have not remained in my memory.

Q. Can you recall what criteria was used in determining communists in occupied Yugoslavia?

A. Communists have to be understood in this respect here as insurgents. How that was handled in detail by the troops and how it was ascertained in detail I cannot remember and I do not know.

Q. Did you ever take measures against communists who were simply civilians living in Yugoslavia and who were not part of the insurgent units?

A. I must assume, and I had to assume they were always insurgents, that these concepts, insurgents and communists coincide here in this case.

Q. Will you turn to Exhibit 67, Document Book II; this is on page 124 of the English and page 96 of the German. Will you turn to second page of that report, which is on page 125 of the English, and I believe page 97 of the German.

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This is report of the 704th Infantry Division, dated 22 Sept 1941, and then turn to the final page of the report, the next page I believe in your document book, -- to the last paragraph, I beg your pardon, to the next to last paragraph, last sentence, "All five were led off the road to the front of the stabel of Krstivoj about 200 meters away. A machine gun was in position, all five were shot to death, the stable was burned down. The five belonged to a wealthy esteemed family, up to now, no one in the entire village has joined the Communists." Do you know whether mistakes of this kind were made on a large scale or not?

A. I did not know anything of that kind. If this description were correct that would constitute an excess by the troops.

Q. Would you in this case have tried the five persons by summary court martial before they were executed?

A. That is not shown by the document. In this case as it is described here, I cannot assume this. The troops in this case transgressed their orders and this constitutes an excess.

Q. Did you say then, Field Marshal, that to your knowledge none of your troops ever forced the inhabitants to furnish information about the insurgent troops except for the one instance which you recall from the documents introduced here?

A. I can't say that in detail.

Q. Would you have been in favor of taking coersive measures against the inhabitants in order that they should tell you where units fighting on their behalf were vacated, and when they intended to attack your troops?

A. That depends on the connection between these things. If the inhabitants participate clearly with the bands, then coersive measures are justified.

Q. Are you familiar with Article 44 of the Hague Regulations, Field Marshall, --- Article 44 reads, "A participant is forbidden to force the inhabitants of a territory occupied by it to furnish information about the Army of the other belligerent or abouts its means of defense." Is that provision known to you?

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A. Yes, this provision is known to me. That means statements about the enemy army, but not concerning the inhabitants or insurgents.

Q. Field Marshal, you stated that you were opposed to the Nazi Policy regarding the jews?

A. Yes.

Q. In so far as this policy was known to me at all. Did you ever receive reports that you can now remember generally, to the effect that Jews were being executed throughout Yugoslavia?

A. Yes, these reports repeatedly expressed that Jews and communists were executed. If this is here expressed in this way I understand by this that the Jews and communists mentioned here were insurgents and that they were not executed for racial reasons. I can well understand from the point of view of the jews that they worked against the Germans and that they combined with the Communists. I say I can well understand that on the basis of events which had occurred. All these things that were at that time now known to me, but that does not justify the fact that they now actively worked against us, and if they did that as insurgents, then they were caught as insurgents and punished as such.

Q. Why should the Jews have been opposed to the Germans in Yugoslavia if no measures had been taken against them in Yugoslavia?

A. As a consequence of their racial connection, generally speaking, with other Jews.

Q. And do you suppose that the Yugoslavia Jews know in 1941 that other Jews in Germany and Poland were being executed?

A. I assume that the *oscow propaganda made use of these facts in order to win the Jews for their purposes, that is the communist revolution.

Q. Field Marshall, now turn to Exhibit 34 in Document Book 1, which is on page 93 of the German and page 113 of the English. I beg your pardon, I mean Exhibit 30, which is on page 99 of the English and page 77 of the German. I am particularly concerned with the report from the German liaison officer to the Wehrmacht Command Southeast, dated Belgrade August 8, 1941,----that begins on page 104 of the English and I think about four or five pages from the beginning, of Exhibit 30, in the German Document Book.

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A. I have got it.

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Q.- Now, will you turn to the fourth paragraph from the beginning of this report?

A.- That is the report of August 8?

Q.- Yes. You will see on the next page, that is sent for information to Wehrmacht Commander Southeast, 1-C, Athens. Then turn to the first, second, third, fourth paragraph, beginning, "Many insecure elements are said to have penetrated into the police force." Do you have it?

A.- Yes.

Q.- "Many insecure elements are said to have penetrated into the police force. It was to be observed that individual Serbian policemen and police patrols showed complete disinterest in the occurrences in their proximity. They prefer to frequent well lighted streets, whilst in the dark sidestreets no policemen are to be seen. Attention must be drawn to the fact that the designation of the Serbian police by black numbers printed on a red arm band is insufficient, as these numbers can hardly be read by day and not at all at night. In case of encroachments committed by members of the police there is no possibility to identify the guilty person. Often it could be determined that Jews walked about without the prescribed yellow arm band. Also the Jews who were baptised "Christians", and who have besides changed their names, are not yet taken care of. It would be advisable to find out at the ecclesiastic matriculation offices which Jews were baptised in recent years."

Did any information come to you that Jews in Serbia were being made to wear yellow arm bands?

A.- No, that was not known to me. I wasn't aware of it.

Q.- Then will you turn to Exhibit 125, Document Book V, -- this is a report which we have looked at previously from Councillor of State Dr. Thurner, dated Belgrade 21 September 1941; will you turn again to the last page, of that report which is on page 6 of the English, and I believe page 5 or 6 of the German, the next to last paragraph:

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"At the same time all active officers and NCO's are to be arrested with the exception of those who put themselves at the disposal of the government immediately, Consideration towards officers, who in the last months worked professionally, does not seem to be appropriate because these persons by virtue of their feeling of solidarity were no doubt used in the communications service or were put in harness in some way, likewise the arrest of all Jews which has already started, is to be carried out more drastically and the gypsies too, are to be arrested." Do you recall this report?

A.- I have already said before that this is a report of State Councilor Thurner to the Plenipotentiary Commanding General of Serbia, a report which never reached me, but in this connection I must state that State Councilor Thurner was at the same time SS Obergruppenfuehrer and Prussian State Councillor; he was a very dominating person and a very inscrutable person, a man who went his own way. I must remind you that I have testified here that I was not at all informed of the reforming of the Serbian government, and only days later did I receive any report, that I learned from newspapers only about the arming of the Serbian police, which was an important matter; that I told State Councillor Thurner to see me and pointed out to him his duties. Hard words fell on that occasion, because State Councilor Thurner repeatedly told me he was independent. Without doubt in this case this State Councilor Thurner wanted to make use of General Boehme when he started his activities. It seems

entirely incomprehensible to me that State Councillor Thurner was immediately subordinate to General Danckelmann, and that he here submits a report directly to the Commanding General of Serbia, that was not within his competence. This whole report showed that he intended to make use and to influence General Boehme and to familiarize him with his ideas.

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There can be no doubt that the chief of the administration staff in Serbia, went his own way which he hid at least with respect to my person, just the same as nothing was clear concerning the Government and the armed police. That can also be seen by one of my teletypes, and one of my communications, where I demanded that now at least I would have to be informed about the most important events in Serbia.

Q.- You wrote that I believe on the 16 of February to the OKW, and the OKW wrote back to you, and said you will be in complete charge in the Southeast, and will have full executive powers; wasn't that on the 16 of September 1941 when you demanded that you be given full power in the Southeast, so that events like you being misinformed or uninformed be brought to an end?

A.- I had the executive power already before. That had nothing to do with that. As of the 23rd of June, I was Commander in Chief Southeast. But in this case all that was concerned was that State Councilor Thurner only did what he deemed necessary and advisable, and he did not inform me and his military commander did not do that either. The documents too show that State Councillor Thurner quite often issued orders on his own initiative, and signed them "Military Commander, or Plenipotentiary Commanding General, with the signature: Chief of Administrative Staff, Thurner." Therefore, it happened that doubtlessly I was actually not informed about quite a number of occurrences, and I can only assure you with emphasis that the Jewish problem in Serbia, as well as in Greece, did not exist as far as I was concerned.

Q.- Were you the most powerful individual in the southeast?

A.- How do you mean that?

A.- Were you the most powerful single individual in all the southeast from the time you became armed forces commander in the Southeast, in June 1941, until the time you left in October 1941?

A.- I had the executive power in the southeast, and on paper I had enormous powers, as the prosecution here has explained.

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In actual fact, however, it was different, because subsidiary governments existed that had partly been informed from above and on the other hand were also formations of which I didn't know anything. And we must consider that I was stationed in Athens and these things took place in Belgrade, that the communications were bad and other means of communications were bad too, that I had a number of other tasks too so that it was quite possible that the knowledge of such occurrences did not reach me.

Q Field Marshal, I believe that we all agree that you were a very busy man and that you had many tasks in the Southeast, that you were the fourth or fifth ranking Field Marshal in the whole German army. Do you mean that a mere Obergruppenfuehrer of the SS was able to dominate you?

A I may say that on paper certainly, but if one knows the situation and the prevailing conditions, one must realize that in times of tension that we lived in, that endeavors existed on the part of the SS to play their own part and I have already mentioned the example of the forming of a government and the example of the armed police. Therefore, if on the occasion of normal events where I should have been asked previously whether it was correct to nominate a new government in Serbia, if I have not been informed about such occurrences which are the most important thing that one can possibly imagine, if for days I don't know anything about such occurrences, it can be just as easily explained that I was not informed of a number of other occurrences and that in spite of all power which I had on paper, this SS Obergruppenfuehrer and Prussian State Councillor had done what he deemed advisable behind my back.

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Q Field Marshal you protested to OKW against the formation of a government in Serbia without your previous approval. Isn't that correct?

A No. I did not protest to the OKW. Instead, I opposed the fact that State Councillor Turner or rather his superior, General Danckelmann, did not inform me. I did not make representation of the OKW. The OKW for its own part had asked me what had happened, and all I could say as a reply was that I myself had not been informed.

Q You were quite annoyed at having a government formed without your previous knowledge or approval, were you not?

A That is correct, of course.

Q Did you take any steps to correct that situation so that in the future you would be informed?

A Yes. At one time I issued a communication in which I emphasized that I expected in future at least to be informed about the most important events in Serbia in good time, and I called State Councillor Turner to Athens to see me and I told him my opinion to this effect.

Q When was that?

A That was on the 16th of September.

Q And in spite of the fact that you admonished him to keep you informed, on the 21st of September, 1941, just five days later, he is doing something else without having cleared it with you earlier. This report is dated the 21st of September, 1941, just five days after you and Turner had your altercation.

A That is correct.

Q Was it customary in the German army in 1941 for a Field Marshal to permit himself to be defied by an Obergruppenfuehrer in the SS?

A It is not the German army that is concerned here, but this Obergruppenfuehrer of the SS as an administration chief who was appointed by Goering in Serbia. One must not apply normal conditions of the German army in this case.

Q You say Turner was not subordinate to you?

A Turner was subordinate to me via Danckelmann. He was directly subordinate to his superior.

Q Will you turn to Exhibit 59 in Document Book 2? It begins on page 79 of the English, page 63 of the German, This exhibit is a series of reports and I am particularly interested in the daily report from the Commander of Serbia to you as Wehrmacht Commander Southeast, dated 17 September 1941. It is on page 98 of the English, and I believe on about page 82 or 83 of the German Daily report of the 17th of September, 1941. Do you have it?

A Yes.

Q This report is from the Commander of Serbia; in paragraph 6 it states: "Parts of the Belgrade male Jewish population transported to transit camp near Belgrade. Action continuing."

Do you recall anything of that event?

A It doesn't say here "action continuing."

Q Well, let's get -

A I can only repeat again that I don't know for certain whether I received that report or not. If I received it, I maintain the point of view that it is necessary in view of the security of the troops

Q Now will you turn to Exhibit 39 in that same document book 2, the very first document in that book? I am particularly interested in the report which appears on page 17 of the English and perhaps on page 17 of the German as well.

It is a morning report dated 29 July 1941 of the OKH operations department. There is a portion of the OKH report which deals with activities in the Southeast. Do you have it?

A Morning report of the 29th of August?

Q The 29th of July is the one I am referring to.

A Yes, I have got it now.

Q You will note paragraph I reads: "25 July, in Belgrade, Jewish attempts to burn German vehicles. One hundred Jews were shot to death." Have you any recollection, generally, about actions against Jews, reprisal actions of this nature?

A I am certain didn't receive that report because I wasn't in Athens at that time.

Q There was no information given to you on your return to Athens by your chief regarding activities taken by the Jews in reprisal actions taken against the Jews?

A It was a month later when I returned, and in the meantime the situation had become so tense that I was not prepared for this, and, generally speaking, I can only repeat that the Jewish problem in Serbia and Greece was no problem to me.

Q You mean the Jewish problem was not considered important enough for your chief to call to your attention the fact that Jews had attempted to burn German vehicles and in reprisal you were forced to execute one hundred of them?

A I don't think that he informed me in detail about this. Four weeks later, so much had accumulated and the whole situation had become so much tenser in view of the insurgent movement and in view of the endangering of the troops that I am sure he had other worries.

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Q Field Marshal, when did you go to Crete? I think you said it was sometime in October, 1941.

A On the 8th of October.

Q 8th of October? Was Crete under your command and jurisdiction at that time?

A Yes.

Q How do you know that it was the 8th, rather than the 9th or the 10th of October when you went to Crete?

A Because I could ascertain that from a few notes which I made at that time.

Q Did you make a practice of keeping notes, or making a note of when you went on leave?

A I had a notebook, a diary, where I entered these notes of where I happened to be.

Q Did you ever make notes about what was happening in the area of your command? Things like the execution of hostages and the taking of reprisal measures?

A No, never. Those were merely notes of where I was located at that time. It was not a diary in that sense of the word. It was just a pocket diary where, under the date, I entered where I happened to be at that time.

THE PRESIDENT: The Tribunal will recess until 1:30.

THE MARSHAL: The Tribunal will be in recess until 13:30.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION

THE MARSHAL: Persons in the Courtroom please find their seats.

The Tribunal is again in session.

PRESIDING JUDGE CARTER: You may proceed.

BY MR. FENSTERMACHER:

Q. Field Marshal, just before the luncheon recess, I asked you when in October you went to Crete?

A. On the 8th of October.

Q. Did you leave for Crete in the morning of the 8th or in the afternoon or just what time of day did you leave?

A. I can't recollect that for certain. But generally speaking I made the best possible use of the days, so I assume that it was during the early morning hours.

Q. When did you return from Crete?

A. During the course of the 11th in the afternoon.

Q. Do you recall whether you signed any orders after you returned on the 11th?

A. I can't recollect that today. After such an absence of four days, a lot of material must have been submitted to me. First of all by the chief of staff, then by the Ia, and by other departments. It is impossible for me to recollect details now.

Q. Reports which you received from your subordinate units and then consolidated into reports of your own for OKW---about how much time would you say elapsed between the arrival of the report from a subordinate unit and the time when you took that report and made a consolidated report of your own for OKW?

A. That depends on the circumstance. I can't say that in detail.

Q. would there usually be a lapse of a day or two between the time you received reports from the field and the time when you sent out your own reports?

A. I can't say that, theoretically and generally speaking. That depends on the individual circumstance, on the type of report which I had received and on the type of report which I passed on.

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Q. Now I believe you said earlier that the communications between Athens and Serbia were quite disrupted and that it often took several days for you to hear of events which had taken place in Serbia?

A. I said that the telephone communication were frequently disrupted between Belgrade and Athens.

Q. Would you turn to Exhibit No. 80 in Document Book 3. This is on page 4 of the English and page 3 of the German Document Book. Will you turn to about the third page of that exhibit. It begins on page 7 of the English and I believe on about page 5 or 6 of the German. It is a report from a company commander concerning the shooting of Jews on the 9th and 11th of October, 1941. On the second page

of that report, there is paragraph nine, the details of the execution are listed and it states there that the first shooting took place on the 9th of October, 1941.

If the shooting did not take place until the 9th, I presume that the murder of the German soldiers for which the execution of the 2200 Jews was made in retaliation occurred some days earlier than the 9th of October, 1941. Would that presumption be correct?

A. Yes.

Q. You didn't leave for Crete until the 8th of October?

A. Yes.

Q. If the murder of 22 German soldiers had taken place a few days prior to the 9th, would you have been informed of that fact----of the loss of 22 of your men?

A. That can be assumed.

Q. The death of 22 of your soldiers was the largest loss which your troops had suffered in an event of this kind up until that time, was it not?

A. I can't say that way more. In any event, that occurrence was rather particular because these people were murdered in a terrible manner.

Q. From the first page of this report it appears that on the 8th of October, 1941, the shooting of 2200 Jews who were in the camp at Bel grade was ordered.

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Did you have any information that Jews to the large number of 2200 were held in a particular camp in Belgrade?

A. No.

Q. When you returned from Crete on the 11th of October, did your chief inform you that 2200 Jews had been ordered executed in retaliation for the death of 22 of your men?

A. I can't remember that any longer but I would assume that he informed me. The other day I have already testified that I do not recall the details of this case either today any longer.

Q. Would you consider the execution of 2200 Jews in retaliation for the death of 22 of your men a conspicuously high retaliation ratio?

A. Yes.

Q. And if you had heard about this incident, would you have taken steps to see that it didn't happen again?

A. I assume that I would have done something about it.

Q. Do you recall whether you did do anything about it.

A. That too I do not remember, whether I did or didn't do anything.

Q. Field Marshal, I assume you would remember outstanding incidents which occurred during the time you were Armed Forces Commander Southeast particularly outstanding incidents. Is that correct.

A. I don't quite understand the question.

Q. I mean that one can't expect you to remember a lot of extraneous details about what occurred while you were armed forces commander southeast, but is your memory good enough to recall the large or particularly outstanding events which occurred during the time you were down in the Southeast?

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A. I cannot say. One event I happen to remember, and another one I don't happen to remember. Generally speaking, I had an overall picture of all events, but details are a different matter. It is not within my own province, to decide that. That is the function of the troops as a body, and sometimes one remembers and sometimes one does not.

Q. Did an event like this, the execution of 2200 in retaliation for the death of 23 German soldiers occur frequently, or would you say that it is an exceptional circumstance?

A. It was certainly an exceptional case.

Q. But you still have no recollection of it?

A. I expressly stated that this is the only event which I recollected vaguely when I was refreshed in my memory here, about all of these matters.

Q. Will you turn to Exhibit 128, which is in Document Book V, and begins on page 102 of the English, and page 70 of the German; particularly will you turn to the daily report of the 9th of October, 1941 which is on page 117 of the English and I believe on about 85 or 86 of the German. It is the daily report from the Wehrmacht Commander Southeast for the 9 October 1941. This is the report of your 1-C officer, and the portion of the report dealing with activities in Serbia, and it states:

"In reprisal for 22 murdered men of the 521st Signal Regiment, 2000 communists and Jews are being shot to death."

That report sent out on the 9th of October, 1941.

DR. LATERNER: Just a minute, Your Honors, I would like to have this report submitted to the interpreter for a retranslation.

MR. FENSTERMACHER: Do you have the original document? It is [NOKW 251](#); does the Secretary General have Exhibit 128 here? If not, could you bring Exhibit 128 into Court?

Field Marshal, the report which was sent out from your office on the 9th of October, is probably based on a report which you received a day or two earlier; isn't that true?

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A. It can be assumed that these reports came in a day or two earlier, if not on the same day, since this is a teletype we have here.

Q. Now if the report which came in from Serbia, on which your report of the 9th of October is based, arrived in your office on the 7th or 8th before you went to Crete, you would have heard about the proposed execution of 2000 Communists and Jews in retaliation for the murder of 22 of your German soldiers, would you not?

A. But I did not hear it, because this report came in on the same day, which can, in this case, be clearly seen from the document.

Q. How can it be seen from the document, Field Marshal?

A. It reads, that the shootings of 2,200 Jews is about to be carried out. That is the first report of the 9th of October, which came to us from lower echelons to the Armed Forces Commander Southeast

Q. But this report to which I have called your attention just now does not indicate when it was received at your office as the Military Commander in Serbia does it?

A. This report here only shows when it left the office, but another report does show when it was received.

Q. Perhaps we can have the court interpreter translate the portion which Dr. Latenser has requested.

MRS. SCHAEFFER: The sentence reads:

"As reprisal for 22 murdered men of the 521 Signal Regiment, 2000 Communists and Jews are being shot to death."

I would translate it the same way as the translation which we have in front of us. I do not know whether Dr. Latenser intends it to read, "will be shot to death" because then in German it should read, "werden erschossen werden" which means, "are being shot to death."

BY MR. FENSTERMACHER:

Q. Field Marshal, I believe you stated that the reference on certain of the documents to concentration camps in Serbia, referred merely to collecting camps, and they were not concentration camps in the sense of the word as we learned to think of them when we talk of concentration camps within Germany; is that correct?

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A. Yes.

Q. We will turn to Exhibit 17, Document Book 1, on page 63 of the English, and page 36 of the German. This is a communication from the Military Commander Serbia, Administrative Staff, Belgrade 22 June, 1941, to the Minister-Commissioner of the Interior, Mr. Acimovic.

GERMAN TRANSLATOR: I beg your pardon, what page?

MR. FENSTERMACHER: Page 46 of the German.

You will note in the third sentence of the communication it states:

"Later on these, as well as other criminal elements arrested in the country and Communists, are to be transferred to the concentration camp which you have been directed to erect."

Do you know which concentration camp was erected in Belgrade?

A. No.

Q. Do you know to whom these concentration camps were subordinated?

who was in charge of their administration?

A. They were so far as I can read from the document now, the administration chief of the military Commander Serbia.

Q. You have no knowledge of these camps, when you were the Armed Forces Commander Southeast?

A. No.

Q. Turning to Exhibit 46----

THE PRESIDENT: Our reception is particularly bad up here for some reason.

MR. FENSTERMACHER: Ours is too, Your Honor. Perhaps we can have it checked.

Q. Turning now to Exhibit 46,--in Document Book 2, which begins on page 37 of the English, page 37 of the German---

THE PRESIDENT: Will you repeat that again?

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Q. Exhibit 46, Document Book 2, page 47 of the English, and page 37 of the German, and particularly to the second page of that exhibit, which is on page 48 of the English, and I believe page 38 of the German, this is a communication from the Commander in Serbia, dated Belgrade, 11 September, 1941, and it reads:

"Letter from Commander Serbia; Command Staff, Section IA, No. 397/41, Secret; dated 21 August 1941, orders that the prisoners with the troops are to be transferred to Concentration camp Belgrade in order that the troops may be relieved of their responsibility.

This cancels out the local importance of the concentration camp Belgrade subordinate to the Administrative Sub-area Headquarters.

Therefore, effective immediately, the concentration camp will be made subordinate to the Commander Serbia-Administrative Staff and will be designated as, 'Concentration Camp Serbia, Belgrade.'

The Administrative Staff Trill regulate directly the process of taking over of the concentration camp and the inclusion of the Einsatzgruppe of the Security Police and SD. Guarding of the concentration camp as heretofore."

Did you ever receive information to this effect, Field Marshal?

A. No, not that I can recollect. This order was issued by the Commanding General Serbia to his various departments.

Q. Was the Commanding General, Serbia, subordinate to you?

A. He was subordinate to me.

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Q. Now will you turn to Exhibit 61 in the same document book, and page 103 of the English, page 82 of the German? This is an order from the Plenipotentiary Commanding General in Serbia, to the 342nd Division, dated 23 September 1941. You will note from paragraph 2:

"342nd Division is to evacuate Sabac by surprise attack on the entire male population between the ages of 14 and 70 and take it to a concentration camp set up by the Division north of the Save. For this purpose, the German troops and officers in Sabac are subordinated to the 342nd Division."

Did you ever hear of the Sabac Concentration Camp?

A. This order reached me as an informational copy, therefore I must have received it. However, I cannot remember it, and, "by a concentration camp to be established by the troops", one should never understand a "concentration camp" like those which existed in Germany, but only a collection camp, and collection is stressed by the word "concentration." In other orders again it reads, "collection camps".

Q. It would be much clearer if they had said, "collecting" camps in this order, rather than "concentration" camps, would it not?

A. Yes, that would have in fact been more correct.

Q. Were the "concentration camps" in Germany referred to as "concentration camps"?

A. No, I don't know.

Q. Now, will you turn to Exhibit 71 in the same document book, which is on page 143 of the English, page 110 of the German--one question first, Field Marshal, What did these collecting camps look like?

A. I have never been in one.

Q. Did you ever hear how they were constructed? Were they made of wood or brick; how many people could they accommodate? Did you ever receive information about these kind of details?

A. No, nothing that I recollect. But the erection of this one collecting camp shows that evacuated houses were to be equipped as their collection camps, but in detail I am not informed about this, and I have never seen one.

Also, I assume that locally there was a difference; sometimes it would have been a large, other times a small camp.

Q. Field Marshall, this report, Exhibit 71, is from the Commanding General in Serbia, to Commander Serbia, Chief of Military Administration, 65th Corps 342nd Infantry Division, and its subject is, "Zasaviza Concentration Camp". You will note in paragraph 2 it says:

"In the proximity of the locality Grn-Zasaviza a camp sufficient for holding some 30,000 prisoners is to be erected first of all in the open air, so that the transfer of the inmates in Sabac can take place by 20 October. In the course of further construction the locality is to be included into the same camp for winter quarters."

Did you ever hear of the Zasaviza Concentration Camp?

A. Not that one; I cannot recollect that particular concentration camp. I heard of the evacuation of those people from Sabac and on the basis of this evacuation I issued a teletype on 4-10 to the effect that a release of all those was to be effected, -- of all of these people who were not under suspicion and who were not guilty, just in order to put all these things right again, because on the basis of a report by my chief, who was at that time in Belgrade. I had the impression that it was necessary to reestablish order here. I thought that the troops had carried out arrests here which exceeded the extent of those who could be accommodated here.

Q. This report is from the Plenipotentiary Commanding General in Serbia, and it is dated 6 October 1941. Who was the Plenipotentiary Commanding General in Serbia at that time?

A. May I say that this is not a report; it is an order. This report was not addressed to me. Instead, the order was issued by the Plenipotentiary Commanding General in Serbia to his subordinate officers, but in the form of a report to the Armed Forces Commander Southeast.

The order in such as we see it here in the text, I have never gotten it, and I don't think any of our officers have ever gotten it either. The channels would be in this way, that the subordinate officers issue their own orders and take their own measures on the strength of them. If all of these orders would have to be submitted to the superior officers, that would go too far. Details about this matter I do not think were known to anybody in my staff.

Q. I stand corrected, Field Marshal. It is an order rather than a report, and I ask you again, who was Plenipotentiary Commanding General in Serbia at this time?

A. That was General Boehme.

Q. He was subordinate to you?

A. Yes.

Q. Field Marshal, I believe you said that these camps were not related at all to the German concentration camps. Is that correct?

A. That is how I would picture it. I do not know the concentration camps in Germany either, but here we are merely concerned with the accommodation and the safekeeping of people who might at some time be a danger to the German occupation forces.

Q. We turn to Exhibit 81, Document Book 3, on page 11 of the English and page 9 of the German. This is a report from the Chief of the Security Police of the SD dated Berlin 9 October 1941. Of course, you could not know about the reports which the SD sent, because there is this reference to an event and a situation in Serbia that perhaps you do know something about:

"Collecting camps are installed by the German Wehrmacht in the Save river bend near Mitrevica for the persons arrested in the course of the mopping-up action by the Wehrmacht and also for other arrestees. This camp is being constructed by Organization Todt. It will have an immediate capacity of 50,000 persons, and can be enlarged to hold 500,000 persons. The camp is constructed like the German concentration camps. The direction of the camp is in the hands of the Einsatzgruppe of this Security Police and of the SD."

Did you hear any tiling about the erection of camps in Serbia during the month of October, 1941?

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A. I have never heard anything about it. That is a report by the chief of the Security Police where he described a plan for the future, and I do not believe, according to anything which I have heard later, that this camp was ever erected in the form as it is mentioned here, and none of the reports which we see here, show that it was ever established.

I can therefore, only think that the idea existed at one time and that this idea was reported by the Chief of the Security Police, to special officers, and it reads here in actuality. "It should be, and it will be built up". It seems to me just a picture of fantasy that this camp should ever have the capacity of 500,000 people. I can only say that I know nothing about this, and that I must assume with certainty that the camp never existed in this shape or form.

Q. We will turn to the first page of that particular SD report. You will note from the second paragraph of the report, "mopping-up by the German Wehrmacht in the area of Sabac has resulted up to now in the arrest of 22,000 male persons. These are housed in a temporary camp and are at present being screened by a Detachment of the Security Police with the assistance of the Belgrade Police."

Then the next paragraph refers to the reprisal execution of 2100 Jews and Gypsies for the 21 German soldiers shot to death in Topola, and finally, that 800 foreign Jews and Gypsies are taken from the camp in Sabac, the rest from a Jewish transit camp in Belgrade."

I believe that you said that you never knew about a Jewish Transit Camp in Belgrade?

A. It doesn't say anything here about a Jewish Camp in Belgrade. As a reprisal measure, the Security Police are asked to put the necessary number at the disposal but there is no talk about a Jewish Camp.

The 22,000 male persons, I could not recollect the number any more, and I would have never thought that it was that high, but as I stated before, the evacuation of Sabac at that time, a great number of male Persons were captured, and on the 4th of October, after I had gained insight into these conditions, I had ordered the release of all of these people who were not guilty in any way.

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Q. Will you look at the last line on the first page and the top of the second page: "05 Jews and Gypsies are taken from the camp in Sebac direct from the Jewish transit camp Belgrade." Do you find that?

A. Yes.

Q. You never heard of a Jewish transit camp in Belgrade?

A. No.

Q. Field Marshal, when did you return from the Russian front to your home in Partenkirchen? I believe you said it was in September, 1942.

A. On the 10th of September 1942.

Q. And from that time until the end of the war you remained in Partenkirchen?

A. In the main, yes, in Partenkirchen.

Q. Did you ever hear of the events which were transpiring between 1942 and 1945 in Dachau?

A. No.

Q. How far is Partenkirchen from Dachau?

A. 120 KM.

Q. How long would it take to travel from Dachau to Partenkirchen on a train?

A. I would think six hours or eight hours.

Q. Field Marshal, in order to put down the uprising in Yugoslavia you ordered...

A. I beg your pardon, Mr. Prosecutor, Mr. Fenstermacher. May I say something else in connection with this last question? In Garmisch Partenkirchen I live in a very isolated manner and only with my family because I knew that all my social activities were under supervision. I had hardly any contact with anybody with the exception of those people whom I have described here already, and in addition with a Geheimrat Dr. Wicker. And none of these people told me anything of events in Dachau. I have a good friend of mine who was in a concentration camp for 7 months near Berlin, and when she returned she would not tell any thing because she said if anything became known she would only be sent again to that camp.

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When I asked her how she fared there, she said, "generally speaking, all right," and that's the only thing that I actually ever knew about concentration camps. And in the Winter of 1944, to my extreme horror, I heard for the first time of the enormous figures of extermination of Jews from Geheimrat Wicker, and he told me that as a big secret because he said "if it ever becomes known that I know about it and that you know about it, both of us will be put into a concentration camp by the Gestapo." We lived at that time in Germany, in such a state of terror and dictatorship that a Field Marshal couldn't ever do anything which anybody in any other state and in any democracy would consider a matter of fact and a matter of course. And please take that into consideration when evaluating my statements.

Q. You were threatened with imprisonment in a concentration camp, not a collecting camp?

A. No, Geheimrat Dr. Wicker, who gave me the information about concentration camps said to me, "Look, I can't even say this loudly, I ask you urgently never to say anything about it because if it does become known, then both of us will be put into a concentration camp."

Q. Turning to Yugoslavia. In order to put down the insurrection you ordered your troops to take hostages. Is that correct?

A. Yes, that is the order already existed, and I said an increasing number of hostages.

Q. Did you ever hear that conspicuously high numbers of hostages were executed in retaliation for attacks on your troops and installations while you were Armed Forces Commander Southeast?

A. I heard about reprisal measures in general.

Q. Did you hear that large numbers of hostages were executed as part of German reprisal measures?

A. I can't say now in detail.

Q. What would you considered conspicuously high hostage ratio -10 to 1, 50 to 1, 100 to 1?

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A. That's difficult to establish in theory. That, again, will have to depend on the circumstances of the facts, and under certain circumstances very high figures may be justified. In general, I was against the general establishment of fixed numbers, and I, for my part, never established a ratio for this very reason.

Q. Can you imagine circumstances in which 200 to 1 might not be a conspicuously high ratio?

A. 1 to 200 never occurred, and I can only keep maintaining my point of view that in general, I refused to establish any number. Very high ratios that were ordered from above, which for human reasons seemed much too high to me, I have already stated that.

Q. Can you imagine a military situation in which a Commander would find it necessary to execute 50 to 1?

A. That's very high, but it is extremely difficult to say in theory that that should not happen under any circumstances, that's impossible; because the accompanying circumstances can be of such a difficult nature and I believe purely theoretically concerning such a crisis one cannot determine this.

Q. Well, let us take events in Serbia while you were there. Were military conditions so grave from the German standpoint that a ratio of 50 to 1 would be considered too high by you? In individual instances I meant.

A. Generally speaking, too high. In individual cases there might have been a justification for this. This situation in Serbia was in fact very grave and threatening. The situation in Serbia was thus that parts of units were suddenly captured, disappeared, were deported to the mountains. It happened that the complete supply was gravely endangered, and thus the whole occupation could collapse if those rear communication lines did not function any more. I think the importance of the rear communication lines in the Balkans made it very difficult to estimate and it is also very difficult to establish what consequences such an interruption could have.

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Q. Can you imagine individual situations in Serbia where a ratio of 100 to 1 might not be considered too high by you?

A. The ratio of 1 to 100 seems to me very high indeed.

Q. Now, Field Marshal, will you explain the procedure the German troops followed when, they took hostages? Who rounded the hostages up, and where were they kept after they were taken into custody?

A. What the procedure was in detail I do not know. I ordered that in the mopped-up areas suspects should be taken as hostages and that they should be gathered in collecting camps.

Q. What happened if attacks in a particular village from which you had previously taken hostages occurred? What then happened to the hostages from that particular village?

A. In that case hostages which had been taken from such a village could be shot because that had been made known previously to the hostages as well as to the entire population of the village concerned.

Q. How did you inform the hostages themselves and the population of the village from which the hostages were taken that they would be shot? How was that done?

A. That was the task of the troop unit concerned and of the area headquarters concerned.

Q. Do you know how?

A. Normally I think they would be notified by the mayor of the village.

Q. Were people from several different villages kept in a central hostage camp or was there a separate hostage camp for each village?

A. There, again, I cannot recollect details. I would think that it varied. If it was a larger village or a market town then a collecting camp would be setup for that market town. But if they were just isolated farms or hamlets then there would be one collecting camp for several of this kind.

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Q. Was it possible that if an attack took place in Village X hostages who had previously been taken into custody from Village Y were shot in retaliation?

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A. According to my order that was not to happen.

Q. Field Marshal, is it your understanding that reprisals can be against the civilian population as well as against the enemy troops?

A. Certainly. Reprisals can be carried out at any time when military necessity demands it. I emphasize again that they are not troops with which we are concerned here; they are bands.

Q. Is it true that the reprisals which were taken had to be proportionate to the degree of severity of the attack or for which the reprisal was instituted? That is to say, could the reprisal action be disproportionate to the action for which it was taken?

A. No, the reprisal was to be proportionate to the action committed. Well, again, we have to consider that a reprisal is, fundamentally speaking, the very last means of force taken, and it has to be applied in such a manner that it terrorizes and has a quick effect.

Q. You mean that a reprisal can only be taken as a last resort?

A. Not as a last resort. It is the last means. Quite generally speaking, the last means which one takes.

Q. And did you try other means before you instituted reprisal measures against the occupied peoples of Yugoslavia?

A. Yes. At first we tried propaganda. We tried to enlighten the population. Then, later on, we had small commandos who interfered and only later, when these things were unsuccessful and the insurrection grew more and more, we had to decide to take other means.

Q. Did you believe that the execution of 50 hostages in reprisal for the death of one German soldier was a proportionate measure?

A. I believe I have said more than once, that this ratio seemed high to me and that I was against a general establishment of a fixed number, and that I was also against the ratio of 1 to 50 for reasons of humanity.

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PRESIDING JUDGE BURKE: It is my impression that Mr. Denney covered this matter quite thoroughly and completely. There may be an error. I seem to have a definite recollection of it.

MR. FENSTERMACHER: Very well, your Honor.

BY MR. FENSTERMACHER:

Q. When did you leave the Southeast? (Withdrawn) Then did you take over the command of the Army Group A in Russia?

A. Army Group A-- on the 7th of July 1942.

Q. Did you ever receive the Commissar Order while you were in Command of Army Group A in Russia?

A. No.

Q. Did you hear of the Commissar Order while you were in Command of Army Group A?

A. Not that I can recall.

Q. Do you know what....

A. At that time Commissars did not play any part any longer.

Q. And why was that?

A. I have never heard anything about a Commissar during the time that I was in command of Army Group A.

Q. Do you know whether Russian forces had political Commissars attached to their units?

A. Generally speaking, they had them.

Q. Do you know whether those political Commissars were in uniform?

A. I don't know that.

Q. Do you know whether political Commissars were executed by troops under your command when you were Commander of Army Group A?

A. No.

Q. Were you opposed to the Commissar Order?

A. I would have been opposed to it had I known it.

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Q. FOr what reasons?

A. Well, for a very natural reason. Why should I apply special laws against a political Commissar who is, legally with his troops?

Q. Did you consider a political Commissar then a regular member of the enemy forces, the same as any other soldier?

A. Yes, he can be that.

Q. Do you consider the Commissar Order which has been shown to you here as an illegal order and a contravention of International Law, as you understand it?

A. I don't know whether I have to say anything in connection with this. I had nothing to do with the Commissar Order, and I don't believe that I'm obliged to give a judgment here about the Commissar Order.

Q. You were opposed to the Order though?

A. I would have been opposed to it had I known it.

Q. Do you believe that no Commissars were executed within the area of Army Group A while you were in command?

A. Yes, I am of that opinion.

Q. Was the Crimean Peninsula within the jurisdiction of Army Group A while you were in command of that Army?

A. Yes, that was later on under my jurisdiction.

Q. What do you mean by "later on"?

A. To begin with, if I remember correctly, it was not under my command. Only later on during the course of operations did it come under my command.

Q. About what date did it come under your command?

A. I can't say that at the moment. But when the Crimea came under my command there were no more fighting on the Crimean Peninsula. At that time the fighting had already long been concluded.

Q. Was the XIth Army subordinate to you when you were in command of Army Group A?

A. The XIth Army was under my command for a period in order to employ it via Kerch in connection with Novorossiysk, but later on it was again withdrawn from my command and transferred.

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Q. Do you know when it was withdrawn, from your command, the approximately date?

A. No, I'm afraid I don't. There were several changes at that time.

Q. Field Marshal, will you look at the Document [NOKW-1902](#).

THE PRESIDENT: What Exhibit Number?

MR. FENSTERMACHER: This was no exhibit number, your Honor, it is a cross-examination document. This is a report from town headquarters I to the commanding officer of Rear Army Area 553. Is that correct, Field Marshal?

A. The Comma order of the Rear Army Area 553.

DR. LATERNER: May I please have a look at the document before any questions concerning the document are asked?

MR. FENSTERMACHER: Certainly.

Q. Field Marshal, this is a report from Town Headquarters 1 to the Commanding Officer Rear Army Area 553, is it not?

A. Yes, indeed.

Q. And do you note that it is dated "Kerch 1 August 1942"?

A. Yes,

Q. Is Kerch on the Crimean Peninsula?

A. Yes.

Q. And do you note the receipt stamp of the Commanding Officer Rear Army Area Administrative Headquarters 553 on the first page of the document?

A. Yes, but it is not recognizable.

Q. Turn to page 2 of the document. At the top of the page it reads: "On the 6th of July, 1942 the Battalion Commissar Mahalla was taken prisoner in Camp Kerken and shot on 10 July 1942. Did this report ever come to your attention?

A. No, I said already on the 7th of July I took over the command of the army group. This occurrence happened on the 6th of July and the report -- that is right -- the activity report dates on the 1st of August, but I did not get this whole activity report. The activity report of the Rear Army Area goes to the Army, not to the Army Group and this report, therefore, this activity report of the Town Commandant was evaluated by the Commandant of the Rear Army Area and the Commander of the Rear Army Area sent the main contents on to the Army, I suppose. I suppose that report of the 6th of July, if it already been reported in detail, would not have been reported again on the 1st of August; but, this activity report or, rather, the report by the Command of the Rear Army Area was would not got to the Commander of the Army Group but to the Commander in Chief of the Army. It is quite out of the question that an army would inform me about these things at a moment when an operation starts, an operation of the extent as it had never exhibited before, in the direction of Stalingrad and the Black Sea.

It is completely out of the question that such a report and such details would then reach the Commander in Chief of an Army Group; and, if in this connection I may say this, it can only be explained that the commissar order which had existed already for a long time with the armies in the East at the time when I took over the Army Group -- I was only exclusively receiving my orders from von Book and instructed with respect to operational activity and the operational situation. No files of any kind were given to me and I had no opportunity to study any files in this short period, but this concerned a large military operation where those things naturally recoded into the background, and those measures which were in an entirely different sphere would not even reach the Commander in Chief of an Army Group or even his staff.

Q. Is it true that the Rear Army referred to here was subordinate to the 11th Army?

THE PRESIDENT: Mr. Fenstermacher, is this document to be offered in evidence or is it to be marked as an exhibit?

MR. FENSTERMACHER: I think we should mark it for identification now, your Honor, and then offer the number after the 24 hours is passed and I suggest -- we have no copies to distribute to your Honors at this time but it should be marked as Exhibit 585-A for identification.

THE PRESIDENT: 585-A.

MR. FENSTERMACHER: For identification, and we hope to have enough copies to go around tomorrow.

Q. Field Marshal, is the Rear Army referred to here subordinate to the 11th Army?

A. The Rear Army Area was subordinate to the list Army --that is, as far as I can remember now by heart these, command conditions I am now put before a completely different situation and, if I assume the then 11th Army was at that time subordinate to me in the Crimean then the Rear Army Area would be subordinate to this army, to the 11th Army; but the Army Group as such had nothing to do with the Commander of the Rear Army Area because the Army Group had only purely operational tasks and nothing to do -- and was not employed at all with administration tasks and tasks concerning Rear Areas.

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PRESIDING JUDGE CARTER: Mr. Fenstermacher, is it your idea that the 24-hour rule applies to cross-examination exhibits?

MR. FENSTERMACHER: I think it does not apply to our showing a witness a document which he has not seen for 24 hours earlier, but I believe it does apply, your Honor, to the actual offer into evidence; that is to say, we can cross examine oh a document which we have not previously shown to the defense, but I believe we must give them 24 hours before we actually offer it into evidence.

PRESIDING JUDGE CARTER: I wouldn't think that was the rule --I don't have it before we, because that would defeat the very purposes of cross examination quite often. It seems to me it ought to be submitted in evidence right during the cross examination; otherwise, if it isn't, what right do you have to examine on it at all?

MR. FENSTERMACHER: I would rather have that statement of the rule, your Honor. The prosecution have been working on that construction. Whether Dr. Laternser has any objection or not, I do not know.

PRESIDING JUDGE CARTER: Unless the rules specifically, provide otherwise. It seems to me it should be permitted in evidence without the 24-hour rule.

MR. FENSTERMACHER: Very well, your Honors.

DR. LATERNSEER: Your Honors, I am referring to the 24-hour notice because I do not know that any rule exists which makes an exception in view of any documents so that I also have to insist that the 24-hour rule apply concerning cross examination documents.

PRESIDING JUDGE CARTER: Unless the rule provides definitely to the contrary, I am inclined to the view that Dr. Laternser's position is in error because it wouldn't do much good to hold back cross examining exhibits if you had to give them 24 hours in advance to study over when the very purposes are to the contrary.

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MR. DENNEY: If your Honor pleases throughout the International Military Tribunal case and all other cases here, to my knowledge cross examination documents have never been submitted to defense counsel prior to the time that they were produced in court and handed to the witness. There has been some variation with reference to the time when these documents were admitted. Some of the present military tribunals hold a view that the documents can only be marked for identification on cross examination and that at the close of the entire defendants' case the formal offer in evidence is to be made.

However, that has no reference at all to the 24-hour rule. Other tribunals have taken the position that the documents may be offered and received in evidence immediately and I think so far as the question is concerned it has no bearing on the 24-hour rule, but I am not aware of any such provision that Dr. Laternser has just stated.

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PRESIDING JUDGE CARTER: Well, the Tribunal is of that opinion, but we do feel that copies ought to be available so that we can follow along on this cross examination.

MR. FENSTERMACHER: We will certainly try to do that in the future, your Honor. This is a document which just arrived and we were not able to get copies in time.

BY MR. FENSTERMACHER:

Q. Field Marshal, you say, then the Rear Army Area referred to here was subordinate to the 11th Army and that the 11th Army was subordinate to you as Commander in Chief of Army Group A?

PRESIDING JUDGE CARTER: Before the question is answered, I believe we will take our afternoon recess.

THE MARSHAL: The Court will be in recess for fifteen minutes.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

JUDGE CARTER: You may proceed.

CROSS EXAMINATION (continued)

BY MR. FENSTERMACHER:

Q. Field Marshal, just before the recess I asked you whether the rear army, referred to in the Document [NOKW 1902](#) was subordinate to the 11th Army, and the 11th Army in turn subordinated to you as Commander in Chief of Army Group A?

A. The 11th Army was temporarily under my command as Commander in Chief of Any Group A. This Army had a rear area, but the Commander in Chief of an Amy Group had purely operative tasks, and had nothing to do with the administration of the rear area. That was exclusively the task of the Army.

Q. Were political commissars of the Russian troops captured for the must part during combst, in the operations, or were they taken into custody, generally speaking, in the rear area?

A. I cannot say anything about this, because I cannot recall anything about the capturing of Russian commissars. I cannot recollect having anything to do with Russian commissars.

Q. Do you believe that the 11th Army never reported to you that Battalion Commissar Mahalla had been taken prisoner in Kerkeni, and shot on the 10th of July 1942?

A. I don't believe that the Army ever reported that.

MR. FENSTERMACHER: We will have enough copies of that to go around tomorrow, Your Honor, and it can be offered in evidence then. It can be marked now Exhibit 585-A for identification.

JUDGE CARTER: Why not put it in evidence now and eliminate the cecessity for going back?

MR. FENSTERMACHER: All right. Will you give that copy to the Secretary General then? (last remark to clerk) It is offered as Prosecution exhibit 585.

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DR. LATERNSE: Your Honor, I object to the admission of this exhibit, for the following reasons: The exhibit has no connection with any of the defendants charged here. This connection would have to be proved by the prosecution, and that is something different. As long as this has not happened, this piece of evidence has no probative value. For instance, with regard to the defendant Field Marshall List the Prosecution has not proved that this office has issued this report, and that this office belonged to the 11th Army, and the Prosecution has not proved that the 11th Army was at that time subordinate to Field Marshall List. This exhibit has no connection at all, and must therefore be rejected.

JUDGE CARTER: Objection overruled.

Q. Field Marshall, will you look at this next Document, NOKW 843.

MR. FENSTERMACHER: I have sufficient copies of this to go around Your Honor.

Q. (continued) Field Marshall, this is a report of the Secret Field Police, Group 647, for the month of August 1942.

JUDGE CARTER: Is this to be marked Prosecution Exhibit 586?

MR. FENSTERMACHER: Yes, Your Honor; I am sorry.

Q. Do you note the receipt stamp of the 42nd Infantry Corps Headquarters for September 3, 1942?

A. Yes.

Q. The report itself is dated "Local Headquarters, 21st August 1942.

A. Yes.

Q. Now, will you look under Paragraph 4, "Arrests."

"In the period covered by the report a total of 238 persons have been arrested - divided according to the following punishable offenses." That is on page 6 of the original document, I believe. Then a list under Paragraph "a" and beginning with that portion under paragraph "a" which begins, "Others". Members of Red Army 44 Jews and Commissars (turned over to SD) 2" Do you recall whether the 11th Army sent a report to you to the effect that the Jews and Commissars had been turned over to the SD?

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A. No.

Q. Do you know what "turning over to the BD" means, Field Marshall?

A. I know this now. At the time I would not have known it. That is completely out of the question that such a report from the 11th Army was at that time directed to me. This is an activity report of the Secret Field Police, addressed to the Army High Command, and this activity report would, surely have been passed on to the High Command of an Army Group. I must emphasize again and again that an Army Group had at that time purely Operational tasks and this Army Group was formed during an operation, and a part was split up and this part was lead by the newly formed staff of the Army Group, and had only purely operational tasks which had nothing to do with the administration of the rear army area, etc. and was purely taken up with the operations. I do not even know how long the Crimea, was subordinate and how long a time the Army was subordinate. I said the 11th Army was taken away at sometime and transported somewhere else. When and where that took place I cannot tell you now.

Q. What do you know now that "turning over to the SD" means?

A. In general it is now said that if a person is turned over to the SD that the SD should then execute the person in question.

Q. Field Marshall, isn't it true that the 11th Army had a duty to incorporate in its report to you the most important functions and reports which it had received from subordinate units?

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A. I cannot recall that at that time I received any reports from the Army apart from purely operational activities.

Q. You don't believe that the turning over of all Jews and Commissars to the SD would be important enough an incident for the 11th Army to inform you as Commander in Chief of Army Group A about?

A. I just told you the Army group had purely operational tasks and that the other tasks were left to the Army completely independently and without a higher officer, the quartermaster general. The Commander in Chief had in his staff no Quartermaster, for instance. He had only an operational staff.

Q. Now, Field Marshall, will you look at this next document, which is [NOKW 848](#),--

MR. FENSTERMACHER: And when we have sufficient copies tomorrow, Your Honor, we will distribute them. It should be marked Prosecution Exhibit 587.

Q. (continued) This is an activity report of the Secret Field Police Group 647, for the month of July 1942, is it not?

A. Yes.

Q. Will you look under paragraph 3 of that report.

"The Politruk Kaliba Josef, 33 years old, and the Battalion Commissar Mahalla Wassili, 35 years old, were shot by order of the Ic of the XXXXIInd Corps. Both had been hiding with a group of partisans in the stone quarries near Kertsch and had tried to make their way to the coast to the Red Army." Did you receive any information about that incident?

A. This is the same report which we have had sometime previously. The document which was submitted to me, at first, mentioning Politruk Kaliba, was this report. If I didn't receive the first report I wouldn't have received this report.

Q. This report is slightly different, because in addition to a reference to a battalion Commissar there is also reference to Politruk; do you know what Politruk is?

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A. In the other report this appears as well: it also said "A Politruk Kaliba and the Italian Commander Mahalla, Vassili,-that is the same report.

A. No, this is quite out of the question that I received such a report.

DR. LATERNSE: I object to the introduction of this document It is not to be admitted because it is cumulative. In Exhibit 586 the same document is submitted, and now the same document is again submitted under Exhibit 587. May I add that Exhibit 586 is an extract from this exhibit which is now being submitted under Exhibit 587. By this means material is cumulative, as we have had occasion to observe in other cases here.

Page Unlabeled

MR. FENSTERMACHER: We will withdraw Exhibit 587 at this time, Your Honors, until we can re-check it.

BY MR. FENSTERMACHER:

Q. Field Marshal, were the communist insurgent units in the Southeast area organized along the same lines as the Russian army?

A. I cannot say that but bandits can never be as fully organized as an army or as parts of an army.

Q. Do you know whether there were commissars --political commissars among the communist insurgents in the Southeast?

A. No. Commissars being political commissars was mentioned here in one document.

Q. Field Marshal, I believe you testified earlier that you had occasion to capture from time to time certain orders and regulations of the communist insurgents in the Southeast. You spoke specifically of communist regulations for the conduct of guerilla warfare having fallen into your hands.

A. I did not talk about that.

Q. Weren't you asked by Dr. Latenser whether you had ever seen any regulations of the communist insurgents for the conduct of bandit warfare?

A. Only these directives of the communist party for the bandit warfare in Serbia.

Q. Did you ever capture any orders issued by Tito to his units?

A. No. At my time, Tito was a completely unknown concept. He didn't exist at that time.

Q. I believe, Field Marshal, you testified that the Commissar Order was never distributed to the Southeast command. Is that correct?

A. I didn't say it. I didn't put it that way. I said that the Commissar Order was not received by Army Group A or was not sent to Army Group A. You are now referring to the Southeast command in the Balkans? 3411

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Q. Yes. Was it ever distributed to you in the Southeast?

A. No.

Q. Do you believe that the Commissar Order was confined only to the Russian theater of war?

A. Yes.

Q. We will turn to Exhibit 14 in Document Book 1. It is on page 49 of the English and page 34 of the German. This is the Commissar Order as distributed by the Commander in Chief of the Army, Field Marshal von Brauchitsch on the 8th of June, 1941. Will you turn to the last page of the document where the distribution list is contained? You will note that the 16th copy was sent to the High Command of Army in Norway. Have you any explanation for why the army in Norway received a copy of the Commissar Order?

A. I can hardly give an explanation for that. I can only think that in the extreme North in Petsamo -- and I don't remember the name of the other place. I believe there must have been a possibility there of a meeting with the Russian troops. Petsamo and Kirkenes-Kirkenes I mean. On the Fischer peninsula.

Q. You are quite sure, however, that the Commissar Order was never received by you in the Southeast and that there were no political commissars with the communist units in the Southeast?

A. No.

Q. I have just a very few questions concerning your chief of staff, General Foertsch. About how many hours a day did you spend in conference with Foertsch?

A. That was different from case to case. There were no regulations about it, no fixed rule. If something big was to happen, plans for instance to carry out the extension of the Fortress Creata, this might have taken three to four hours, and including interruptions it would probably have taken longer. If that was not the case, it was one hour a day or it may have been two hours, one hour in the morning and one hour in the afternoon.

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In the Army high Command these conferences would only take place according to requirements and were not fixed according to any fixed rules. Apart from that, I met the chief for lunch and for dinner.

Q. Was your office adjacent to the office of your chief?

A. No. The offices were in completely separate houses.

Q. Do you know whether Foertsch ever complained to you against certain orders issued by the OKW?

A. Yes, Foertsch repeatedly complained to me about orders from the OKW. We often discussed these orders. If orders arrived which we didn't like and we assumed that they had been just ordered by bureaucrats.

Q. Which orders do you recall that Foertsch protested to you about?

A. I can't remember individual orders regarding which Foertsch complained to me. Against one order the contents of which I do not recall, I protested to the OKW, and then I ordered Foertsch when he went on leave to do the same, because I did not receive a reply to my first written complaint.

Q. Do you remember discussing your order of 5 September 1941 with Foertsch before it was distributed to subordinate units?

A. Of the 5th of September? No, Foertsch was on leave then on the 5th of September.

Q. Do you remember discussing the Keitel directive of 16 September 1941 with Foertsch?

PRESIDING JUDGE CARTER: I wonder, Mr. Fenstermacher, what is the purpose of this examination? It certainly isn't cross-examination.

MR. FENSTERMACHER: I think if Your Honor please, counsel for Foertsch did develop the relationship that existed between List and his chief of staff.

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PRESIDING JUDGE CARTER: Well, to the extent that he examined him, I think you have a right to cross-examine him.

MR. FENSTERMACHER: I will be very brief, Your Honor.

BY MR. FENSTERMACHER:

Q. Field Marshal, you have no doubt heard it said that the relationship between a commanding general and his chief of staff is that of a marriage. Have you heard that expression?

A. I for my person have not used this expression somebody else mentioned it. I believe a witness mentioned it here.

Q. Do you think that is an apt description of the type of relationship that a commanding officer should have with his chief of staff?

A. That depends on the case. There are good marriages and there are bad marriages. In an ideal case, it is a good marriage and then it is as the witness mentioned. I suppose, of course, it can be different.

Q. Was your relationship with Foertsch a happy marriage, Field Marshal?

A. We certainly didn't love each other ardently. There was certainly a good relationship.

Q. Would you rely on Foertsch's judgment?

A. Foertsch had very good judgment and was a very good and loyal assistant.

Q. Did you respect the advice which Foertsch gave to you from time to time?

A. That again depended on the case. If I thought the advice was good, I took it. If I thought his advice was bad, I rejected it. I remember that Foertsch made a proposal in Serbia on which he had worked out a long memorandum, which he read to me and he was very proud of it and I rejected it out of hand and I told him "My dear Foertsch, we can't do it this way. This is impossible."

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Q. Would you say that you adopted Foertsch's advice to a greater extent than you rejected it?

A. I believe these are all theoretical considerations. One can hardly say anything regarding it. I said expressly Foertsch was a very good chief of staff, and I accepted many of his counsels that were used when they were good, and in other cases I did not accept them. In many cases he certainly gave me good advice.

Q. Would you say that Foertsch was the most influential man in your headquarters next to you?

A. In every staff of an army, an army corps command, there must be, if it is at all properly staffed, the chief of staff must be after the commander in chief, the one who has the most influential position. This is inherent in the position of the chief because at the same time he leads the whole staff, and is also the adviser to the commander in chief.

Q. Field Marshal, you said that on the 15th of October 1941 you went to the hospital, and that on the 27th of October 1941 General Kuntze was appointed, or at least took over command of the 12th Army and assumed the position of Armed Forces Commander Southeast, is that correct?

A. Yes.

Q. Who was in command as Armed Forces Commander Southeast, Commander in Chief of the 12th Army, between the 15th and 27th of October 1941?

A. I have already stated that I do not know what other arrangement was arrived at, according to order -- that is according to the order of OKW, Kuntze was to deputize for me from the 18th onwards. Kuntze only arrived on the 27th and he came to see me for the first time on the 28th or 29th for a very brief time. I did not ask him at the time what the arrangement was because my state of health was such that I could only talk to Kuntze for a very brief time when he took over the command.

Q. I think you testified earlier that when you went on leave General Felmy took over command as your deputy.

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JUSTICE BURKE: Hasn't this matter been covered by Mr. Denney in his portion of the cross examination of the witness?

MR. FENSTERMACHER: Your Honor, Mr. Denney says he did not cover the period of time from the 15th of October to the 27th of October, 1941, but only covered the period of time when the defendant List went on leave in July 1941.

PRESIDING JUSTICE CARTER: You may proceed.

BY MR. FENSTERMACHER:

A. Mr. Denney asked me who was deputizing for me at that time, but I can repeat it now. On the 18th, according to orders, Kuntze was to deputize for me, but he only arrived in Athens on the 26th, and because of my state of health he could only come and see me on or about the 28th or 29th, but he assumed the command de facto as from the 27th.

During the intervening time I do not know who was commander. I do not know the detailed arrangements. During my leave I had determined that General Felmy was to deputize for me. Because of the suddenness of my illness I could not give an order and consequently no such order was issued by me.

Q. Was General Felmy your Senior Corps Commander at that time?

A. I don't know whether General Felmy was the Senior Commander at that time or not. At that time he was, at any rate, present in Athens, and one could not ask a commanding general who was in Belgrade and who had to stay in Belgrade because of the tension there -- one could not ask him to deputize for me in Athens. One would have to transfer him from Belgrade to Athens for that period of time.

Q. Were you ever relieved--

A. I believe that my former chief of staff, who was present at that time, could give more detailed information about this time than I can give.

Q. Were you ever formally relieved of command of the 12th Army?

A. That is a rather undefined state. Officially, I was relieved by being appointed Commander in Chief of Army Group A. Kuntze was again and again reaffirmed as my deputy, and on paper I still had the title "Commander in Chief of the 12th Army", although I no longer had anything to do with it.

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It was a custom of Hitler that he often left things like that in a state of indecision because he did not want to, or could not decide, or he had a grouch against somebody, and did not want to come out in the open with it, and similar things.

Q. Did your deputy, General Kuntze, have power to repeal orders of yours with which he disagreed?

A. The successor, and/or all of the deputies, could of course act as he wanted to act, as he pleased. If a deputy is only present for a couple of weeks, he restrains himself in certain circumstances, but he certainly is entitled to order whatever he thinks fit, if he has been appointed deputy.

Q. You mean he does have the power to repeal orders which the previous commander had already distributed to subordinate units?

A. If he thought it was necessary, yes.

Q. Field Marshal, I think you testified that you resigned your command as Commander in Chief of Army Group A because of a tactical difference with Hitler?

A. That is correct, yes.

Q. You did not leave because you disagreed with the way Hitler was running the war?

A. The ideas and considerations, of course, played their part when I protested against the carrying out of the order I received at that time. They made my resistance easier for me.

Q. Is it true that you left your Southeast command because of ill health and not because of any disagreement with Hitler, or with the methods of waging war which he had ordered?

A. Which commend, may I ask, are you alluding to now?

Q. Your command in the Balkans as Commander in Chief of the 12th Army and Armed Forces Commander Southeast.

A. For reasons of health.

Q. Did you ever tender your resignation at any time prior to September 1942?

PRESIDING JUDGE CARTER: I think, Mr. Fenstermacher, that we have been all through this a time or two. If I remember correctly, he said that he could not resign if he wanted to, and on this one occasion he did because it was requested.

MR. FENSTERMACHER: I think he testified that direct, Your Honor, but I do not believe it was gone into on cross examination.

JUDGE BURKE: My recollection differs from that.

MR. FENSTERMACHER: Very well, Your Honors, we will pass it.

BY MR. FENSTERMACHER:

Q. Field Marshal, I believe you testified that the measures you ordered for the pacification of Serbia were ordered by you only out of considerations of military necessity, is that correct?

A. Yes.

Q. But isn't it true that the measures which you ordered had a boomerang effect - that is to say, because of the severity of the measures which you ordered, the insurgent movement in fact increased rather than decreased in numbers and effect?

A. I do not have that impression. From all of these documents it becomes clear again and again that we acted on the defensive, that we only became more severe when the insurgent movement had grown to a certain proportion, and we had to expect that if one once dealt energetically with this seat of infection, we could reach a final pacification, and in my view we would have reached this state if these insurgents had not been constantly supported from abroad.

Q. Will you look at Exhibit 30 in Document Book 1, beginning on page 99 of the English and page 77 of the German?

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Q. This is a report sent to you by the Wehrmacht Liaison Office in Belgrade on the 31st of July 1941, and the receipt stamp of the Wehrmacht Commander Southeast for the 5th of August 1941 is on the first page of the document. Will you turn to the second page which is Page 100 in the English, and I believe Page 78 in the German, Paragraph 2: "Though nothing is said publicly about the shooting of Jews and Communists as reprisal for acts of sabotage, these shootings have, however, made a deep impression in Belgrade. It is doubtful whether the shootings will prevent a repetition of acts of sabotage."

Do you remember generally receiving reports to the effect that the measures which you had ordered would probably not have any gainful effect from the Germans' point of view?

A. It is possible that I received such reports, but I cannot recall these reports in detail. But if the one or the other--some minor officials from the Wehrmacht Liaison Office--gives vent to his opinion here that is not at all decisive. We must hold on to the principle idea, and the principle idea, was that our measures were to get hold of the insurgent movement and smash this insurgent movement, and so that we would then come to a final state of pacification. There was no other thought present then but that one definite cauterizing of the wound we would cure the malady. We were only interested in the ruling of a pacified country and nothing else.

Q. Will you turn to the last page of that exhibit which is on Page 110 of the English, and I believe Page 85 of the German, to the sentence beginning: "Reprisal measures, as for instance the severity of the shooting of 81 persons collected haphazardly did not bring about pacification nor did it serve as an intimidation.

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On the contrary the feeling of being plundered, chased away or slaughtered with wife and child either by criminal Ustaschi people in Bosnia or Herzagowina or by robber elements, or to lose life and property as the casual object of reprisal at the hands of the Germans has embittered and made desperate the otherwise quiet and politically indifferent and loyal parts of the Seroian population, who are automatically driven into the ranks of some kind of insurgent groups."

A. With reference to this report, I may only say that it is a report from Croatia which was, at that time, not subordinate to me. The report, however, proves the extent of the ethnical fight in Croatia and of the whole of the Balkans. And that not only the German advance was responsible, as this fellow says here for one fact that the Serbian population was driven to take part in the bands, but rather that the Ustashi bands were also co-responsible for this fact. This report proves the sharp confusion and differences on the Balkans.

Q. You didn't believe that this psychological point of view, namely, that harsh measures would drive the loyal parts of the population into the hands of the insurgents, was a valid point of view?

A. I say that these measures had to be taken for reasons of military necessity.

Q. Will you turn to Exhibit 34 in the same document book, Field Marshal? It begins on Page 118 of the English and Page 93 of the German. This is a report of the Ministry of the Interior to the Military Commander in Serbia, Administrative Staff, dated Belgrade, 29 August 1941. Will you turn to the next to the last page of the report which is on Page 120 of the English, and I believe on Page 95 of the German, the paragraph beginning, "The Consequence of the procedure of the German assault troops."

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Do you have it?

A. Yes.

Q. "The consequence of the procedure of the German assault troops will be that a large number of innocent people will be slaughtered and that the Communists in the weeks not only will not be exterminated but will increase in numbers. Because many farmers, even entire villages -- even though up to now, they had no connection with the Communist will flee into the woods only out of fear and will be received there by the Communists. They will be provided with arms and used for combat and for open revolt against the German Wehrmacht. This insurrection will develop on a large scale and will have incalculable and terrible consequences for the entire population."

Did the Military Commander in Serbia ever relay that point of view on to you?

A. No, I cannot remember that he put this point of view to me. In addition, this report from the Ministry of the Interior is dated the 29th of August 1941. Therefore, it had its origin before the strict measures were ordered by me. And I would have read the report in detail in order to find out what its origin was and what specially caused it. And this report also proves the Communists did, in fact, terrorize the country and that they were fought against in the woods, and it proves that numerous peasants, that whole villages, did join the Communists. It is a complete proof that the whole population in large areas took part in this Communist advance, and our measures were necessary to combat the Communists' advance.

Q. Will you look at Exhibit 103 in Document Book III, at Page 87 of the English, and Page 64 of the German? This is an order from the Commanding General Plenipotentiary in Serbia, dated 25 October 1941. Will you look at the third paragraph on the first page of the order?

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"In order to regulate the procurement and execution of hostages according to plan we draw attention to the following points: Indiscriminate arrests and executions of Serbs drive toward the insurgents those circles of the population which have, up until now, stood aloof from the revolt, strengthen the powers of resistance of Communists, weaken the chances of a quick suppression and damage the political aim of the operation."

General Boehme was Commanding General Plenipotentiary in Serbia at that time. Did General Boehme ever mention to you that those severe measures boomeranged in fact?

A. No, this order is dated the 25th of October, and, at that time, on the 25th of October, General Boehme apparently had received reports regarding incidents which had exceeded their aim. In order to get measures under control again he issued this order. That was at a time at which I could not have received this order.

Q. Field Marshal, I believe earlier you testified that during a period of time after the 5th of September 1941, that is to say, after your order of that day was issued and distributed to subordinate units, the insurgent movement increased in numbers. I believe you said that on direct examination. I have a reference to Page 3228 in the English transcript to that effect. Do you recall your testimony in that regard?

A. I said that around about August or September insurgent movements had increased considerably.

Q. Do you believe that it had increased because of the issuance of your order?

A. No, around about August and September and because of the increasing insurgent movement I issued the order of the 5th of September. It was immediately preceded by the capturing of field guard posts, whole companies, etc. That had preceded the order of the 5th of September.

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As far as I remember, I also mentioned during the first days of September the total losses which can be seen from a letter I wrote during my leave to the Chief of Staff as a report to the OKW. During the first couple of days over 400 losses occurred and that may explain the opinion that I had given after the 5th of September. Then, because of this order there were incidents taking place at the end of August and the beginning of September. The whole movement increased so that what came afterwards was merely an addition to what had gone before.

PRESIDING JUDGE CARTER: The Tribunal will recess until 9:30 tomorrow morning.

(The court recessed at 1630 hours to resume session on Tuesday 23 September 1947, at 0930.)

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Official Transcript of the American Military Tribunal in the matter of the United States of America against Wilhelm List et al, defendants, sitting at Nurnberg, Germany, on 23 September, 1947, 0930-0945, Justice Wennerstrump presiding.

THE MARSHAL: The persons in the Courtroom will please find their seats.

The Honorable, the Judges of Military Tribunal V. Military Tribunal V is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

May it please your Honors all defendants are present in the Courtroom.

THE COURT: You may proceed, Mr. Fenstermacher.

CROSS EXAMINATION (continued) MR. FENSTERMACHER: If your Honors please, I pass to your Honors now three copies, [NOKW 1902](#), offered in evidence yesterday as Exhibit 585.

German copies of that exhibit were sent to the Translation Information Center last evening. I believe your Honors have from yesterday, copies of Exhibit 586 which were distributed yesterday afternoon.

THE PRESIDENT: By way of inquiry, Mr. Fenstermacher, and for my own information, do you have any suggestions as to the paging of these cross-examinations documents, as to where they can be filed advantageously?

MR. FENSTERMACHER: The way I am doing that for myself, Your Honor, is to prepare individual folders for each of the defendants, and to mark them, "List, Cross-Examination documents", and I keep them together with the 25 document books, but separate from the document books.

THE PRESIDENT: Thank you.

BY MR. FENSTERMACHER:

Q. Field Marshal, yesterday afternoon we were talking about the the military necessity for the measures which you ordered, and which your troops took during your term of office in the southeast.

Page 3,425

Will you turn now to Exhibit 99, in Document Book 3, that is on page 71 of the English, and page 53 of the German? You will note from the second page of the document, which is on page 72 of the English, I believe 54 of the German, this is a report dated "Kragujevac, 20 October, 1941, to the 610 Administrative Sub Area Hq Headquarters Pancevo. Simultaneous for information to the Commander Serbia, Branch 1-a Belgrade."

Will you turn to the last page of the report, the page which contains the signature of von Bischoffshawsen, Captain and Commandant? On page 76 of the English, and I believe on about page 58 or 59 of the German, will you turn to the paragraph beginning:

"According to my standpoint, a shooting partly of completely innocent persons from this city can have directly harmful effects. It is to be expected that embittered relatives of those shot will now practice acts of revenge on members of the German Wehrmacht".

Did he ever pass on to you information to this effect?

A. I state here this report was sent from Kragujevac on the 20th of October. That is at a time when I had been operated on for a couple of days.

THE PRESIDENT: It is not coming through clearly.

A. I must state here that this report was sent out from Kragujevac on the 20th of October. That is at a time when I had already been operated on.

Q. Field Marshal, I believe you stated that when you received the Keitel order of 16 September, 1941, you sent a protest to OKW about that order: is tint correct?

A. The order of the 16th of September?

Q. Yes.

A. On the 16th, yes I said for reasons of humanity I protested against this order, and I put this very clearly to my 1-A at that time and to my chief at that time, and I ordered them to inform the OKW of this.

Page 3,426

Q. Did you believe that the Keitel order was an illegal, or a criminal order in contravention of the rules of war as you understood them?

A. I have already said that I rejected this order from purely humanitarian reasons. I had to assume that an order from the OKW was correct and legally admissible. In 1941, the OKW had complete authority at that time, there had been no reverses at that time, and there was no reason to doubt the legality of an order of the OKW.

Q. That order came down on the 16th of September, 1941. Do you recall that the Commissar order that came down on the 8th of June, 1941, and you have already stated that in your opinion, the Commissar order was not a legal order. Did you always assume that orders which came to you from OKW were legal orders?

A. At that time, yes. I didn't know the Commissar order.

Page 3,427

Q. When did you first know the Commissar order?

A. I cannot tell you new exactly. In the course of the war comparatively late, and only by way of conversation.

Q. Field Marshal, why did you protest the Keitel order of 16 September, 1941 at all, if measures of that kind were a military necessity?

A. I believe that I am telling this for the 4th or 5th time, Mr. Fenstermacher. My attitude against this order was prompted by humanitarian reasons.

Q. Did you believe, Field Marshal, that the peoples in the Balkans were somehow peculiar, more cruel than the other peoples in Europe, and that is why you had to take such severe measures against them?

A. I had to take severe measures against them because they were insurgents, as I have emphasized repeatedly, because they were definitely guerillas and because they struck at the rest of the occupation power, and it was necessary to do that because their methods were undoubtedly cruel.

I hope a witness will appear here who will state that the, people were killed by being nailed against doors while still alive, and also dismembered while still alive. That was a favorite way of killing people.

Q. Do you believe that the Balkan peoples are somehow different from the other people in Europe; more cruel than the western peoples, for example?

A. They are far more passionate, hot blooded and more cruel, so far as the effect of their emotions are concerned, because they lived in continual battles against each other for hundreds of years, caused by the Turkish domination. The individual in Serbia is obviously like every other peasant, under normal conditions, but as soon as differences arise, then, caused by the hot blood in their veins, the cruelty caused by the hundreds of years of Turkish domination, erupts.

Page 3,428

Q. Field Marshl, you know that Hitler and the Mazi racial theoristcs have claimed ever since 1923 that the Balkan people and the Slavic races generally, were inferior. Are you an advocate of those theories?

A. I am not clear about that.

Q. You do not understand my question?

A. I understood the question, but I was not quite clear about that.

Q. I don't quite understand? Now that you know what the Nazi theories regarding the Balkan peoples and the Slavic race, are, do you endorse those theories?

A. I cannot subscribe to the theories because I do not know them. I have never been told of the theories regarding the treatment of the Balkan peoples. I have never seen an order in this regard, and I do not know of any plan in this connection. The plan which is existent is the plan of the 16th of September.

Q. You never heard of Hitler's theories regarding the Slavic race?

A. Of his theories, no.

Q. You heard of his theories regarding the Jews, however, did you not?

A. During the course of the war, yes, in addition of course, I know the Nurnberg laws.

Q. And you know of the activities against the Jews in Vienna in 1938, as well?

A. Yes.

Q. Field Marshal, did you always obey orders which you received from OKW?

A. The basic orders I executed if possible; I have deviated from these orders once or twice in order to effect a mitigation.

Page 3,429

Q. On what occasions were these, when you deviated from strict enforcement of the OKW orders?

A. For instance, regarding the "hanging" order. The OKW demanded that the execution of partisans was only to be carried out by hanging. This order was not carried out. As far as possible, I tried to deviate from this order.

Q. Were there any other orders you tried to deviate from?

A. At the moment I cannot recall any orders. Perhaps the order of Goering to the Commandant of Crete which demanded the carrying out of very severe measures. Instead of this order, an amnesty of Crete was issued.

Q. Was it possible for a German Field Marshal to disobey OKW orders?

A. Actually, no; basic orders had to be followed.

Q. Did any other German soldier of lesser rank disobey orders he received from his superior officer?

A. He had to obey all orders except those which asked him to commit a definite crime.

Q. Field Marshal, will you look at this document, [NOKW 1011](#), there are three copies for your Honors, copies for defense counsel, the interpreters and court reporters, and the Secretary General. We offer this as Exhibit 587, your Honors.

Field Marshal, will you turn to the second page of this document? You will note from the top that its subject is, "Hand Grenade Attack Park Hotel, Nish on 3 August, 1941:

To Commander Serbia Belgrade As the senior garrison officer Nish has informed me, unrest and confusion prevail amid the troops garrisoned there because for every German victim 10 Serbs have not as yet been killed in accordance with previous announcements (Hence 30 if only the dead are counted, 70 if all those hit are included). As for my repeated question - who then was to be shot to death - the senior garrison officer did not have an answer.

Page 3,430

My comment while referring to other incidents in Serbia, that the culprits who are undoubtedly communists are indifferent to the execution of non-communist elements and perhaps might even welcome it, was apparently appreciated. At the time there is only a small number of Communists under here. I do not believe that I am justified in simply having them shot. In my opinion an Administrative Sub-Area Commander who is simultaneously a judge can have executions performed only on the basis of confirmed sentences. An exception can be made only if hostages are seized for a definite case with the announcement they will be shot to death if this definite case occurs. After conscientious examination, I must reject anything lose by virtue of my sense of justice and my inherent attitude. If other measures are required or considered requisite by a higher authority - then I believe that there are special organizations available for that purpose whose measures I am not in a position to judge nor to permit; nor can I stop these measures. If my attitude is not approved, I must admit that I am not in the right place, that is, I must be given another assignment. I never will be able to deviate from the stand-point that in my capacity as judge or as a soldier I can proceed only according to law and with complete ruthlessness - if it is a matter proceeding immediately after the deed is done, or against people who are met under suspicious circumstances with weapons.

Any requests to have people shot to death who were not involved I cannot fulfill, particularly since one may assume in most cases that it does not touch the culprits at all.

(signed) Freiher von Bothmer (signed) Colonel and Commander You will note from the distribution list that a copy was sent to the Military Commander, Command Staff, Military Commander Administrative Staff, and three other units.

Page 3,431

Now if you will turn to the first page of the document there is a communication dated Belgrade, 8 August 1941, from the Commander Serbia to the Administrative Sub-area Commander, Colonel Freiher von Bothmer:

N i s h Subject:

Hand grenade attack Park-Hotel Nish.

Reference: Your communication of 6.8.41, No. 249/41 secret Your letter dated 6.8.4. with reference to the above has been submitted to me; my order dated 8.8.4. pertaining to the seizure of hostages has taken care of it.

(signed) It. Gen. Air Corps.

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Q Do you know who Colonel von Bothmer was?

A No, I did not know him.

Q Do you know if any measures were taken against him for protesting and refusing to carryout an order?

A No, I don't know of this incident.

Q Colonel von Bothmer states here: "If my attitude is not approved I must admit I am not in the right place; that is, I must be given another assignment."

Did you ever ask for another assignment, Field Marshal?

A Not as regards my person. I believe the case is different here. He had apparently received an order which I don't know, which asked him to do something illegal and which he thought was illegal. When an order is received from the OKW I must assume that this order is legal and acceptable and has been examined.

Q During the period of time when you were Commander in Chief of the 12th Army and Armed Forces Commander Southeast, and also during the time when you were Commander in Chief of Army Group A, did you ever, to your knowledge, receive a criminal order?

A No.

Q And if you had received a criminal order would you have distributed it to your subordinate units or would you have refused to carry it out?

A That is very difficult to say theoretically. I would have to know regarding which order I should have taken action.

Q Field Marshal, are you familiar with paragraph 47 of the Military Penal Code -- the German Military Penal Code?

A I believe I know to what you are referring. Whether I know this paragraph definitely I cannot tell.

Q Will you look at this document which is the Military Penal Code, and turn to paragraph 47? We have three copies of this Paragraph 47 for your Honors; some for defense counsel; Court Interpreters; Court Reporters; and the Secretary General.

Page 3,433

We offer this excerpt, your Honors, as Prosecution Exhibit 588.

Q Field Marshal, according to paragraph 47 of the Military Penal Code: "If execution of an order given in line of duty violates a statute of the penal code, the superior giving that order alone is held responsible for it. The subordinate obeying that order, however, is liable to punishment as an accessory in the event:

- 1) That he exceeded the order, or
- 2) that he was aware that the order involved an act, the commission of which constituted a common or a military crime or offense."

Is this the paragraph you had in mind when you said that you would not carry out an order if you believed it to be a criminal order?

A Yes.

Q Field Marshal, do you consider yourself an officer of the old school?

A Yes, of course.

Q And what is the written or unwritten code of the old school officer of the German Army?

A That is, I believe is so universally known that I need hardly say anything about it. It is of absolute necessity to do one's duty and show absolute decency in one's actions and, of course, justice with humanity.

Q Does it also include personal honesty and integrity, and personal morality, as well as profession honesty, integrity, and morality?

A That is, of course, the pre-requisite.

Q Do you believe that throughout your career in the German Army you have lived up to that code?

A Yes, I am of that view.

Q Do you recall being interrogated in connection with this case prior to the time the indictment was handed down against you?

A Yes, I do.

Q Do you remember how many times you were interrogated?

A I believe five or six times.

Page 3,434

Q Who was present at those interrogations?

A The Interrogator; secretaries; and at another time two American officers were present; and at another time two civilians were present who were unknown to me.

Q Was there a guard from the prison always present with you as well?

A Yes, he was also present.

Q Field Marshal, you said yesterday that you made some notes of the time when you took leave until the time you returned from leave. When did you make those notes?

A In my diary.

Q You made them at that time--1941?

A Yes, 1941.

Q Where are those notes now?

A My lawyer has them.

Q Did you have them throughout the time you were here in Nurnberg, in the Nurnberg jail?

A No.

Q When did you first get them?

A In the course of the trial Dr. Laternser once showed them to me.

Q Where did Dr. Laternser get them, if you know.

DR. LATERNSE: I object. Your Honor, I have no objections against these questions, but here I must protest these questions because they relate to my relationship, that is my relationship of defense counsel to my client, and that cannot be used in examination, and I only protest for these reasons.

THE PRESIDENT: The objection to this question will be over-ruled.

BY MR. FENSTERMACHER:

Q Do you know where Dr. Laternser got them?

A Yes, he got them from my wife:

Q Had you seen those notes between the time you made them in 1941 and the time when Dr. Laternser showed them to you?

Page 3,435

A No.

Q Do you recall...

A I must correct myself. I probably have seen them since 1941, but not since I was in prison.

Q When did Dr. Laternser first show them to you?

DR. LATERNSE: I object. Your Honor, I am not actually concerned with the answer and what the Prosecution wants to find out in regard to this, but I must protest that my relationship as defense counsel with my client is made the subject of an examination here, and that is not admissible.

THE PRESIDENT: The objection to this particular question will be over-ruled.

BY MR. FENSTERMACHER:

Q Do you recall the question, Field Marshal?

A I don't know when Dr. Laternser showed me these notes for the first time.

Q Field Marshal, do you recall being interrogated in connection with this case on the 15th of January 1947?

A Which case?

Q The case we are now hearing in this Court.

A That I was interrogated?

Q On the 15th of January 1947.

A. Yes.

Q At that time were you asked this question, and did you give this answer: "Q. How long did you stay in Greece?" "A. I was in Command until the 6th or 8th of October 1941."

Do you recall being asked that question and giving that answer?

A Whether I gave this date I cannot recall. If I said from the 6th to the 8th of October -- if I said that on the record, that must be correct. And here, when I talked to Dr. Laternser, I repeatedly said, and Dr. Laternser will remember it: "In my opinion I was sent to the Military hospital on the 8th of October."

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If I have made this statement it is in complete conformity with my recollection that I commanded in Greece until the 6th or 8th of October and then fell ill. And I found out, by means of my diary, that actually I was not ill on the 6th or 8th of October, but that I fell ill on the 13th of October, and for a long time I told Dr. Laternser my operation had taken place on the 12th of October and that my illness had started on the 6th or 8th of October.

Q On the same day, January 15, 1947, were you asked this question, and did you give this answer: "Q. Has it been reported to you or did it come to your knowledge that Boehme carried out extremely sharp hostage measures against the civilian population?" "A. No, it has not."

"Q. And that the arrests of hostages sometimes were carried out in a ration of 1 to 50?"

"A. I cannot conceive this at that time. That this is said I do know from the documents which I have read here in Nurnberg, because I was here as a witness in the first trial. The hostage decree was issued by the OKW. I have repeatedly attempted to get this ordinance but I have not succeeded. According to the documents the order must date back about to the 2nd half of October, to a time when I could no longer get the edict. It is true that I once received an instruction, the exact contents of which have slipped my memory, however, much I try to recall them which demanded more severe measures on my part and

against this I strongly resisted. I wrote a personal letter to Keitel informing him that he was unable to get the hang of the conditions in the Balkans from up there and that they should leave the responsibility to me."

"Q. Apart from that did you know, at that time, that General Boehme was carrying out extremely sharp and terrible measures against the civilian population in Serbia?"

"A. No, it did not come to my knowledge in the sense that I had to suppose that they had been particularly severe, but we had to proceed against the rebels with full strength as a matter of military necessity."

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"Q. I am speaking of the hypothesis that some German soldiers within a small marching column..."

I'm sorry; I neglected to give you the German copy of the interrogation. I'm reading now at Question 62.

"Q. I am speaking of the hypothesis that some German soldiers within a small marching column might have been attacked and killed on the road by bands and that the malefactor was not found, but then the Military Commander give orders... "

THE INTERPRETER: Question 62?

MR. FENSTERMACHER: Question 62.

"...and that the malefactor was not found, but then the Military Commander gave orders to arrest from the surrounding places a few hundred hostages and to have them executed according to martial law."

"A. I believe this to be impossible; if it had occurred and had been reported to me, I should have taken very energetic steps. I should not have taken the responsibility for it in view of my christian and ethical attitude."

"Q. If we suppose that such measures took place, are you of the opinion that these measures would only have had an entirely false psychological success?"

"A. Of course. The struggle became only harder as a result. Each one of our prisoners on the other side was being treated only so much the harder; the terrible atrocities in the Balkans were well known indeed."

Q. Were those questions asked of you, Field Marshal, and are these the answers which you gave at that time?

A. Yes, only this record has been reproduced partly incompletely. I have never received this record, and I have never signed this record. It has never been shown to me.

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Q Then your recollection today is such that you believe those questions were asked of you and that those are the answers which you gave at that time?

A These answers were not quite given in the manner they are reproduced here. The first part, especially, does not correspond with what I said. At that time I could only answer what I had in my memory. I must emphasize today that during the whole time until I came to Nurnberg here, I was of the opinion that the Hostage Order had only been issued after the middle of October. In Nurnberg, in 1945, I learned from the interrogations and the examinations of Keitel that a Hostage Order was issued. At that time I made a note of it and asked that I be given access to this Hostage Order. Dr. Laternser was not in a position at that time to give me this order, and this note is still in my files of that time. And on this note it is written "16-10, Hostage Order from the OKW." And that is what I asked for. On the strength of this information I constantly believed that I had not given a hostage order, and I can only assure you and state that I repeatedly told my comrades that during my time a hostage order had not been received by me and had not been passed on by me. That as what I said in this record which you have just quoted.

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Q. Field Marshal, will you turn now to Exhibit 42 in Document Book II, which is on Page 23 of the English and Page 21 of the German.

THE PRESIDENT: Will you kindly repeat the Exhibit No?

MR. FENSTERMACHER: Exhibit 42, Your Honor, on Page 23 of the English and on Page 21 of the German.

DR. LATERNSEER: Your honor, I should like to draw the attention of the Court that regarding this exhibit, Mr. Denney has already asked questions, and Mr. Fenstermacher has also asked questions, and now we are turning to this point for the third time in cross-examination. For this reason I object.

MR. FENSTERMACHER: Your Honor, I am not going to interrogate in connection with this document at all. I simply intend to ask one or two questions to lay a foundation.

THE PRESIDENT: Very well; you may ask the questions briefly.

BY MR. FENSTERMACHER:

Q. Field Marshal, this is your order of 5 September 1941, is it not?

A. Yes.

Q. Do you recall being interrogated on 16 January 1947 and being shown this order at that time?

A. I was not shown the whole of this order. I was only shown a small paragraph.

Q. Were you shown Paragraph "f"?

A. Yes, that is right.

Q. Were you asked this question at that time, and did you give this answer: Question: "In Paragraph "f" you brought in accordance with your Christian and ethical feelings with which reference was made not to a situation brought about by Boehme's order..." Question 29; I'm sorry.

DR. LATERNSEER: Records are being used here of which I have no copy. If they are used in cross-examination I must be given a copy alone for those reasons that I am enabled to examine the translation for its correctness and therefore I ask, Your Honor, that the Prosecution refrain from asking questions regarding these records until he has given to me a copy in English and German.

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THE PRESIDENT: Is this to be offered in evidence?

MR. FENSTERMACHER: No, it is not, Your Honor.

THE PRESIDENT: Then, what's the purpose of it?

MR. FENSTERMACHER: To have the witness explain and clarify exactly the inconsistencies between what he said in an interrogation and what he testified to on direct and cross-examination.

THE PRESIDENT: The objection will be over-ruled, but I think before the witness is excused, the counsel for the Defendant should be furnished a copy, and it should be furnished now.

MR. FENSTERMACHER: I will be glad to do that, Your Honor.

DR. LATERNSEER: Your Honor, I ask you pardon for coming again in this matter. Actually I need this copy now in order to follow the actual proceedings. I always place a certain value on following the proceedings, and I can't do that at this moment.

THE PRESIDENT: The request will be denied. The nature of the question is apparently directed towards the credibility or the extent of the witness's remembrance, and that matter may be gone into briefly. As stated before, the counsel for the defense should have this copy before the witness is discharged.

Page 3,441

Q. Field Marshal, were you asked this question on the 16th of January 1947 in connection with subparagraph [F of](#) your order of 5 September 1941?

"Q. Can paragraph [F be](#) brought into accordance with your Christian and ethical feelings in which reference was made to a situation brought about by Boehme's own hand" -- I beg your pardon -- "in which reference was made not to a situation brought about by Boehme's own hand but to an order given by you to Boehme?

"A. With the best intention, I could not recall it, especially because I had actually been opposed to these things.

"Q. Did you order them, nevertheless, somewhat illogical arrest of hostages, sending of relatives to a concentration camp, etc?

"A. --

THE PRESIDENT: Mr. Fenstermacher, can't you break up your questions and make them so you won't be having a long series of questions and then a long series of answers? Then we will know what the record is.

MR. FENSTERMACHER: Very well, Your Honor.

BY MR. FENSTERMACHER:

Q. Let's take the first question, Field Marshal.

"Can paragraph [F be](#) brought into accordance with your Christian and ethical feelings in which reference was made not to a situation brought about by Boehme's own hand but to an order given to you by Boehme?

"A. With the best intention, I could not recall it, especially because I had actually been opposed to these things."

Were you asked that question and did you give that answer?

A. Yes.

Q. Were you asked this question and did you give this answer in the same interrogation:

"Q. Did you order them nevertheless -- somewhat illogical arrest of hostages, sending of the relatives to a concentration camp, etc.?"

"A. An arrest of hostages is permissible, however."

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Were you asked that question and is that your answer?

A. This question was put to me but I don't believe that I answered it in this way. But I cannot tell you now literally. I remember that this is a matter of the taking of hostages but not of the shooting of hostages.

Q. Were you asked this question and did you give this answer:

"Q. Read this paragraph once again. Is it all in accordance with international law according to your conception?

"A. No, it is not?"

Were you asked that question and was that your answer at that time?

A. I cannot tell that, exactly. It can't have been like that but I may add, regarding this order II-f and regarding these questions. This figure II-f was submitted to me and at the same time I was show my own signature under this order and as far as I remember I answered quite clearly at that time that it is on the 15th of January; I could not recall that I had given this order and I was greatly surprised to find this order here because I had certainly not remembered it. I told the interrogator I would have had no reason at all to make any evading statements or to say something which would not seem correct to me, because

from the interrogation on the preceding day I had gained the clear impression that the prosecution or the interrogator was in possession of the documents around that time and from my point of view it would have been quite useless to try and evade these questions.

Rather the situation is this: like many other things I could not remember this order and I have expressed this quite clearly.

Q. Field Marshal, do you recall being interrogated on the 7th of March 1947?

A. Whether it was the 7th of March I don't know, but I was interrogated sometime later and also in March.

Q. Do you recall whether you were asked to swear an oath to what you were going to testify on that day?

A. No. You mean an oath regarding my questionnaire?

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Q. No, I mean an oath to the effect that you would answer all the questions that would be put to you on that day under oath?

JUDGE BURKE: Just for my own information, at that time did this witness have counsel?

MR. FENSTERMACHER: No, he did not, Your Honor.

JUDGE BURKE: When did he have counsel?

MR. FENSTERMACHER: I believe he did not have counsel until the indictment was issued against him on the 10th of May.

JUDGE BURKE: Was he informed of anything that we term in America as his constitutional rights?

MR. FENSTERMACHER: I am not in a position to say, Your Honor.

FIELD MARSHAL LIST: I was told by the interrogator when this order had been submitted to me and the interrogator told me that I had not spoken the truth. I said on the next day that was the most weighty reproach that had been made to me in my life, and it was very difficult for me to talk to him, and he had accused me of telling a lie and thereupon he told me, "Field Marshal, you are not accused." And he added that I should tell him now what I knew about this period and should come again for interrogation to him the next day or one of the following days, and I told him that was very difficult for me.

I was certainly prepared to say everything I knew, but I could not say more than I knew. Whereupon he told me, "I cannot, of course, show you the documents, but on the other hand as a good lawyer I don't want to mislead you," and he also told me, "The quicker you make your statements, the sooner you will return to Allendorf."

BY MR. FENSTERMACHER:

Q. Do you recall being asked this question on the 7th of March 1947 and giving this answer?

DR. LATERNSEER: Your Honor, I am of the opinion that if a copy of the interrogation is there for the interpreters a copy should be provided for the defense counsel as well.

MR. FENSTERMACHER: Your Honor, that is the only German copy we have at this time.

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THE PRESIDENT: The ruling previously made will be adhered to in this case, but as stated the counsel should be furnished a copy before the witness is discharged.

BY MR. FENSTERMACHER:

Q. "Question No. 3. Do you recall the exact time at which you received the hostage order?

"A. No. I have stated once already that I learned of the hostage order for the first time in Nuernberg, as far as I can remember. And that I repeatedly asked if I could not receive it. I have no knowledge of it as such."

Were you asked that question and did you give that answer on the 7th of March 1947?

A. Yes.

Q. Were you asked this question and did you give this answer on that day:

"Question No. 4" -- a second question of a more general nature. "Did you ever circumvent orders which you received?

"A. Hereto I mentioned before that I distinctly remember receiving an order from army headquarters that had emanated from Hitler, which was objectionable to me and my viewpoint and which I refused to pass on."

Were you asked that question and was that your answer at that time?

A. Yes.

Q. Were you asked this question and did you give this answer on the same day:

"Question 5. How much independence did you have to decide whether orders could be circumvented or whether they had to be carried out?

"A. Actually no liberty at all. On the contrary, they all ought to have carried out. I received this order the contents of which I am unfortunately unable to state. I have also stated that I saw my Ia standing before me. I believe he had a telegram in his hand and that I said to him, 'I shall not carry out this command. I am placed here in the capacity of commander in chief and not just as an executing organ.

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' I no longer recall the expression; perhaps it was 'hangman'. I only recall that I absolutely refused to carry out this command. I do not recall the circumstances but I definitely remember the facts as such."

Were you asked that question and was that your answer at that time?

A. Yes.

Q. Field Marshal, do you recall now what order you had in mind when you refused to carry out an order of OKW?

A. I cannot say with certainty even today which order that was.

Q. Field Marshal, I now show you Document [NOKW-860](#), which is Prosecution Exhibit No. [2](#) in evidence. This is in Document Book 1, Your Honors, on page 1 of the English and page 1 of the German.

Is that your signature at the end of that document, Field Marshal?

A. Yes, it is.

Q. Would you pass the document to the Tribunal, please?

(The document was passed to the Tribunal.)

THE PRESIDENT: Are you through with the questioning of the witness on the documents of which there is only one German copy?

MR. FENSTERMACHER: Yes, I am, Your Honor.

THE PRESIDENT: Is there any objection or reason why Dr. Laternser may not have it now?

MR. FENSTERMACHER: No, the court interpreter may pass it to him now.

THE PRESIDENT: Have you been furnished with the two documents, Dr. Laternser?

DR. LATERNSE: Yes.

THE PRESIDENT: Very well, you may proceed then along your proposed line of cross examination at this time.

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BY MR. FENSTERMACHER:

Q. Field Marshal, I now show you Prosecution Exhibit 107. This is in Document Book 3 at page 103 of the English and page 76 of the German. Will you look at page 2 of that document, Field Marshal? Is that your signature?

A. Yes.

Q. Would you pass the document to the Tribunal, please?

(Document passed up to Tribunal)

MR. FENSTERMACHER: I have no further questions, Your Honor.

MR. DENNEY: Your Honor, I have just one document I forgot to put to the witness the other day. I wonder if I might ask him. I have the original here.

THE PRESIDENT: Very well.

BY MR. DENNEY:

Q. It is Document -- Exhibit 19, which is at page 68 in the English book and page 49 in the German Book 1. It is the teletype from the Commanding General of the 65th Corps addressed to the Armed Forces Commander Southeast. Did you see that document?

DR. LATERNSEER: Your Honor, I don't know how Mr. Denney will examine the witness. When the cross examination was interrupted, I gave my agreement that for an exception there should be an exchange of prosecution counsel. During the International Military Tribunal it was the custom that one member of every prosecution team was allowed to examine a witness, and for the future I want to refer to this ruling and I now want to object that Mr. Denney again examines the witness.

THE PRESIDENT: Is it for the purpose of introduction of some document?

MR. DENNEY: I just want to ask him whether or not he has seen this. I didn't have the document on Friday - the original.

THE PRESIDENT: You may proceed briefly.

BY MR. DENNEY:

Q. Have you ever seen that document before?

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A. If I had seen that document, I would have initialed it. My initial cannot be found on this document.

Q. Whose writing is it that appears below the typed part of the message?

A. That is Foertsch's handwriting.

MR. DENNEY: That is all, Your Honor.

THE PRESIDENT: Is there any re-direct examination?

RE-DIRECT EXAMINATION BY DR. LATERNSEER:

Q. I want to revert to various questions which have resulted from cross examination. First of all, I want to revert to the main question, that is, the character of the partisans. What concluded the war between Germany and Yugoslavia?

A. The end of the war between Germany and Yugoslavia was brought about by a capitulation of the Yugoslavian army and a conclusion of an armistice with representatives of the Yugoslavian government.

Q. Do you know which government these representatives represented, so to speak?

A. I personally cannot say that from my experience. I can only say that from hearsay, that these were representatives of the old Serbian government.

Q. The war ended as you said by a capitulation of the government and the army?

A. Yes.

Q. If a state has capitulated, can legal bands be formed in its territory?

A. No.

Q. Now what can these bands represent in every case then?

A. These can only be insurgents, illegal bands and guerillas, who have turned against the occupation power.

Q. You just said that these were illegal bands. Who supported this fight of the bands which was contrary to international law?

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A. At the beginning it was doubtlessly supported by Moscow.

Q. And in the subsequent time?

A. Via Sofia and subsequently especially by the British and later I believe also by the American army.

Q. In which form was this fight which was contrary to international law supported?

A. At the beginning by proclamations, especially on the part of Moscow, by the distribution of pamphlets, posters, and later on by dropping weapons from airplanes.

Q. Do you know the extent which this dropping of arms and munitions reached later?

A. I cannot remember this in detail.

Q. You spoke yesterday in this connection of the uprising in France in the years 1870-1871. In that case, I only ask whether you know - did in that case the French government or the army capitulate or had none of these two capitulated?

A. I cannot recall this at the moment. The southern army had certainly not capitulated; as far as I remember, capitulation or an armistice had not been concluded by the French government. Paris was surrendered certainly, but a truce had not been concluded between the governments.

Q. Now what is the difference between that time and the conditions which you then saw in Yugoslavia?

A. At that time there was still a French government in the country. There were still strong remnants of the French army which had not been beaten, and these remnants of the French army attracted the franc tireurs in smaller groups and which later appeared in larger units. These franc tireurs were used in the fight by the army.

Q. Was that at that time a levee en masse?

A. Well, in parts one can call it that.

Q. I now mean France.

A. Yes, France.

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Q. Do you know whether this levee en masse is represented in international law?

A. I don't know this at the moment.

Q. Now we have dealt with Yugoslavia. Now how did the war against Greece end?

A. The war against Greece ended with two capitulations, the capitulation of the Thracian army and the capitulation of the Epirus army.

MR. DENNEY: If Your Honor please, I think we have been over all this before. Dr. Laternser covered it on his direct.

THE PRESIDENT: I have just been checking. It has been, somewhat. It will be the attitude of the Tribunal to extend some liberality but in doing that we trust that the counsel will not take advantage and extend the examination. If it is, we will have to restrict it.

We will take our morning recess at this time.

(A recess was taken.)

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THE MARSHAL: You may proceed, Dr. Laternser.

DR. LATERNSE: Your Honor, may I now announce to the Tribunal that after the conclusion of the examination of Field Marshal List I shall produce a witness, Oberregierungsrat Dr. Gerd Fein. I notified the prosecution of this fact as early as Saturday. The examination will last only half an hour.

REDIRECT EXAMINATION (continued) BY DR. LATERNSE:

Q. You were asked whether you had ordered wagons with hostages to be used in front of trains and you denied that question?

A. Yes.

Q. Do you know whether this measure is permissible by international law?

A. Yes, it is permissible by international law.

Q. Where would one find such a regulation?

A. I can't say at the moment. What kind of regulation?

Q. I am submitting to you an excerpt from American Land Warfare from the year 1940 and I ask you to look at paragraph 359--

MR. DENNEY: Your Honor, I don't know what this has to do with American Rules of Land Warfare. I don't see where this is relevant.

DR. LATERNSEER: I withdraw the question, but in this connection I would like to draw the Tribunal's attention to paragraph 359, American Rules of Land Warfare, that this example has been put.

MR. DENNEY: Your Honor, please, I think if Dr. Laternser wanted to bring that up in argument it would be all right. I don't think this is the place to go into the rules of land warfare.

THE COURT: Sustained.

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Q. The Prosecution has further alleged military successes of the bands. Who withdrew, when fights took place?

A. Who withdrew? Well, generally speaking the bands.

Q. Now we will shortly turn to Serbia again. Who in Serbia lead the Guerilla warfare?

A. It was lead by several parties. There were bands of a Communist nature; there were the Mihajlovic bands; and the Kostja Petjanic bands; and the Comitadchis.

Q. I meant to say who amongst the Germans?

MR. DENNEY: Your Honor he has been over all this.

DR. LATERNSEER: That is only a preparation. I am just laying the foundation. In this connection I will come to another point. Who, on the part of the Germans, was in charge of the band warfare?

THE PRESIDENT: You may continue briefly. I again must caution you Dr. Laternser not to cover ground that you have previously covered in your direct examination.

BY DR. LATERNSEER:

Q. I had asked you who, on the part of the Germans, lead the band warfare in Serbia?

A. After the appointment of General Boehme, the Plenipotentiary General.

Q. Did you reserve decisions in respect to General Boehme?

A. No.

Q. Why not?

A. The appointment of General Boehme had as its purpose that there should be a uniform leadership in Serbia and from Athens the Guerilla warfare in Serbia or rather the fighting of that warfare was to be handled. That was in view of the communication lines. Only a personality can do that who is close to the actual scene.

Q. In this connection you were shown the Boehme order of the 10th of October; that is, Exhibit 88?

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A. Yes.

Q. On which order is this order of the 10th of October based?

A. The Boehme order is based on the Keitel order of the 16th of September and he designates it as an addition to this order.

Q. Do you recollect that this order of the 10th of October mentions your order of the 5th of September, that is, Exhibit 42?

A. No, it does not refer to it.

Q. You have frequently been asked about your order of the 5th of September, Exhibit 42, during the cross-examination. Now I wanted to ask you what was the main reason or main reasons for issuing this order?

A. I have already testified that it was the crisis in which I found myself; that I was under pressure; from above, that is from the OKW; that demands and directives came in again and again, the last one of those on the 5th of September itself, and that was an important reason; the whole manner of the band fighting which was shown in the band regulations for the Communist Party, and it was the intention as it was laid down in the last paragraph of the regulations that the only and most important task of the occupation forces was to put down this insurrection.

Q. In connection with the OKW order of the 16th of September, Exhibit 63, you have said that after your objectives had at first been successful, which you had followed in regard to this order, you didn't do anything further additionally. What subsequently did you do?

A. Subsequently I issued the order or rather the teletype of the 4th of October on the basis of the impressions that I had gained in the meantime, especially on the basis of impressions which the chief of staff after his return from Belgrade had given to me and in this teletype of the 4th of October I had endeavored to mitigate matters inasmuch as I did not name any ratios for hostage measures.

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Q. And I am drawing the attention of the Tribunal to the fact that the teletype which the witness mentions at the moment is Exhibit 70. To whom did you address this teletype on the 4th of October, Exhibit 70?

A. I can't remember now the distribution list but it could have only gone to the Plenipotentiary Commanding General in Serbia as did all orders which were issued at that time.

Q. And why only to the Plenipotentiary Commanding General in Serbia?

A. Because he was the only Commander in Serbia who had executive powers.

Q. One more question in regard to exhibit 80, that is, the case of the Regiment 521 Signal Corps, according to which 2,000 persons were shot as reprisals. One question only: Do you know whether actually this number of people were shot?

A. No.

Q. What did you establish from the files?

A. I established from the files that according to the troop reports which are present here 440 or 442 persons were actually shot.

Q. You mean reports of execution only to the amount of this figure?

A. Yes, only to the amount of this figure.

Q. At this time may I announce to the Tribunal that regarding this incident I shall produce a witness who will be in a position to clarify matters for the Tribunal. Now, a number of questions about a number of exhibits, short questions. You were shown the Rosenberg letter, Exhibit 4, do you know whether this letter actually went out?

A. No, I can't know that:

Q. Well now turn to Exhibit 14, that is in Document Book I, which concerns the Commissar order. What date does this order bear?

A. I don't know that by heart.

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Q. Then I will show you the exhibit. In the English Document Book I, on page 49 you will find the exhibit and in the German on page 34. Now, what date does this exhibit bear?

A. 8th of June.

Q. Where were you at that time?

A. In the Southeast, in Athens.

Q. Did you get there?

A. No.

Q. How you were told that it was also sent to Norway. Can you give an explanation to the Tribunal for this?

A. I said yesterday that I assume that those troops were concerned which were right up in the North.

Q. Do you mean the troops on the Finnish front?

A. Yes, the troops that were employed in the Finnish Front and actually the AOK Norway was employed at the Finnish Front.

Q. When did you come to the East?

A. At the end of June 1942.

Q. How much earlier had the order been distributed?

A. One year earlier.

Q. I am now turning to Exhibit 585 which was shown to you yesterday during cross-examination. In this order there was some talk about the shooting of a Commissar. Did you ascertain from this exhibit that the Commissar order was mentioned?

A. No, the order refers to a regulation of Korlick.

Q. Is it said in this exhibit why the Commissar was shot?

A. No.

Q. How were Commissars usually taken prisoners, by what troops?

A. Generally speaking by the Front troops, but I must emphasize that I, for my part, have no experiences in this direction. That is only natural because the Commissar would be with his troops.

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Q. I will look again at Exhibit 14. Who was supposed to kill the Commissars according to the Commissar order?

A. It says under paragraph 2: "Political Commissars attached to the troops should be segregated and dealt with by order of an officer inconspicuously and outside the proper battle zone." Figure 2. It says: "When in action or resisting they are to be killed at once fighting."

Q. Exhibit 585 which was submitted to you yesterday. Did that originate with a rear area?

A. Yes.

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Q. The combat troop in that case had taken the Commissar prisoner and I want to ask you does it say in this exhibit whether a court proceedings took place concerning this criminal action?

MR. DENNEY: Your Honor, again I think we have been over this. In addition Dr. Laternser needn't ask him about his own testimony.

DR. LATERNSE: Your Honor I can't be through with it yet because the Prosecution knows quite well that this document was only submitted yesterday during cross examination and I can't possibly have put a question in regard to it. I am just about to ask an important question with regard to this exhibit and that is similar to what the Prosecution did.

THE PRESIDENT: You may proceed.

BY DR. LATERNSE:

Q. Just one concluding question. Does it say in this Exhibit 585 anything about whether a court proceedings took place and why the Commissar was shot?

A. No.

Q. You further were shown Exhibit 22, which will be shown to the witness-- It is in Document Book 1, page 55 of the German, and I regret very much I can't say at the moment what English page.

THE PRESIDENT: 76.

THE PRESIDENT: 76. Dr. Laternser, my notes show that you referred to Document 22 in your examination of Thursday September 18. Now unless this is on some matter which has been brought up on cross-examination I think you should not go into this matter further.

DR. LATERNSE: Yes, Your Honor.

BY DR. LATERNSE:

Q. I shall then turn to Exhibit 30. That is on page 99 of the Document Book I, English, and page 75 of the German Document Book I. This document was submitted to you during cross-examination. What date does this exhibit bear?

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A. 31 July 1941.

Q. Where were you at that time?

A. On leave. I suppose in Vienna.

Q. I shall now turn to Exhibit 48, that is also found on page 51 of the English Document Book II and on page 42 of the German Document Book II. In this document there is some talk about the four year plan. To clarify this matter I would like to ask you what was the meaning of the four year plan.

A. The four year plan was a program as to what achievements were demanded from industry during the course of the coming four years, from the industry of the Reich and the occupied territory.

Q. Just in order that everything should be clear about this question, had this four-year plan anything to do with the plan to weaken the Balkan population as the Prosecution asserts?

A. No, on the contrary. The industry in Serbia was built up and expanded in order to carry out this four year plan in the Balkan territory; the copper mine Bor which had been destroyed by the Serbs was rebuilt and machinery was brought there in order to bring up production to a certain level.

Q. Now, the last exhibit which I want to deal with here, that is exhibit 68 which has been submitted to you here. We find this on page 137 of the English Document Book II and on page 105 of the German Document Book II.

THE PRESIDENT: Dr. Laternser do you propose to examine this witness on some matters that have been developed on cross-examination?

DR. LATERNSE: Yes, Your Honor. Only on such points on the basis of notes which I made during cross examination.

THE PRESIDENT: My notes show that you went into this matter on your direct examination but I don't wish to restrict you concerning matters which pertain to the cross examination.

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DR. LATERNSEER: Thank you, Your Honor.

BY DR. LATERNSEER:

Q. This order was submitted to you during cross examination in order to establish connection with the SD. All I want to ask you is what was the purpose altogether of this order which is Exhibit 68?

A. Exhibit 60 dated the 10th of October, that is employment of the Rosenberg Staff?

Q. Yes, it is exhibit 60.

A. The purpose of it was to establish what was the economic and disciplinary assignment of Detachment Rosenberg for the time while this Detachment Rosenberg was in the area of Southern Greece.

Q. That is Exhibit 68, I am sorry.

And what is the consequence of this orders what does it concern?

A. That this detachment is entitled to draw rations and quarter and that violations of discipline are under the authority of the Wehrmacht Commander, Southern Greece. In this case the members of the Detachment Rosenberg were enlisted men.

Q. On the basis of this exhibit 68 do we see a justification to give orders in a factual connection?

A. No.

Q. Field Marshal, to conclude, I would like to deal with the interrogations, the records of which have been submitted to you. Those are interrogations by Mr. Walter Rapp on the 15th of January and another interrogation by Mr. Walter Rapp on the 16th of January and one by Mr. Kreilsheim on the 7th of March 1947. So far I have not had a chance to look at these interrogations. I only want to ask you which way did these interrogations come about? Were they put down in shorthand?

A. Yes.

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Q. Do you know whether it was written down in longhand afterwards?

A. I don't know that.

Q. Were you ever shown a copy of such an interrogation?

A. No.

Q. Did you have the possibility to make corrections?

A. No.

Q. Did you have the possibility to correct mistakes in the shorthand notes or to examine the interrogations?

A. No.

Q. Did you have an opportunity to check or to have checked the translation into English?

A. No.

Q. Did you ever sign anything in this connection?

A. I only signed my questionnaire.

Q. I am now talking about the three interrogations of the 15th and 16th of January and 7th of March, 1947?

A. No.

Q. Were you told for what purpose you were being interrogated?

A. No.

Q. Were you told that your statements might possibly be employed against you or might incriminate you?

A. No.

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Q. Was it made clear to you that you were permitted to have counsel?

A. No.

DR. LATERNER: Your Honor, at this stage of the proceedings I have at the moment no further questions to put to the witness - to the defendant Field Marshal List, but I reserve the right, after having looked through the material which has newly come in, to put questions to him which might result from this material, and to call him again to the witness stand.

I further reserve the right, in case that it becomes necessary, in connection with the submission of my document books, again to call him to the witness stand, because it may well be possible that in that connection I may have to put a few questions to him which I could not put before, because the document books were not ready at the beginning and not even now at the end of this examination.

THE PRESIDENT: The Tribunal has previously made an order which in substance covers the matters of your request, and you may be assured that the Tribunal will give you consideration in connection with further examination.

DR. LATERNER: Thank you, Your Honor.

THE PRESIDENT: Are there any further matters in re-cross examination?

MR. DENNEY: If Your Honors please, we submit for the record that at this time two footlockers full of documents have come from Washington and have been sent to the Secretary General, in compliance with the Tribunal's order of 14 August 1947, and I believe Dr. Laternser is arranging with his colleagues to see a commissioner who has been appointed by the Secretary General in order that the documents will be available to all defense counsel.

THE PRESIDENT: In connection with that matter I would like to have Dr. Laternser come to my office briefly at the conclusion of this session, Dr. Laternser being the representative of the defense.

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Are there any questions by members of the Tribunal? Judge Carter?

JUDGE CARTER: No.

THE PRESIDENT: Judge Burke?

JUDGE BURKE: Not at this time.

EXAMINATION BY THE PRESIDENT:

Q. Perhaps this has no particular bearing in connection with this witness's testimony, but for my own information, and perhaps as indicative of the witness's position, can you tell us briefly, Mr. Defendant, as to the set-up of the Army in its relation with the SS and some of these subsidiary organizations - the relation of the Army to some of these other organizations that had developed?

A. You mean relations to the SS, the General SS?

Q. Yes.

A. There was no relation to the SS, that is, to the General SS - no official relations. The Waffen-SS, so-called Waffen-SS, was naturally, wherever it was employed, tactically subordinate to the Military Commander concerned.

With regard to the SA, the case was that at the beginning it was employed to go with the so-called frontier protective organization for the purpose of securing the borders, but that was stopped, as far as I recollect, after the Roehm Putsch on the 30th of June 1934. As of that date there was no official connection between the Wehrmacht and SA.

Q. Was there any difference of opinion in connection with the administration of the Army and these various other organizations that developed?

A. Yes, there was. Up to the year 1934 considerable differences of opinion with the SA. Since after 1934 the SA lost esteem to quite a considerable extent and receded into the background, these differences of opinion did not appear to the same extent as before. There were certain differences of opinion all of the time, but they might well have been different locally. It depended quite a lot on the personality of the leader concerned, just as much as it was the case with the SS, also with the General SS; and after the creation of troop units of the WaffenSS, it was naturally regarded with suspicion by parts of the Army

and was not popular, and I know also that the Commander in Chief of the Army continuously objected to the creation of the SS units.

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Q. Was the authority of the Army in any way affected by these organizations?

A. One could not say that very well, that the authority of the Army was affected. Himmler might well have endeavored to gain more influence for his own person, but the authority of the Army in itself remained officially sustained. I say "officially" because I do not know whether in an indirect manner there was not a certain struggle against the Wehrmacht, especially in order to weaken the authority of the Army in Hitler's esteem.

THE PRESIDENT: That is all. Are there any further questions?

DR. LATERNSE: Your Honor, only one question to this question which was just mentioned by Your Honor regarding the SS.

BY DR. LATERNSE:

Q. Field Marshal, during the course of the war, as you know, SS divisions were formed, and you said that - if I understand you correctly they were subordinate with regard to tactical matters to the Army.

A. Yes.

Q. Please explain to the Tribunal what it means that they were tactically subordinate during combat.

A. The tactical subordination means that this SS unit has to account for its actions on the basis of such orders as were given to it by the military and in that case by the Army superiors.

Q. What actions do you mean?

A. Actions during combat, or in the actions preceding combat.

Q. Who punished a member of the SS if he committed a criminal action, a punishable action?

A. The punishment lay in the hands of the members of the SS, and if it became necessary to institute a court proceeding, that was done by special SS courts.

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The SS member was not subordinate to the jurisdiction of the Army.

Q. Was it at all possible that a member of the SS was sentenced by a Wehrmacht court?

A. No.

Q. Who promoted an SS man during the period of his tactical subordination?

A. Himmler.

MR. DENNEY: If Your Honor please, I do not think there is any need of Dr. Laternser going further. It has not been show that the witness had any SS troops under him and it has not been show that he has

been in the SS, and in response to some general questions by the Court Dr. Laternser now seems to be going pretty far afield. The witness's knowledge of these things, certainly with reference to the SS units, is questionable at best.

DR. LATERNSE: Your Honor, I only wanted to make it quite clear to the Tribunal what relations there were between the Waffen-SS and Army officers in actual fact, and I ask to be allowed to put two or three more questions. I shall soon be finished.

THE PRESIDENT: Perhaps I started you off on something that is hard to get away from, but we will have to conclude at 12:15.

DR. LATERNSE: By that time I shall be finished, Your Honor.

BY DR. LATERNSE:

Q. Let us assume a Spanish or Italian division, for instance, would be employed in the East. What would, in that case, have been the subordination? Let's make it clear to the Tribunal.

MR. DENNEY: I think we are going too far afield.

THE PRESIDENT: Sustained.

BY DR. LATERNSE:

Q. Who gave decorations to an SS man during combat?

A. He received it from his SS superior.

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Q. What was the only relation between Waffen-SS and the Wehrmacht

A. A tactical subordination, a tactical order.

Q. That means during combat?

A. Yes, during combat.

Q. Do you know that there were stronger subordinations than tactical subordinations from Waffen-SS units to the Wehrmacht?

A. I do not know of an example.

DR. LATERNSE: Thank you very much. I have no further questions.

THE PRESIDENT: The Tribunal will recess until one-thirty this afternoon.

(A recess was taken until 1330 hours.)

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AFTERNOON SESSION THE MARSHAL:

The Tribunal is again in session.

DR. FRITSCH, (for Rendulic): Your Honor, I would like to ask you that General Rendulic will be excused from the sitting tomorrow in order to prepare himself for his examination.

MR. DENNEY: If Your Honors please, we have no objection to that procedure. It has been followed in several cases that are presently pending, and in cases that have been concluded, if Your Honors see no objection to it.

THE PRESIDENT: The Tribunal has no objection, it being understood that it is without prejudice on the part of any party, the fact that he may be absent.

MR. FENSTERMACHER: Your Honors may--

MR. DENNEY: If Your Honors please, I think we ought to have a statement on the record from counsel for the defendant, Rendulic, to indicate that he heard, understood and agrees to what Your Honor has just stated.

DR. FRITSCH: I have accepted, and the Court agrees that Rendulic need not take part in the proceedings tomorrow.

THE PRESIDENT: And with your understanding that he will not note any exceptions or any prejudice by reason of his absence.

DR. FRITSCH: Yes, I have taken note of that.

MR. FENSTERMACHER: May I make one brief statement at this time to clarify the record of yesterday afternoon?

THE PRESIDENT: Very well.

MR. FENSTERMACHER: Your Honors, I said yesterday afternoon, that I offered as Prosecution's Exhibit 585, Document Number [NOKW 1902](#), which was a report from Town Headquarters 1 to the commanding officer, Wehrmacht Area 553, dealing with the execution of the Battalion Commissar Mahala.

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I then offered Prosecution's Exhibit 586, which was a report,--NOKW 843, which was a report from Secret Field Police Group 647 dated 25 August, 1942, and being an activity report for the month of August, 1942. That report dealt with the turning over to the SD of two Jews and commissars.

I then offered as Prosecution Exhibit 587 [NOKW 848](#), but upon objection by Dr. Latenser that it was an identical document with either Exhibit 585 or Exhibit 586, I withdrew the offer at that time. We have now checked and find that the document which we offered and withdrew is not identical with either of the two proceeding documents, and we should now like to offer [NOKW 843](#) as Prosecution's Exhibit 589.

THE PRESIDENT: Exhibit number?

MR. FENSTERMACHER: Exhibit 589. I have copies for Your Honors, copies for defense counsel, and the original exhibit for the Secretary General.

Your Honors will note that this is an activity report for the month of July, 1942, relating to the execution of the Politruk Grand Commissar, being a report of the same secret field police group 647 that is involved in Prosecution's Exhibit 586, which concerned the month of August, 1942.

JUSTICE BURKE: Do you have an exhibit number for [NOKW 1011](#)?

MR. FENSTERMACHER: I believe [NOKW 1011](#) is Exhibit 587.

JUSTICE BURKE: Was that withdrawn yesterday?

MR. FENSTERMACHER: No, the document I am now referring to as 848 was offered yesterday as Exhibit 587 but was withdrawn, and then this morning [NOKW 1011](#) was offered as Exhibit 587.

DR. LATERNSEER: Your Honor, may I have a look at the new document before it is submitted?

...Document handed to Dr. Laternser...

DR. LATERNSEER: I will object to the submission of this document because I have reason to assume that the names are the same, which have been given in this document, - that is the same names which have been mentioned in document 306.

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If that proves to be the case this would be cumulative evidence, and therefore would be inadmissible.

MR. FENSTERMACHER: I can clarify that, Your Honor. In Exhibit No. 585 which is a report to the town headquarters, to the commanding officer of the rear area 553, it is stated that on the 5th of July, 1942, the Battalion Commissar Hahala was taken prisoner in Kerkeni and shot on the 10th of July 1942.

In Exhibit 386 there is a reference to two Jews and commissars being turned over to the SD, and 386 is a report to the Secret Police Group 647, an activity report for the month of August 1932. There are no names mentioned in that document, - exhibit 586.

In the document which we have just now offered, [NOKW 848](#), as exhibit 589, we find that the same secret field police group 647 mentioned in Exhibit 586 is sending an activity report for the month of July, 1932. Exhibit 386 was a report of the secret field police group 637 for the month of August 1942.

In Exhibit 589 which we have just offered, two names are mentioned the name of The Politruk Kaliba, Joseph, as well as the name of the Battalion Commissar Hahala.

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MR. FENSTERMACHER: The name Kaliba does not appear in either 585 or 586, though the name Mahala does, in fact, appear in Exhibit 585, which, however, is a report not from the Secret Field Police Group 47, involving Exhibit 589, but is rather a report from Towy Headquarters I, to the Commanding Officer of Army Area 553.

DR. LATERNSEER: I shall investigate this. It may be as the Prosecution has just suggested, but just at this moment I detect a translation mistake in the document which has just been submitted, No. 589. I ask that the translation of the first paragraph of this exhibit be investigated. "Im Auftrag" is being translated "by order".

MR. FENSTERMACHER: Would you pass the original exhibit to the Court Interpreters, please (to page)

COURT INTERPRETER: This sentence reads "Politruk, Kaliba, Joseph thirty-three years old, and the Battalion Commissar Mahala, Vassili, thirty-five years old were shot by order of the 1-c-b of the 42nd AK -Army Corps."

Were shot "by order".

DR. LATERNSEER: May I ask whether "Im Auftrag" and "Auf Befehl" are expressed in the same way in the English language?

COURT INTERPRETER: It all depends. In this context it can only be translated "by order."

DR. LATERNSEER: Your Honor, to this point I ask that the Chief of the Translation Division submit a translation of this. For, if it says "by order", then the shooting has to be traced to the order; whereas, if it says "on behalf of", it is quite possible, of course, that it has reference to an edict of a court which was in existence and that this sentence was carried out on behalf of the I-c. The exact translation, therefore, allows such interpretation, whereas the translation just given does not give us this opportunity.

THE PRESIDENT: The Interpreters and Translators for this Tribunal will kindly transmit this request to their superior and report back to the Tribunal.

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DR. LATERNSEER: Thank you, Your Honor.

THE PRESIDENT: Dr. Laternseer, before you leave, may the record show that the Defendant List is excused at this time, subject to the conditions announced in the session this morning and the previous orders of the Court?

DR. LATERNSEER: Yes. On my behalf it is all right.

THE PRESIDENT: Very well.

DR. LATERNSEER: Your Honor, the other matter I have just touched upon. Because of the possible identify of the documents I shall investigate and I shall then submit my objections to the Court.

THE PRESIDENT: Very well. You may call your next witness.

DR. LATERNSEER: Your Honor, I call as the next witness the Oberregierungsrat, Dr. Gert Feine.

THE PRESIDENT: Will you kindly raise your right hand to be sworn. "I swear by God the Almighty and Omniscient that I will speak the pure truth and will withhold and add nothing." (Repeated by

witness) (Witness Gert FEINE took the stand) DIRECT EXAMINATION BY DR.

LATERNSE:Q.- Please give us your full name.

A.- My name is Dr. Gert Feine.

Q.- Would you kindly spell this name?

A.- G-e-r-t F-e-i-n-e.

Q.- Dr. Feine, before you answer my question, would you kindly make a short pause, because the question will first have to be translated.

When were you born?

A.- On the 17th of June 1894.

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Q.- What is your present profession?

A.- I'm Oberregierungsrat at the Senate in Bremen. Oberregierungsrat can be translated as Government Councillor.

Q.- Were you a member of the National Socialist Party?

A.- No, never.

Q.- What was your profession during the time before you became Government Councillor?

A.- I was in the German Diplomatic Service. I was first Secretary with the Legation in the Foreign Office in Berlin.

Q.- Were you, in 1941, Council with the Legation, at the German Legation in Belgrade?

A.- Yes.

Q.- How did it come about that you were still in Belgrade in 1941?

A.- In 1936 I had been transferred to Belgrade. When war threatened to break out in 1941; on the directives of the Foreign Office; the Minister and the staff of the Legation were called back to Germany. All Germans living in Yugoslavia were transported back to Germany as well. I received, however, a telegram from the Foreign Minister Ribbentrop personally, in which he ordered me to remain in Belgrade as charge d'affair.

Q.- When did the German troops march into Belgrade?

A.- On Sunday, the 6th of April 1941, the troops entered Belgrade; after the previous evening a group of six men had penetrated as far as the Legation.

Q.- And on that day you were in Belgrade?

A.- Yes.

Q.- Do you know the Defendant Field Marshal von Weichs?

A.- I do know him.

Q.- On what occasion did you make his acquaintance?

A.- I made his acquaintance during negotiations for the capitulation.

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Q.- Which events led up to these negotiations?

A.- Soon after Belgrade had been occupied by the German troops, negotiators from Yugoslavia appeared, a colonel and he asked for the conditions under which a capitulation or an armistice could be concluded.

Q.- Well, what course did these negotiations with this officer take?

A.- First, Field Marshal von Weichs sent him back and demanded that a delegation be sent which was authorized to conclude an agreement.

Q.- What happened after that?

A.- Next a Yugoslavian Army General appeared. He had authority to negotiate but he had no authority to conclude a capitulation agreement. Field Marshal von Weichs did not accept him for that reason, but he stated that an authorized delegation was to appear which was empowered to conclude an agreement.

THE PRESIDENT: Did the witness mean von Weichs or List?

BY DR. LATERNSE:

Q.- When do you mean of the defendants?

A.- Field Marshal von Weichs...

Q.- Now, how did the actual negotiations for the capitulation come about?

A.- On the next day a delegation appeared, led by the former Yugoslavian Foreign Minister Cincar Markovic; an Army General and a Colonel of the General Staff accompanied him.

Q.- Who else was present at these negotiations?

A.- Apart from Field Marshal von Weichs and his staff, a representative of the Hungarian Army and an Italian Military attache in Belgrade, and I as an observer on behalf of the Foreign Office were present. A conference took place in the building in which I was sejourning in Belgrade. That was the former Czechoslovakian Legation. The former German Legation had been destroyed.

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Q.- Were the powers and authorities of the Yugoslavian' delegation investigated?

A.- Yes, that took quite some time.

Q.- What do you know about the investigation of these credentials?

A.- I can still remember the following: Cinzcar Markovic presented authority which had been issued by General Kalafatovic/..... Q.- Just a moment.

Could you kindly spell this name? Could you kindly spell both names?

A.- C-i-n-z-c-a-r M-a-r-k-o-v-i-c and the other name K-a-l-a-f-a-t-o-v-i-c. General Kalafatovic, at that time, derived his power from an authority which General Simovic had left behind after leaving Yugoslavia.

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Q. Have I understood you correctly that the former Foreign Secretary Markovic had an authority from General Kalafatovic?

A. Yes.

Q. And on what was this power of attorney or authority based?

A. It as base on the authority which General Simovic had issued to General Kalafatovic b fore General Simovic left Yugoslavia.

C. Who was General Simovic?

A. General Simovic was Chief of the Yugoslavian Air Force and had led them again Prince Paul and the Government's Svedkovic, by which this Government had been eliminated. After its fall General Simovic took over the Government and he also stood over the Army.

O. General Simovic was, therefore, at that time, the leader of the Yugoslavian Government?

A. Yes, he was Chief in the Yugoslavian Government.

Q. Where was General Simovic?

A. At the moment when the capitulation conferences took place he must have been on his war from Yugoslavia to Egypt, if he hadn't already arrived in Egypt.

Q. Where was Simovic later on?

A. Later on he was in London.

Q. And what was he there?

A. He was leader of the Yugoslavian Government in Exile.

Q. And on whose side was this Government which was led by Simovic?

A. On the side of the Allies.

Q. Were the powers of credentials pronounced to be correct after they had been investigated?

A. Yes.

Q. In which way did the capitulation negotiations take place?

A. In a very dignified form. Everything was done in order to lighten the difficult task of the Yugoslav delegation which it had to fulfill for the sake of its fatherland.

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Q. Do you know the contents of the Instrument of Capitulation?

A. Yes. I could not read the contents of his capitulation, but I was present when it was read aloud.

Q. What were the essentials of its contents?

A. One can summarize the contents in one sentence. The Yugoslavian Armed Forces ceased fighting, and laid down their arms unconditionally.

Q. And now, regarding the Yugoslavia Government. What were the stipulations in their case?

A. I don't quite understand your question.

Q. Now, I will arrive at this point by another question, "ho signed on the German side and who on the Yugoslavian side?

A. On the German side Field Marshal von Weichs signed, and for the Yugoslavian Government the three delegates signed. And when Markovic put the pen to paper to sign his name, he put the pen down again and lean back a moment, and he said, "Today, three weeks ago I signed a different treaty with Germany." He referred to the entry of Yugoslavia into the Tri-Partite Pact.

Q. In order to make it quite clear, from whom did Markovic derive his credentials?

A. It was Ciocar Markovic.

Q. Did. certain difficulties arise about certain points?

A. Yes. Mr. Ciocar Markovic protested especially against two points. After he had seen that a mitigation of the general conditions could not be achieved the first point was this: It had been provided that the Yugoslavian troops should altogether lay down their arms and should remain together and go into the captivity. For those soldiers who left their troop voluntarily they were to be punished by death. Mr. Markovic states that at this would result in the most impossible state of affairs. Many troop units were already in a state of dissolution, and the leadership no longer had any control over these troops.

Q. How was this objection on Markovic's part treated by von Weichs?

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A. Field Marshal von Weichs admitted that this was a correct protest and ho agreed to cancel this provision and this provision had fully been cancelled.

Q. Did any difficulties arise regarding any other point?

A. Yes, Mr. Ciocar Markovic moved that the Yugoslavian officers should retain their swords in captivity, but this point was not accepted.

Q. What was the situation in which the Yugoslavian delegates found themselves?

A. The Yugoslavian delegates found itself in a very difficult position, and it was very hard for them.

Q. Did Field Marshal von Weichs show some understanding for this situation?

A. Yes.

Q. How was this expressed?

A. This was expressed in the way of welcome of the delegates and how he talked to them and how he conducted the negotiations. It was not allowed either that pictures of them were taken when they entered the room.

Q. After the war did you go to Yugoslavia again?

A. Yes, in June 1946, I was asked by the Yugoslavian Government to come to Belgrade and to give some information regarding my activities in connection with my work at the German Legation in Belgrade.

Q. Did the Yugoslavian Government reproach you with anything?

A. No, they treated me not only absolutely correctly but also in a very friendly manner. At the end of my interrogation I received a certificate that no reproaches were raised against me for my behavior during my activities with the German Legation.

Q.- I have no further questions to ask.

THE PRESIDENT: Is there any cross-examination?

MR. DENNEY: May we have just a moment, Your Honor?

THE PRESIDENT: Very well.

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CROSS-EXAMINATION BY FENSTERMACHER:

Q. Dr. Feine, you were in Belgrade on the 6th of April 1941?

A. Yes.

Q. What happened on that day?

A. On that day, at 7 o'clock, the German air bombardment started on that town.

Q. Do you know whether there was a declaration of war before that bombing began?

A. Yes, I heard that on the wireless --

DR. LATE NSER: I object. I have consciously restricted myself during my examination, to the negotiations for the capitulation, and I, therefore, ask that the Prosecution be advised that it can only examine regarding these points.

THE PRESIDENT: Sustained.

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BY MR. FENSTERMANCER

Q. Dr. Feine, did you know where King Peter was at the time the capitulation was signed?

A. As far as I know, he was out of the country.

Q. Was King Peter the head of the Yugoslavian government at that time? Do you know?

A. He was the monarch of Yugoslavia. He was not the chief of the Yugoslav government.

Q. Was Simovic the prime minister of the Yugoslavian government under King Peter's regime?

A. Yes, he was chief of the government and among other offices he occupied the office of prime minister.

Q. Simovic was not present at the capitulation, was he?

A. He was not present.

Q. Do you know when he fled the country?

A. He must have fled shortly before the capitulation negotiations started. I cannot tell you the date.

Q. Do you happen to know why he fled?

A. Because of the general collapse.

C. You said that the Yugoslavian delegation at the capitulation seemed to be in difficulties, that they had rather a tough time. Did you mean that they seemed to be under duress to sign the capitulation?

A. One saw that obviously, especially as regards Cinczar-Markovic, he was under great mental stress. I happened to know Cinczar-Markovic from former times.

Q. You said that Markovic three weeks earlier signed a different agreement. Was that the Tri-Partite Pact by which Yugoslavia joined the Axis?

A. Yes, that was that contract. It was signed in Vienna.

Q. Did Simovic, the prime minister at the time the capitulation was signed, ever return to Germany? I beg your pardon to Yugoslavia during the German occupation of that country?

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A. No, not to my knowledge, he did not.

Q. Did you see the paper which supposedly gave power from Simovic to Markovic to sign the capitulation with Germany.

A. No, I did not see that myself.

Q. I have not further questions, your Honor.

THE PRESIDENT: Is there anything further desired with this witness by Dr. Laternser or any counsel for any of the other defendants?

REDIRECT EXAMINATION BY DR. SAUTER:

Q. Dr. Sauter for the defendant Geitner. I only have two short questions. Dr. Feine, I am interested in this point. The capitulation which was agreed upon at that time in your presence---was this capitulation carried out? In other words, were all weapons taken from the Yugoslavian army at that time?

A. Yes. The capitulation was carried out in the way it had been agreed upon.

Q. And my second question. During the next months after the instrument of capitulation had been concluded, was there quiet and peace in the country? And when, according to your observations, did the bandit wars start?

A. After the conclusion of the capitulation, there was complete peace in the country. It only became restless during the course of the summer.

Q. Well, how many months?

A. I should say in about June.

Q. When was the conclusion of the armistice?

A. In April.

Q. Two to three months after the armistice, if I have understood you correctly, the bandit was started according to your observation?

A. At least, to a greater extent.

Q. I have no further questions. Thank you.

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THE PRESIDENT: There being no other questions desired apparently from other counsel, the witness will be excused. Pardon me, is there any question on behalf of the Tribunal?

JUDGE BURKE: Not any.

THE PRESIDENT: The witness may be excused.

DR. LATERNSEER: With the agreement of the Court, I call the witness Dietloff von Winning.

THE PRESIDENT: Very well.

DIETLOFF VOH MINING, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q. The witness will kindly raise his right hand, please. I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeated the oath.)

Very well, you may be seated.

DIRECT EXAMINATION BY DR. LATERNSEER:

Q. Please give your full name.

A. Dietloff von Winning.

Q. Will you kindly spell it?

A. D-i-e-t-l-o-f-f- v-o-n- W-i-n-n-i-n-g

Q. Before you answer my question, would you kindly insert a small pause so that the question can first be translated. Where were you born and when?

A. On the 8th of March, 1909, in Strassbourg.

Q. What is your profession?

A. I was an active officer.

Q. What was your last service rank?

A. Lieutenant colonel.

Q. Where were you mainly during your service in the war?

A. I was first Ib of a division in the Polish campaign. Then Ib of a division in the French campaign.

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For a short time, I was Q-2 at the army high command 12, then Q-1 - with the same army high command. Later Q-1 with Army Group E and F. Finally I was chief of a corps in Bavaria and the Tyrol.

Q. You said that you had been Q-1 with ACK-12 and later on were with Army Group E and F. What were the respective dates which you spent with the offices you have just mentioned?

A. From March, 1941 to June 1944.

Q. What were your tasks as Q-I?

A. As 7-1, I had the task to see to the supplying of the fighting troops with all the material necessary for warfare.

Do you know Field Marshal List personally?

A. Yes.

7. Where was the AOK-12 stationed in August, 1940?

A. In August, 1940, AOK-12 was stationed in Besancon and in a spa near Besancon.

Q. Where were you transferred later on?

A. In August we were transferred to Zakopane near Cracow.

Q. And then?

A. On Christmas Eve, 1940, we were surprisingly transferred to Vienna and on Jew Year's Eve we were transferred to Bukarest or Kronstadt.

Q. What campaign was being envisaged at that time?

A. After the transfer to Rumania, we were counting on a campaign against Greece.

Q. And against Yugoslavia?

A. No campaign against Yugoslavia was mentioned at that time.

Q. Why not?

A. Yugoslavia....

MR DEHNEY: Your honor, that hasn't been mentioned. I submit that that is too speculative.

THE PRESIDENT: What is your objection again?

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MR. DENNEY. He is asking him why the campaign against Yugoslavia hasn't been mentioned. He just said none was ever mentioned. He said why not? The question is in improper form and the witness is incompetent to testify to it.

THE PRESIDENT: Sustained.

BY DR. LATERNER:

Q. Did you see any signs pointing to the fact that the campaign was only intended against Greece?

A. Apart from the fact that all conferences and all planning was merely concerned with Greece, after we had marched into Bulgaria, all measures were taken which prevented any violation of the neutrality of Yugoslavia. I remember, for instance, that a special zone was fixed on the Yugoslav-Bulgarian frontier, the width of this zone may have been about ten kilometers which was out of bounds to every German soldier. We also tried to include in our claiming that a break--through the Rupel pass in southern Bulgaria would be prevented by circumventing the Rodope mountains in the Southwest. It would have been necessary for this purpose to enter a tiny part of Yugoslavia. That would have saved quite a lot of blood on both sides because then there would have been no necessity to break through the so-called Metaxas line.

At that time, the 12th Army requested that the Yugoslav government was to be approached for its agreement which would have enabled us to circumvent, to carry out this by-pass. This request was rejected and we were told that the absolute neutrality of Yugoslavia would have to be guaranteed by every means.

The ideas which prompted us in making provisions for the supply of the army, show that a supply of the troops after, for instance, Salonika had been taken, would have become practically impossible. There was no railway line at our disposal to Salonika, and only one road passing through the Rupel pass. We would have to expect that this road would already have been destroyed and apart from that would have been heavily guarded by troops.

For that reason, we tried to get the agreement of the Yugoslav government to be allowed at least to transport medical supplies, supplies, etc. to transport these materials on the railway line Belgrade-Salonika or at least to be allowed to transport our wounded men from Salonika on this railway, since no other supply for the wounded men seemed to be at our disposal. This request too was rejected quite firmly and we were informed that Yugoslavia would have to be kept quite strictly apart from all actual warfare.

Q What time were you talking about just now?

A All this took place in the period during which AOK-12 was in Bulgaria. That is, immediately before the Greek campaign.

Q Did later on appear any change in policy against Yugoslavia?

A The situation was changed by a coup d'etat in Belgrade. We were told on very short notice that we had to round off troops in the direction of Yugoslavia in order to collaborate with other forces which were to come from Austria to smash the rebellion in Yugoslavia.

Q What were the preparations of the campaign against Yugoslavia?

A We cannot really talk of the preparation in a military sense, since as I have already mentioned we could not enter the frontier zone previously. Therefore, at the starting point, so to speak, there were no troops at all, especially no stocks had been piled up of munition, fuel, etc.

All this had to be done in a couple of days and that was very difficult because of the very bad transportation conditions in Bulgaria.

Q Mr. von Winning, in what capacity did you come to all these conclusions?

A In my capacity as Q-I. I was responsible that the troops which were to be used were supplied with the necessary war materials.

Q Where were you Q-I? Which office were you attached to?

A With the army high command 12.

Q Now we turn to Greece. The cause of the campaign is known. What do you know about the capitulation of the Greek Army?

AAfter Salonika had been conquered, the Greek Army capitulated, which had occupied the Metaxas line. Later on, when the German advance against Athens had made greater progress and the German armed forces were in the rear of the Epirus Army, the Epirus Army capitulated. I remember that for these capitulation negotiations Field Marshal List and some officers of his revenue flew, I believe, to Larissa and there received the capitulation of the Greek Epirus'Army.

The Italians, who had not found themselves bound by these capitulation conferences, therefore did not adhere to this capitulation. I know that Colonel General Jodl who at that time came to Greece in order to conduct renewed capitulation negotiations with the Greeks, was then in agreement with the Italians.

Q After the capitulation was concluded, did the organized resistance of the Greeks then stop?

A Yes. In southern Greece where there were still fights going on with the British and to what extent Greek troops took part in these fights I cannot remember.

Q After the capitulation had been concluded, was everything quiet in Greece?

A It was quiet in Greece after the capitulation had been concluded.

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Q Now what about the destructions in Greece during the campaign?

A In Salonika, I only saw that the harbor was destroyed to some degree and the oil installations in the harbor.

Q And the railway lines?

A The most essential destructions in Greece, those who had the most weighty results, had been carried out on the main line SalonikaAthens by allied troops.

Q Who had carried out these destructions?

A It was either the British or the Greeks. At any rate, our opponents of that time.

Q Were bridges also destroyed?

A Several bridges had been destroyed, especially on this railway line and particularly the so-called Asopos and Bralo bridges.

Q Would you kindly spell these names?

A I spell Asopos Bridge-- A-s-o-p-o-s and Bralo, B-r-a-l-o.

Q On which line were these bridges?

A The Northern third of the line Salonika-Athens.

Q And who destroyed these bridges?

A These bridges had been destroyed by our opponents at that time.

Q Not by the Germans?

A Under no circumstances by the Germans. We found the bridges already destroyed.

Q How were the Greek prisoners of war treated?

A The Greek prisoners of war were released after the capitulation without exception.

Q On whose order did that take place?

A The order had been issued by Field Marshal von List, I assume on the strength of superior orders, or at least in agreement with his superior officers.

Q What could the prisoners retain after the cessation of hostilities?

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A The Greek prisoners of war could retain their whole organization.

Q What do you mean by organization?

A I mean that the Greek units were demobilized by their own officers. Further, everything was left to them which was necessary for their supply; on principle, every supply installation, food, and medical facilities. They were also allowed to retain that bulk of their motor transport which was necessary to disperse the Greeks as quickly as possible to their homes.

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Q. How was the German Army at that time supplied with transport supplies, etc.?

A. At that time already the German Army lacked very considerably in all these things.

Q. At the conclusion of this campaign, was the country of Greece occupied?

A. After the conclusion of the campaign, Greece was occupied.

Q. Just an intermediate question. Who had occupied Athens?

A. Athens had been occupied by the Germans, but the occupation was carried out very soon after by Italian troops.

Q. And were German troop units in Athens as well, ---- I mean units?

A. In Athens we only retained offices. There were no actual troop units?

Q. What was the relationship of the German Armed Forces to the Greek population?

A. The relationship of the German Armed Forces to the Greek population can only be termed as a very good one, I might say it was of a very friendly nature.

Q. What was the food situation of the Greek population when the entry of the troops took place?

A. The food situation of the Greek population was definitely bad.

Q. Were there any stocks of food?

A. I know that before the start of the campaign considerably restrictions in the supply of food to the population had been ordered by the Greek government. There were no stock piles, at least no stocks of any importance. Immediately after the occupation of Greece was carried out, official personages of the then Greek Government approached the Army and they explained to us that the Greek people, because of the lack of stocks, had to rely on transports.

Q. You yourself took part in these conferences with the Greek officials?

A. I did not myself take part. The Chief Quartermaster, however, immediately subsequent to these negotiations, which he conducted, informed me about the things.

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Q. What measures were taken by the military agencies in order to forestall any further shortages of food?

A. First of all we saw to it that the German troops did not live on the land, that they did not use up any food, and that food which was still there was saved for the population. Secondly, the official channels of the Army were used in order to point out to the highest authorities in Germany that an importation of food stuffs would very soon become a definite necessity.

Q. Was food imported later on?

A. Food was currently imported. This was actually a matter for the civilian German offices in Athens, but the measures were supported by us. We supported them especially by trying to bridge any difficulties which might appear by coding food from the Army stocks.

Q. What was the part played by the food supply to the Greek population in regard to the distribution of transport?

A. The greatest obstacle in supplying the Greek population with food were the difficult transport situation. From time to time there were conferences during which the available transport was distributed to those most in need of them.

Q. Of what means of transport are you talking now, are you talking of the Army transport or of which transports?

A. As far as we are concerned with motor transport, I am talking of vehicles belonging to the armed forces. As far as railroad stocks, etc, are concerned I am talking of the trains which were at all in existence, because you could not separate them. In the distribution of the means of transportation the so-called civilian sector, which means the supply of the Greek population, was looked upon equally as all the other sectors which needing transportation.

Q. Were there also cases where transports for the purposes of the armed forces were delayed in order to carry out transports for the Greek population more quickly?

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A. This has actually happened all the time, because the needs of the armed forces exceeded the transportation means available. I here recall a particular case in which through the Minister Neubacher, who at times was responsible for the supply of the Greek population, demanded that three trains were eventually to be sent to Athens, although the distribution of the means of transportation had already been agreed upon for the period in question, and the civilian sector had already been taken care of to a considerable extent. In spite of that, three ammunition trains were cancelled from the military program in order to make way for the three civilian olive oil trains.

Q. In what way were the civilian population helped further in order to raise the level of the food situation?

A. An essential factor in the low food situation was played by the fishery.

C. What was done for the fishery?

A. First of all all the boats which could be used for fishery purposes were left to the civilian agencies. The Wehrmacht help to put these boats into working order by supplying material and often the Wehrmacht supplied the necessary fuel from its own stocks. In harvesting, the Wehrmacht often supplies personnel, horses and trucks, without the Wehrmacht claiming part of the harvest for their services.

DR. LATERNSE: Your Honor, won't this be a good moment to take a recess, because I want to turn to another point?

THE PRESIDENT: Very well, we will take our afternoon recess at this time.

(Thereupon a recess was taken.)

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THE PRESIDENT: You may proceed, doctor.

BY DR. LATERNSE:

Q. Mr. Von Wenning, shortly before the recess we discussed measures intended to prevent a shortage of food in Greece. What restrictions were imposed on the German soldiers themselves.

A. There were a number of regulations which were to prevent that Greece would, so to speak, be bought out. There was, for instance, a strict limitation imposed concerning the sending of packages. It was forbidden for the German soldiers to bring any means of currency into Greece and so the German soldiers only had their military pay which was paid to them.

Q. How was the military pay paid to them?

A. The military pay was paid to them in the full amount. However, at a very disadvantageous rate of exchange so that one could only buy very little in the country for what one got. As the inflation progressed the rate of exchange was maintained so that eventually in practice one couldn't really buy anything at all for the military pay.

Q. Did the Army cede to the population food stuffs out of their own stocks?

A. That happened repeatedly, partly in the form of charity feedings. I remember for instance in the severe winter of 1941-42, 30,000 inhabitants of Athens were provided with one meal out of the Wehrmacht stocks; partly food was distributed to large parts of the Greek population.

Q. What was the main reason for that shortage of food?

A. The most important factor for the shortage of food in Greece was the transport difficult. Even when enough food was ready for import it was in most cases impossible to bring that into the country. The reason for that was the the communication and roads in spite of maintenance by German military railway emergency troops was constantly destroyed again and again by Partisans and a further reason was that the Sea route was destroyed by allied submarine activity and air attacks and that could hardly be disposed with.

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Q. We now come to the conditions in Athens and I would like to put a few questions. We have already heard a Greek witness concerning this matter who made certain statements. To what extent were the hospitals in Athens requisitions?

A. Only very few hospitals were requisitioned and only inasmuch as it was necessary to accomodate wounded in hospitals; that is, there was no other means of accomodation and where any other accomodation would not have been guaranteed any medical care. This operation on principle was carried out with the consent of the Greek authorities concerned and the period of time which was given for the evacuation for such hospitals was always sufficient so that the Greek hospital inmates could be accomodated elsewhere.

Q. What measures were taken in the sphere of hygiene?

A. The most important one was that in Greece, as far as I am informed, for the first time there was an extensive combat of the illness of malaria on the part of the Germans. For this purpose the population was enlightened on measures they had to take and the German atabrine, a remedy was given to the population from Wehrmacht stocks and the herds of malaria mosquitos were fought by German Hygienic measures.

Q. Were swamps dried out for this purpose?

A. Yes swamps were dried out for this purpose in order to fight the malaria mosquito.

Q. Who was responsible for measures on the cultural sphere?

A. Generally the German civil authorities were responsible but beyond that the Army had a so-called cultural protector; that, was, Dr. von Schoenebeck.

Q. And what did he order?

A. Dr. von Schoenebeck ordered that destructions which had occurred on Greek works of art would be repaired and he further ordered that such works of art which were not properly protected by the population, for instance when they had been brought into damp caves, that such works of art would be re-instated in their old place.

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Works of art which were located in places threatened by air attacks would be brought to protected places in Greece and finally his opinion was asked for in matters concerning military constructions. By this it was to avoided that that the troop without knowledge would damage works of art. Schoenebeck on principle ordered these measures with the consent and agreement of the responsible Greek experts. Mostly he made these experts themselves carry out these measures.

Q. Were the soldiers enlightened on this subject?

A. Here too Schoenebeck played a large part. He was asked to hold lectures and issue pamphlets in order to enlighten the soldiers about cultural works and works of art in Greece and on this occasion too instruct them to take care of these things and to try and preserve them.

Q. Were there similar measures carried out?

A. Similar measures were also carried out in the Yugoslav area. Although here there was not such an extensive cause for such measures.

Q. Can you give an example?

A. I recall that one of the objects which contained most works of art in Yugoslavia is the White Castle in Belgrade.

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Q. And what was ordered there?

A. A special German officer with a guard was put in this castle and it was his task to make sure that nothing of the works of art contained there would be taken away and that the whole White Castle with all its contents was preserved exactly in the same manner as we had found it.

Q. It is being asserted now that these countries, Greece, Jugoslavia, were plundered and looted.

MR. DENNEY: If Your Honor pleases I don't think Dr, Laternser should say what is being assorted but should ask questions and let them be answered.

THE PRESIDENT: I think the counsel could couch his questions perhaps a little more aptly.

BY DR. LATERNSE:

Q. What was done against looting if and when it took place in Greece?

A. Against looting of each and every kind there was sharp intervention on the basis of military law.

Q. Did it make any difference who was being looted?

A. No, the actual act of looting was prosecuted, that is violation of other people's property. When a punishment was fixed it was not taken into consideration whether the parts of the population looted were friendly or unfriendly or whether it was the property of Jews or somebody else's.

Q. What part did the Jewish problem play in the occupation of Greece?

A. I cannot remember that there was ever any discussion about the Jewish problem in Wehrmacht circles. I do not believe that for instance a mere occasion of purchases made any difference as to whether the merchant was a Jew or not and I cannot remember a single case where it had been investigated, whether the owner of any quarters where we were billeted happened to be a Jew or anything like that,

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Q. What did you have to do with camps?

A. Prisoner of war camps in-----?

Q. Now again what did you yourself have to do with camps, in your capacity as Q-I.

A. I had to look after the supplies of camps, mainly food supplies.

Q. What camps existed in Greece?

A. I cannot remember the localities in detail. There were altogether only so-called Dulags.

Q. What is Dulags?

A. Dulags is the abbreviation for Durchgangslager (Transient Camp). Those are camps where the prisoners for a short period are collected in order to be transferred later to the prisoner of war camps in the homeland.

Q. Did concentration camps exist in Greece?

A. I have never heard that expression there and I think it is out of the question that such camps existed there, and they were certainly not under the authority of the Wehrmacht.

Q. Let us assume that they had existed and let us assume that they were under authority of the Wehrmacht. Who in that case would have been in charge of the food supplies for such a concentration camp?

A. Such camps would have been reported in the reports of any subordinate unit which were the basis for the food supply estimates.

Q. Mr. von Wenning, the last question which I had put before the microphone went off, as far as I remember was as follows: Let us assume that a concentration camp did exist and let us assume it was

under the authority of the Wehrmacht who in that case would have been in charge of the supply of that camp regarding food.

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A. These camps would have been found in the reports pertaining to food supply which I had to work on since I was responsible for the total food supply of the troops in the Balkans.

Q. How about Serbia in this respect?

A. The whole Serbian area at that time was a little out of our sight so to speak. The Commander of Serbia was to a large extent independent and the whole Serbian area was not in our immediate sphere. In spite of this I believe that concentration camps in Serbia, if they had been under the authority of the Wehrmacht would have appeared in these reports concerning food supplies and food stocks, and I am sure I would remember that. However, I cannot recall the expression Concentration camps, not for the Serbian area either.

Q. What do you know about the deportation of Greek workers to Germany?

A. Greek labor was being recruited for Germany. I believe that the word deportation should not be used here because they volunteered to come to Germany as workers and there were far more volunteers than could be accepted as Greek workers. That can be clearly seen by a small example which I remember. In our mess a woman happened to work whose son, his name was Konstantin Gafilli, Q. Please spell the name.

A. (con't). G-a-f-i-l-l-i -----repeatedly tried to get to Germany as a worker and after he did not succeed his mother asked me to try and do something about it and it took several telephone calls on my part to the responsible German administrative office which told me that they had too many of such demands and it took several calls on my part until he was finally accepted.

Q. What did the mother of this Greek worker tell you?

A. The mother was very grateful to me that she finally succeeded in getting her son to Germany.

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MR. DENNEY: I think this is going a little far. We are not concerned with what the mother of the man told him. I object to the question.

THE PRESIDENT: Sustained.

BY DR. LATERNER:

Q. Did you later on hear anything from this Greek worker?

A. I have heard that he was very happy in Germany and that he would have liked it best never to return at all to Greece.

MR. DENNEY: If Your Honors please, I object to the last question and ask that the answer be stricken.

THE PRESIDENT: Sustained.

BY DR LATERNER:

Q. Now a few questions with regard to Serbia. Did you have an inside into the conditions in Serbia?

A. After Serbia was under the authority of the Wehrmacht Commander Southeast I did also gain a certain inside into conditions in Serbia.

Q. As of what date was that approximately?

A. That was in the summer of the year 1941.

Q. Who up to that time was the military commander Serbia subordinate to?

A. The Military Commander Serbia was subordinate to the OKH.

Q. And who was he subordinate to after that, as of the middle of the year 1941?

A. On paper he was subordinate to the Military Commander Southeast.

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DR. LATERNER:

Q. What effect did the subordination have,--that is the subordination under the Military Commander Southeast?

A. The immediate subordination of the Commander Serbia under the OKH was maintained to a large extent, -- that had a variety of reasons. First of all, the Military Commander Serbia did not want to give up his independence, completely and then the Armed Forces Commander Southeast glanced toward the south rather than towards the north, and finally, for technical reasons of communication, etc. it happened that all orders by the Commander-in-Chief of the Army came to us via Belgrade, so that an order, if it had reached us first, and then went to Belgrade; might possibly have been delayed for several weeks.

All of these problems made it advisable that as much as possible could be agreed upon directly between the Military Commander Serbia, and the OKH.

Q. Now how about the administrative staff of the Military Commander Serbia?

A. The Administrative staff of the Military Commander Serbia received its orders immediately from the OKH, and beyond that from the other highest Reich authorities. So far as I know, they were issued mainly from the Reichsfuehrer-SS and I believe also, from the Reich foreign office.

Q. Who was in charge of this administrative staff?

A. The then State Counsellor, Dr. Turner, Liar Administrative Chief, was in charge of this administrative staff.

Q. And what kind of a person was he?

A. Dr. Turner was certainly an efficient person. In my opinion he was largely dominated by some personal vanity, and from an urge for self assertion.

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MR. DENNEY: I suggest the statement about "Dr. Turner being dominated" by somebody be stricken from the record.

DR. LATERNER: The prosecution witnesses have quite frequently rendered such opinions, Your Honor.

THE PRESIDENT: The objection will be overruled.

BY DR. LATERNER:

Q. You had completely answered the question had you Mr. Wenning?

A. No, I wanted to add that Dr. Turner because of his personality, as well as on the basis of several utterances which I heard him make, was doubtlessly not inclined to be subordinate, for instance, to a military authority like the Military Commander Serbia. It was not necessary for him to do this, by any means, because he was a very esteemed person in the party and in his "SS" circles, and therefore he would always find cover from those people.

Q. Mr. Henning, we will only talk very shortly about bands, because we have heard so much about that already. I want to ask you merely whether you have had any experiences, or have made any experiences, in what manner the insurgents behaved against their own population.

A. I know that insurgents, especially in the Serbian-Croatian area, in the districts which they occupied, forced the population mostly by coercive measures to do what they wanted them to do. It happened frequently that mayors, or other officials were murdered, and it was frequently difficult to find anybody to take charge of a community, because those people were afraid that they would be murdered by the partisans.

Q. Mr. Wenning, can you briefly give us a few examples -- I do not know whether you are in a position to do that, -- but can you give us a few examples about special atrocities committed by the partisans?

A. Individual examples it is not possible for me to give from memory now; because I am a member of the Signal Corps I remember that the regimental commander of the Army Signal Regiment told me on one occasion that some 20-odd members of his regiment were ambushed and were found mutilated, but I do not know where that had taken place, and I do not know exactly when it had taken place.

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Q. Mr. Wenning you said that you were Q 1 in this staff of AOK 12. Of what orders of the AOK 12 had you gained knowledge generally speaking?

A. In my capacity as Q 1, I gained knowledge of all orders which were issued by the AOK 12, and which were of fundamental importance.

Q. How about the Commissar order? Did you gain knowledge of this order? That is Exhibit 13 Your Honor, one-four.

A. For the first time I heard about the Commissar order in the summer of 1933 when I was in a P.W. Camp.

Q. Was it valid for the southeast?

A. It never reached my knowledge in the Southeast, and I am convinced that it was never disseminated there. It could not have been valid because there was no cause for that.

Q. What official connection did you have with Field Marshal List?

A. I occasionally appeared at Field Marshal List's office in order to report, verbally if I had something to report or when he wanted to know something special out of my sphere of work, or when I deputized for the absent Quartermaster General.

Q. In what way did this verbal report take place?

A. The report was made in this way. To begin with, I reported to the Chief of Staff about what I intended to report, and then I would report to the Field Marshal, and then I would receive his instructions, and finally I would inform the Chief of the General Staff of the result of my report.

Q. What intention on the part of Field Marshal List could you ascertain on the occasion of such verbal reports of yours?

A. It was obvious on the occasion of such verbal reports that Field Marshal List wanted to see something done which would help to establish a situation of confidence between us and the occupied population.

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This included that we looked after the food supplies for the population; it further included that everything was done in order to protect the Greeks and the other occupied population from all hardships of war which were not actually necessary, and that trade and communications, as far as possible, were developed and maintained.

Q. What picture did you gain of Field Marshal List during your activity which you have described, - just briefly?

A. Field Marshal List's personality to me, as a member of the Staff of the Command of the 12th Army, as well as for the subordinate troops, is characterized by an extraordinary confidence which he inspired in everybody who ever had any dealings with him. This confidence was based on the realization that this man was a personality who --had a great sense of responsibility for all the tasks assigned to him.

MR. DENNEY: The testimony is not coming through.

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THE PRESIDENT: We will not leave our seats. We'll take a brief recess. You will be at ease but do not leave the Courtroom until we can check up on this little business.

Apparently it is going to take longer than we anticipated. The Tribunal will be in recess for a few moments.

THE MARSHAL: Persons in the Courtroom will please find their seats.

The Tribunal is again in session.

THE PRESIDENT: You may proceed.

BY DR. LATERNSEER:

Q. Mr. von Wenning, I had asked you what kind of a picture you had gained of the personality of Field Marshal List. And now I ask you to answer this question briefly.

A. I have already mentioned that the characteristic of Field Marshal List's personality was that from the very first moment one had full confidence in him, and this first impression was never disappointed later. The confidence which he radiated was based on the fact that he was a fair person, a man who carried his tasks with a very high sense of responsibility. He was a man who made quick and clear-cut decisions, but he never made decisions which he had not carefully deliberated before-hand. In principle, he always listened to all representations and reports, and beyond that everybody knew that he was kind hearted and was concerned with everybody. And it was well known that his attitude was a kindly one and a humane one, especially toward any population of occupied territory. It is characteristic that we members of the staff often said, "The Field Marshal is like a father to the Greeks."

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Q Was anybody in the staff of a different opinion about Field Marshal List?

A I have never heard of anything like that and I do not believe that there was anybody who had a different opinion.

Q Thank you very much. I have no further questions.

THE PRESIDENT: Is there any further examination on behalf of counsel?

DIRECT EXAMINATION BY DR. MENZEL:

Q Menzel for the defendant General Kuntze. May I put a few questions to this witness, please?

Witness, did you recollect anything about unrest in Northern Greece in September and October 1941?

A I know at that time sabotage acts were carried out, also in Northern Greece and that there were unrests in Northern Greece which as far as I recollect were mainly caused by the occupation carried out by the Italians and the Bulgarians.

Q All right, do you happen to remember the name of a certain band? That is, I mean the Negrita band?

A No, I don't remember that any more.

Q Before, you have talked about recruiting of labor among the Greeks for the Reich. Can you remember by any chance when this recruiting started?

A No, I can't remember the date. I can only say that it must have been in 1941.

Q Do you mean that it had been already started in 1941?

A Yes, I believe there was a possibility in 1941 that Greeks could report for work in Germany, but I cannot remember the exact date.

Q Do you remember anything about the transportation of captured partisans from Serbia about March, 1942, and later? That is, importation of these people to Norway?

A No. Anything of that specific nature I do not remember.

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Q You don't remember?

A No I only remember that captured partisans were transported to the homeland from transient camps.

Q And do you know whether such transports were caused by an order of Himmler or by an order of the Quartermaster General?

A I only know of orders by the Quartermaster General. I have never seen any order of Himmler.

Q You have said before that the word concentration camp has never been known to you in connection with this area. I have a few additional question there. Did you ever hear anything of Jewish concentration camps in the Balkans?

A No.

Q One more question? Can you tell us what sphere and responsibility was that of the higher SS and Police Leader in Serbia?

A The higher SS and Police Leader in Serbia was not subordinate to the Wehrmacht, with one exception, but police forces under his command, when it was necessary in military operations against the partisans, were subordinated to the Military authorities for the length of the combat action. Apart from that, he had independent police authority similar to the authority of the police in Germany. That is to say, under the Minister of the Interior.

Q There was no right to give directives on the part of the Highest Wehrmacht leadership with regard to these SS and Police Leaders?

A No.

Q Now one last question. Do you know from your time that you spent in the Balkans the defendant General Kuntze?

A Yes, I do know General Kuntze from that time.

Q What kind of a person was General Kuntze? What kind of a person, as a man and as a military leader?

A General Kuntze was known as a soldier who was very strict with his subordinates. This strictness, however, was never considered a disadvantage because everybody knew that he was absolutely fair.

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General Kuntze was an extremely keen worker and frequently concerned himself with details of the various departments and spheres. He would never suffer any excesses on the part of his subordinates and I remember one case which might well be typical. The leader of a column on the occasion of a transport took along Greek goods and he asked for money for this. When this case came to a military court, and it was clearly established that the leader of the column did not use the money for himself he was in spite of this fact severely punished by order of General Kuntze, not because he helped the Greeks but because he asked for money for this help.

Q This leader of the column was a German officer?

A Yes, he was a German reserve officer.

Q Thank you. That is all I wanted to ask.

BY DR. RAUSCHENBACH:

Q Dr. Rauschenbach for the defendant Foertsch.

Witness, when did you make the acquaintance of General Foertsch?

A I made his acquaintance for the first time in the autumn of 1938 when I was transferred to the War Academy as a student and General Foertsch was in charge of instruction there.

Q And on what occasion did you meet him again in the Southeast?

A General Foertsch was shortly before the beginning of the Greek campaign appointed liaison officer from the OKH to the 12th Army and later he became chief of the General Staff of that army. Since I was a member of the same staff, I met him again at that time. When General Fortsch became chief of staff of Army Group E, I became Q-I in this army group and the same procedure was repeated with Army Group F when it was created in Belgrade in 1943.

Q What official contacts did you have in your capacity as Q-I with the chief of staff?

A I had to report on repeated occasions to the chief of staff concerning this sphere of my work and besides I participated in all large discussions which were held by the chief of staff, especially the weekly so-called chief discussions.

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Q And what impression did you gain of the personality of General Foertsch?

A General Foertsch was a man, a characteristic of whom it is that his general education--that is his knowledge of spheres which apparently had no connection at all with military matters was far beyond

the average of a normal person and certainly far beyond the average of a normal soldier. He always endeavored to establish his own measures in such a way and also to educate his subordinates in such a way that all measures were not considered merely from a military point of view but that they learned to judge everything from a political or technical or cultural or historical point of view, whichever case might apply.

Besides, he was a person who had great understanding for everything concerning his subordinates. On the occasion of reports, he always listened to all representations and objections.

Q Witness, did you have occasion to gain knowledge of General Foertsch's attitude toward National Socialism?

THE PRESIDENT: Pardon me, please. May I inquire as to whether or not you will be able to conclude your examination shortly?

DR. RAUSCHENBACH: Your Honor, I have to take at least ten minutes to 15 minutes. May I can continue tomorrow in the morning session.

THE PRESIDENT: Very well. We will adjourn at this time until nine-thirty tomorrow morning.

(The Tribunal adjourned until 24 September 1947 at 0930 hours.)